LIBERTY UNIVERSITY

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Antislavery White Supremacists and the Mistreatment of African Americans in Indiana, 1787 to 1870

A Dissertation Submitted

By

Mark A. King

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Doctoral Dissertation Committee:
Director: Dr. Thomas Adams Upchurch
Reader: Jeffrey Zvengrowski
Reader: Nathan J. Martin

Abstract

Conventional wisdom holds that Indiana was always predominantly antislavery because it had begun as a territory of the United States under the Northwest Territory Act of 1787, which prohibited slavery; however, this is incorrect. This northern state had about as much proslavery sentiment as most states in the South. The state wrestled with the issue in the legislative session after the legislative session and court case after court case for decades during the antebellum period. Prominent settlers and state organizers petitioned Congress to allow the Indiana Territory to become a slave region. After statehood, proslavery forces continued to push for Indiana to become a slave state, stopped only by the antislavery white supremacist faction.

The study of the antislavery white supremacist faction is an overlooked and insufficiently discussed part of American historiography despite having been widespread and instrumental throughout the United States, especially in the old Northwest. Antislavery white supremacists were a political group that opposed slavery on moral or religious grounds but still pursued the separation of the races and resisted legal equality. This dissertation focuses on one of the white supremacists' major strongholds, Indiana, to show that their opposition to slavery stemmed from a desire to have the region be entirely white, defeating the proslavery element early in Indiana's history and the antislavery equality element that emerged in the 1830s, avoiding racially neutral laws until the federal government forced change after the Civil War.

Examining constitutional racism in Indiana, including the territory before statehood and efforts to change these laws, affords a basis for understanding race relations within the state. Slavery sentiments were mixed throughout Indiana, and there was a divide between the state founders. Even though both sides were white supremacists, one side supported slavery and the other supported exclusion.

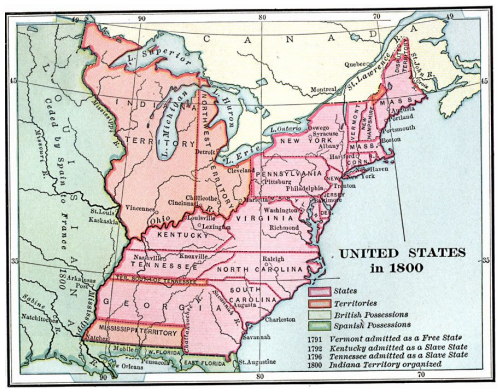
Acknowledgments

First, I would like to thank my husband, Carlos, who has endured years of me missing events and being locked in my home office until all hours of the night. Without your love and support, I would not have been able to do this. Also, I thank Dr. Thomas Upchurch; without his tireless efforts helping me focus and hone my writing skills, all of this would not have been possible. Thank you to the committee members, Dr. Jeffrey Zvengrowski and Dr. Nathan J. Martin, for your notes and commitment. Finally, I dedicate this work to my mother, Iris King, who raised four children alone. Even though she never received a formal education, she shares my passion for history and is excited about what I study and write.

Illustrations

1. Northwest Ordinance Map

2. Indiana Territory Map 1800



3. Indiana Map 1816

Table of Contents

Chapter One
Introduction

Although antislavery white supremacists prevented Indiana from becoming a slave state in 1816, they opposed racial equality by enacting laws that prevented free blacks from emigrating, owning property, or voting, which the Indiana Supreme Court largely upheld. These actions can be classified as constitutional racism.

The study of constitutional racism during the antebellum period of the United States is an underdeveloped area of American historiography. Constitutional racism means having racially discriminatory language, motives, or intentions in a state or territorial constitution or the U.S. Constitution. Racial statutes are created in various ways, including by the U.S. Congress, territorial governors, state legislatures, and county or local municipalities. Furthermore, it is using race to transcend other considerations in formulating laws, public policies, and social norms, allowing for systemic and institutional inequalities (civil and criminal, property, and constitutional rights) that result in unequal opportunities for black and biracial people.[1] In other words, a government or officials' power to enact laws that discriminate against certain racial groups makes up legal racism.[2]

Moreover, the study of the antislavery white supremacist faction is a neglected and inadequately understood part of American historiography despite having been prevalent and influential throughout the United States, especially in the old Northwest throughout the antebellum period. In the nineteenth century, antislavery white supremacists opposed slavery on

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[1] "What is Racism?" *Australian Human Rights Commission.* https://humanrights.gov.au/our-work/race-discrimination/what-racism.

[2] Examples include the ban on blacks testifying against whites in criminal and civil proceedings. In addition, the 1851 amendment to Article 13 of the Constitution of Indiana prohibited blacks from migrating to the state.

moral, religious, economic, and political grounds while championing equality for all white men. Despite this, they continued to advocate the exclusion of non-whites from the state and opposed legal protections for non-whites. To gain additional insight into this understudied group of antislavery white supremacists in the old Northwest, this dissertation focuses on one of their principal strongholds, Indiana, by showing that their opposition to slavery stemmed from a desire to have the region be entirely white, defeating the proslavery element early in Indiana's history and the antislavery equality element that emerged in the 1830s, avoiding racially neutral laws until the federal government forced change after the Civil War. While Indiana was not the only state to deal with slavery and racial equality, it was unique in having slave-holding territorial governors and judges who exercised significant power before statehood, and it provides a vivid account of slavery in the old Northwest.

This chapter will introduce the study of the antislavery white supremacist faction in Indiana by first outlining the background and context, followed by the research questions, methodology, historiography, significance, and each chapter's overview.

The Background of the Antislavery White Supremacist Faction

The State of Indiana, founded in 1816, had begun as one of the five Northwest Territories created by the Congress of the Confederation in 1787; it became one of the five states along with Ohio, Illinois, Michigan, and Wisconsin.[3] Part of the Act, an *Ordinance for the Government of the Territory of the United States Northwest of the Ohio River* (Ordinance Act), established a territorial government and statehood process when the population reached 60,000.[4] Under the Ordinance Act, Congress allowed the organizing of local governments in counties with at least

[3] Part of the Northwestern Territory was ceded to Minnesota.

[4] "Northwest Ordinance; July 13, 1787," *Avalon Project*, Lillian Goldman Law Library, Yale Law School. https://avalon.law.yale.edu/18th_century/nworder.asp.

five thousand free male residents. Congress added Article VI to the Ordinance Act, which states that: “there shall be neither slavery nor involuntary servitude in the said territory… any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such (a) fugitive may be lawfully reclaimed …”[5] Therefore, Congress would not extend slavery into this new territory but would partially protect the property rights of slave owners.

Despite Article VI's prohibition of slavery in the Northwest Territory, prominent settlers and state leaders petitioned Congress on multiple occasions to make the Indiana Territory a slave region. However, after multiple failures, the proslavery faction created forced servitude (indentures) and instituted a quasi-slavery system.

Established as a free state, Indiana was not without racial tensions and attempts to subjugate blacks through constitutional or other legal means. Examining legal racism in Indiana, including the pre-statehood territory and efforts to change those laws for non-whites, provides a basis for understanding race relations within the state.

Although Illinois, Indiana, Michigan, Ohio, and Wisconsin were free states, they were not open to blacks. Illinois and Indiana included clauses within their state constitutions prohibiting blacks from settling in their territory. Free states and territories were supposed to enforce the Fugitive Slave Act in 1793 and its successor, the Fugitive Slave Act of 1850. These laws allowed masters and slave catchers to enter free states and territories to capture runaway slaves. Many governments and territories were at odds with slave states due to the enforcement requirements of slave laws. Sheriffs in certain areas in the North refused to assist slave hunters or

[5] “Northwest Ordinance.”

house captured slaves in county jails (as will be discussed in Chapters Four and Five, how the territorial and state governments responded to the 1793 Fugitive Slave Act).[6]

However, some individuals and organizations opposed returning slaves to their masters; they often assisted fugitives by concealing their identities or helping them escape to Canada. One such opposition group was the Quakers, who, in 1842, in Richmond, Indiana, attempted to confront Henry Clay, a candidate seeking the office of President of the United States, with a petition of over two thousand signatures hoping to win him over to support the immediate emancipation of the slaves. Henry Clay, a Whig member from Kentucky and slave owner who helped transport ex-slaves to West Africa via the American Colonization Society, was in Richmond for the Indiana Yearly Meeting of the Society of Friends.[7] While the Quakers were unsuccessful, this action showed that a growing number of Hoosiers opposed slavery and racist laws.[8] Quakers were not the only group opposed to the exclusion and subjugation of blacks (as will be discussed in later chapters).

Indiana contained a mix of proslavery and antislavery sentiments, and state founders attempted to end the ban on slavery or to prevent blacks from living in the state. The judiciary demonstrated independence by employing progressive interpretations of state constitutions (1816 and 1851) to deny ownership to slave masters and end the indenture system (as will be discussed in Chapters Five and Six). Even after the Civil War, Indiana presented mixed messages on how to treat blacks, often viewing them as second-class citizens.

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[6] *The Fugitive Slave Bill. Enacted by the United States Congress and Approved by the President Millard Fillmore September 18, 1850* (Boston: n.p. 1854).

[7] American Colonization Society was a movement that started in 1816. It was a response to Northerners' resistance to allowing free blacks to migrate to the North. Chapters Four and Five discuss this further.

[8] Hoosiers are residents of Indiana. There are multiple theories on the term's origin, but no definitive explanation. “What is a Hoosier?” *Indiana Historical Bureau* https://www.in.gov/history/about-indiana-history-and-trivia/ what is a "hoosa men" or Hoosiers.

Research Questions

A review of Indiana's founding era, constitutions (1816 and 1851), and racial laws is necessary to determine the state's place in the historiography of slavery and racism in the United States during the antebellum period. An analysis of the constitutional decisions of the Indiana Supreme Court and the acts of the Indiana legislature can be conducted by legal historians to determine their meaning and place within the history of racism. While there has been some historical analysis of the emergence of Indiana and racism in the United States, there is a lack of research on race relations in Indiana's early years.[9] Even fewer studies exist from a constitutional perspective. As a result, the existing research is inadequate and requires further research. The need for historical analysis of the development of stereotypes and distortions has become increasingly crucial as the nation continues to face racial issues.

[9] Over the past two centuries, historians have examined slavery and racism from various perspectives. Initially, historians looked at slavery after the Civil War in the 1880s and 1890s. They viewed slavery as an important event from a nationalistic point of view. *See* James Ford Rhodes, *History of the United States from the Compromise of 1850 to the Final Restoration of Home Rule in the South in 1877* (1893-1906) in 7 volumes. In 1918, Ulrich Bonnell Phillips published *American Negro Slavery: A Survey of the Supply, Employment and Control of Negro Labor as Determined by the Plantation Regime* (1918). Phillips focused his work on plantation systems by examining their social and economic functions. However, historians like Kenneth M. Stampp criticized Phillips' narrow focus on large plantations, excluding smaller plantations and urban slavery. In his work, *The Peculiar Institution* (1956), Stampp summed up a century of historical controversy but did not further the discussion on the impact of slavery in the South. Stanley Elkins revisited the issue in his 1959 work, *Slavery: A Problem in American Institutional and Intellectual Life*. Elkins advanced the debate by reflecting on questions that stimulated thought and research.

In *Roll, Jordan, Roll: The World the Slaves Made* (1974), Eugene D. Genovese introduced the paternalism theory, which stated that masters and slaves were interdependent. In recent years, "new social historians" have criticized historiography's narrow focus on race relations and argued that the slave trade changed the United States' social structure because of economic, political, and social factors. More information on slavery and interpreting the Reconstruction Period can be found by reading Gerald N. Grob and George Athan Billias, *Interpretations of American History: Patterns and Perspectives*, 6th ed. (New York: The Free Press, 1992). These are just a representative sample and overview of the many works on the subject. Other works include R. W. Fogel and S. L. Engerman, *Time on the Cross: The Economics of American Negro Slavery* (1989), Thomas J. Sugrue, *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North* (2008); and Eric Foner, *Reconstruction: America's Unfinished Revolution* (2014). However, they do not look at legal racism or Indiana. Indiana historiography will be discussed further in this chapter.

Examining the arguments and actions of state founders and constitutional writers can help to determine how racist attitudes and laws evolved. This dissertation analyzes the following periods in Indiana's history: first, the settlement from 1787 to the State Constitutional Convention in 1815, including the enforcement of the Federal Fugitive Slave Acts (1793 and 1850), which the U.S. Supreme Court upheld with *Dred Scott v. Sandford*;[10] and second, the historical events, laws, and constitutions from the formation of the state in 1816 until the adoption of the state's second constitution in 1851.[11] Finally, the dissertation studies the events from the passage of the state Constitution of 1851 to the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution and universal suffrage for black males in Indiana in 1870.

This dissertation will examine three categories of race relations — legal, political, and social development — in Indiana between 1787 and 1870. In the legal field, how did the judgments of lower and higher courts compare with those of the federal court and the U.S. Supreme Court on similar matters? Did state courts provide more protection, and if so, was there a pattern? Did the state supreme court rulings cause the Indiana legislature to create or amend legislation or the state constitution? If so, did legislators attempt to correct racial and legal issues or seek other ways to maintain the status quo?

What were the political and social issues associated with the various stages of race relations in Indiana? Who supported such measures, and who opposed them? Did a particular political party endorse racial exclusion and subjugation laws? Finally, did anyone organize resistance against discriminatory legislative and local measures in society? Were sections of the

[10] *Dred Scott v. Sandford,* 60 U.S. 393 (1856).

[11] Indiana enacted a new constitution in 1851.

state more inclined to resist exclusion? Considering these three areas, how does Indiana fit into the historiography of racism in the United States, and what questions remain for historians to answer?

The United States has a long history of national abuse of blacks. However, is this true for Indiana specifically? For the history of legal racism in America to be complete, it is essential to analyze what has occurred in all parts of the country. With Indiana, it is crucial to determine whether a minority of actors were responsible for racist acts or whether Hoosiers held these beliefs widely.

Research Methodology

In studying the problems of racism, historians need to understand their role in not applying modern understandings of racism or in making judgments about past events. Historians must evaluate the actors and events as they were. A basic assumption of this dissertation is that modern views of racism do not apply to those who lived before the nineteenth century since the actors based their oppression of blacks on the belief in white racial superiority, which was universally accepted, often even by the antislavery faction.

For example, during the Indiana Constitutional State Convention of 1850, delegates argued blacks were lazy and draining the public welfare. One delegate argued that blacks and whites could not live together because "I do know from Holy Writ that the negro race … are under the ban of heaven — a curse that was pronounced upon them by Almighty God... The race was cursed, and it was declared that they should be the servants of servants. That curse has never been removed." The delegate avowed, "We cannot, therefore, be charged with inhumanity in preventing our State from being overrun with these vermin — for I say they are vermin, and I

know it."[12] Another delegate argued, "…it would be better to kill them off at once if there is no other way to get rid of them. We have not come to that point yet with the blacks, but we know how the Puritans did with the Indians, who were infinitely more magnanimous and less impotent than this colored race."[13]

This study examines the treatment of blacks in Indiana under its two constitutions and various laws passed by the territorial and state legislatures. The research method relies heavily on the documentation and collection of primary sources. These primary sources include records of the state constitutional conventions of 1815 and 1850, the final text of the state constitutions, and cases before the lower courts and the Indiana Supreme Court. Direct language and text should be used when writing about court cases or legal documents. It would be uncommon for a narrative paper to include this information; however, it is fundamental for a legal history paper since it provides the best insight into the arguments and reasoning of the court. Therefore, this paper does contain multiple long quotes. The primary sources for this dissertation include transcripts of speeches, legislative journals, petitions, newspapers, religious sermons, church documents, letters, diaries, or autobiographies. This study draws on the primary source collections of the Indiana State Archives and Records Administration, the Indiana State Library, the Indiana Historical Bureau, and the Indiana Historical Society.

The Indiana State Archives and Records Administration maintains copies of the original court notes and documents related to the cases referenced in Chapter Five. The Indiana State Library contains the most significant collections used in this study. It includes the *Elk Monthly Meeting of Antislavery Friends*, 1843-1852*, the Isaac Shelby Court Papers, the Luther A.*

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[12] *Debates and Proceedings, Journal of the Convention of the People of the State of Indiana to Amend the Constitution, Assembled at Indianapolis, October 1850* (Indianapolis: Indiana Historical Bureau, 1936), 584.

[13] *Ibid*., 574.

Donnell Court Record, the Papers of Allen Hamilton, the Papers of Charles H. Test, the Papers of Hyacinth Lasselle Family Collection, 1713-1904*, The Papers of Isaac Newton Blackford,* 1817-1882, and others. These collections include letters, diaries, photographs, manuscripts, legal documents, and other information this dissertation references. The Indiana Historical Society, notably the Eugene and Marilyn Glick Indiana History Center Library, houses an extensive collection of materials related to black history. The historical society collection includes the *Cabin Creek Society of Antislavery Friends,* 1843-1856*, Certificate of Sale of a Negro Boy, the Emancipation Record of Mathew Becks,* 1851*, Kentucky Resolution to the Adjacent Non-Slaveholding States,* and a general collection of black publications and resources.

These documents provide first-hand accounts of the issues discussed in this study and provide social and political backgrounds for evaluating legislative and regulatory actions. Reviewing newspaper letters to the editor helps to measure social awareness and activism. Letters and diaries also promote the knowledge and ideological positions of the actors. Evidence suggests that the actions of politicians and lawmakers did not always reflect personal feelings. Not all antislavery activities were visible, especially in the Underground Railroad. Therefore, this research relies on memoirs such as Levi Coffin's *Reminiscences, The Underground Railroad's Reputed President,* and various Quakers' meeting notes. This study shows that understanding the public and private characters of the 18th and 19th centuries is necessary to understand the complicated nature of race relations in Indiana.

Historiography

This dissertation examines constitutional racism in Indiana from 1787 to 1870 and draws extensively on the historiography of federal and state legal scholars. The historiography encompasses Indiana and black history, constitutional development, political, religious, and

cultural implications and issues, and legal decisions in a historical context. The historiography of constitutional racism in America has changed over time. First-hand accounts of abolitionists in the 19th century produced works sympathetic to blacks, such as Levi Coffin's autobiography *Reminiscences of Levi Coffin, the Reputed President of the Underground Railroad* (1880), in which he wrote about helping slaves escape and recounted the slaves' stories of bondage and oppression.[14]

The first generation of white historians in the post-slavery era offered a perspective that minimized the injustices of bondage and the suffering of blacks, seeing the end of slavery as a benefit to the South and North; this nationalist school of historians was best exemplified by James Ford Rhodes, a businessman turned historian, in his multi-volume work titled, *History of the United States from the Compromise of 1850,* (1893-1906). However, various perspectives emerged in the 20th century, including economic interpretations of history written primarily by Marxist whites like Charles Beard, scholarly but sympathetic interpretations written primarily by black academics like John Hope Franklin, and advocates of "science" in 19th century America usually invoked science to support white supremacy, whether they were proslavery or antislavery.[15]

While typical college courses often confine the extent of racism to the broader areas of the North and South, some historians have focused on regional areas to advance the historiography.[16] This narrowing of focus has led to work on the Midwest, such as University of

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[14] Levi Coffin, *Reminiscences of Levi Coffin, the Reputed President of the Underground Railroad* (Cincinnati: Robert Clarke & Co., 1880).

[15] Ernst Breisach, *Historiography: Ancient, Medieval, and Modern* (Chicago: University of Chicago Press, 2007), 338-339. John Hope Franklin, *The Free Negro in North Carolina, 1790-1860* (Chapel Hill: University of North Carolina Press, 1943).

[16] See the footnote fifteen on the historiography of slavery from a North and South perspectives.

South Dakota professor Jon K. Lauck, in his book *The Lost Region: Toward a Revival of Midwestern History* (2013), which aimed to correct the neglect of the Midwest as a region of the United States worthy of scholarly historical study.[17]

Similarly, in *Statehood and Union: A History of the Northwest Ordinance* (1987), Peter S. Onuf, a former professor at the University of Virginia and Oxford, examined the Northwest Ordinance of 1787 and its prohibition on extending slavery.[18] Onuf argued that the interpretation and application of the provision of the Northwest Ordinance created new states that ultimately undermined constitutional authority.

Also, *Frontier Democracy: Constitutional Conventions in the Old Northwest* by Silvana R. Siddali (2016) presented a more recent study of the Northwest Ordinance. Siddali, a history professor at Saint Louis University, noted that debates at the state conventions in Indiana, Illinois, Iowa, Michigan, Minnesota, Ohio, and Wisconsin revolved around two key questions, "How do citizens in a racially and politically diverse frontier democracy talk to each other about framing governments and defining rights? What happens when those citizens — in spite of profound differences that drive them apart — agree on the core ethical principles of democratic self-government?"[19] Racial division prevailed despite these questions and consideration of the ethical ideas of republicanism, Christianity, and science.

Regional works on racism include *Race and Rights: Fighting Slavery and Prejudice in the Old Northwest, 1830–1870* (2013), and Brent M.S. Campney's *Hostile Heartland: Racism,*

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[17] Jon K. Lauck, *The Lost Region: Toward A Revival of Midwestern History* (Iowa City: University of Iowa Press, 2013).

[18] Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington: Indiana University Press, 1987).

[19] Silvana R. Siddali, *Frontier Democracy: Constitutional Conventions in the Old Northwest* (Cambridge: Cambridge University Press, 2016), 1.

Repression, and Resistance in the Midwest (2019).[20] In 2018, historian Anna-Lisa Cox wrote *The Bone and Sinew of the Land: America's Forgotten Black Pioneers Struggle for Equality*, describing how black settlers moved into the Northwest Territory. Her work examined and told the story of the first black settlers in the region, limiting the focus to free blacks.

While these historians discussed the fight for equal rights for new black colonists, there was no legal perspective. Professor G. Alan Tarr, founder of the Center for State Constitutional Studies at Rutgers University, corrected that by writing multiple works on the federal judiciary and the United States Constitution, including his 1988 regional book *Understanding State Constitutions*.[21] Tarr has edited several works on constitutional development for individual states, including Indiana.

To further develop the historiography of racism, historians have studied individual states and local communities. John B. Dillon wrote the first significant work on the state in his book *A History of Indiana, from its Earliest Exploration by Europeans to the Close of the Territorial Government in 1816, Comprehending A History of the Discovery, Settlement, and Civil and Military Affairs of the Territory of the U.S. Northwest of the River Ohio; and General View of the Progress of Public Affairs in Indiana from 1816-1856* (1859).[22] Dillon's work was extensive in Indiana history, beginning with the first Europeans to encounter indigenous people. Although

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[20] Dana Elizabeth Weiner, *Race and Rights: Fighting Slavery and Prejudice in the Old Northwest, 1830–1870* (Ithaca: Cornell University Press, 2013). Weiner is a professor at Wilfrid Laurier University in Ontario, Canada. Brent M.S. Campney, *Hostile Heartland: Racism, Repression, and Resistance in the Midwest* (Urbana: University of Illinois Press, 2019). Campney is a professor at the University of Texas Rio Grande Valley.

[21] G. Alan Tarr, *Understanding State Constitutions* (Princeton: Princeton University Press, 1998).

[22] John B. Dillon, *A History of Indiana, From Its Earliest Exploration by Europeans to the Close of the Territorial Government, in 1816; Comprehending A History of the Discovery, Settlement, and Civil and Military Affairs of the Territory of the U.S. Northwest of the River Ohio and General View of the Progress of Public Affairs in Indiana from 1816-1856* (Indianapolis: Bingham & Doughty, 1859). For a biography on Dunn see Gregory. S. Carpenter, "John Brown Dillon: The Father of Indiana History," *The Indiana Quarterly Magazine of History* 1, no. 1 (1905): 4–8. http://www.jstor.org/stable/27785086.

there was a constraint on the size of this book, he included primary sources in his appendix, such as his Appendix G - *Laws of the Indiana Territory, Concerning Slaves and Negro or Mulatto Servants.*

Perhaps the most historically accurate account of slavery during the state's founding period was historian and journalist Jacob Piatt Dunn, Jr.'s 1888 *Indiana: A Redemption from Slavery*. Dunn stated in his preface that he feared history would forget the true meaning of slavery and that "historians, who have alluded to its continuation under the Ordinance of 1787, appear to have regarded it merely as one of the incongruities of frontier life, an unlawful condition which nothing but the imperfection of government permitted to exist."[23] He predicted that the issue would become "hazed" and ignored by future historians. Historians of Indiana before 1888 inadequately documented events for historical purposes, and Dunn's work created the first bibliography to begin Indiana historiography. While his work dealt most extensively with incidents of slavery, it did not cover the details of the 1815 Constitutional Convention.

Former Indiana University professor John D. Barnhart and a former editor with the Indiana Historical Bureau, Dorothy L. Riker, revisited the same contemporary period as John Dillion in *Indiana to 1816: The Colonial Period* (1994) as part of the Indiana Historical Society's sesquicentennial observance of the state formation.[24] The project comprised five volumes covering specific periods written by different historians. While this first volume was not as detailed as Dillon's work, addressing issues related to indigenous people, it took a more

[23] J. P. Dunn, Jr., *Indiana A Redemption from Slavery* (Boston: Houghton, Mifflin, and Company, 1888), iii. Dunn was also the Secretary of the Indiana Historical Society in 1888.

[24] John D. Barnhart, and Dorothy L. Riker, *Indiana to 1816: The Colonial Period* (Indianapolis: Indiana Historical Society Press, 1994).

detailed look at slavery during the colonial era. However, Barnhart and Riker did not detail accounts of free blacks or slaves living in Indiana.

Donald Francis Carmony, a former history professor at Indiana University, completed subsequent major works on Indiana history, beginning with *A Brief History of Indiana* (1946), followed by his historical collection, *Donald F. Carmony Papers* (1949), and continued with *Indiana's Century Old Constitution* (1951).[25] Carmony was the author of the Indiana Historical Society's second volume, commemorating the sesquicentennial observance of the state formation in *Indiana: 1816-1850: The Pioneer Era* (1998).[26] Carmony's book was the first in which he spoke about blacks in the state and their plight. While the work did not discuss legal cases involving blacks, it debated legislative acts, prejudice, legal limitations, rights, and privileges. The work failed to examine the history of legal racism adequately. Carmony devoted less than twenty pages of the six-hundred-page book to several available topics about blacks and did not elaborate on free blacks and their contributions; instead, he discussed how slave owners forced free blacks back into bondage. Despite its limited scope for blacks in the state, *The Pioneer Era* was a well-researched and comprehensive study of Indiana from 1816 to 1850.

Readings in Indiana History, edited by Gayle Thornbrough (who worked at the Indiana Historical Society from 1937-1984 and was its first full-time employee editing historical documents) and Dorothy Riker in 1956, was an update to an earlier 1914 edition by the History

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[25] Donald Francis Carmony and Howard Henry Peckham, *A Brief History of Indiana* (Indianapolis: Indiana Historical Bureau, 1946); *Donald F. Carmony Papers* (1949); Donald Francis Carmony and John Donald Barnhart, *Indiana's Century Old Constitution* (Bloomington: State Constitution Centennial Commission - Indiana University Press, 1951); *Indiana: A Self-appraisal* (Bloomington: Bloomington & London - Indiana University Press, 1966).

[26] Donald F. Carmony, *Indiana 1816-1850: The Pioneer Era* (Indianapolis: Indiana Historical Society Press, 1998).

Section of the Indiana Teachers' Association.[27] This study provided a series of reprints, edited primary documents, and references for historians studying Indiana. However, the 1956 edition removed the documents on slavery from the 1914 edition, which devoted an entire chapter to slavery and argued that Hoosiers actively attempted to help slaves escape their masters and find safety in Canada. The 1914 authors explained that the "sight of these unfortunate wretches first aroused pity for them and next a warlike anger against the authors of their misfortunes, the slave owners of the South."[28] However, the 1956 edition inserted the case of *State v. Lasselle,* in which the Indiana Supreme Court outlawed slavery in the state.

Nonetheless, the 1914 work provided more valuable and relevant information about race relations in Indiana than the 1956 edition. Similarly, *Indiana History: A Book of Readings* (1994), edited by Ralph D. Gray, a history professor at Indiana University-Purdue University at Indianapolis, contained a series of essays written by Indiana historians on various subjects.[29] The book included contributions by Thornbrough on "The Fugitive Slave Law in Operation" and "Slavery in the Indiana Territory" by Dunn. While the book made mention of blacks, it did not address any legal issues beyond Indiana's 1851 constitutional provision prohibiting the migration of blacks into the state.

The superficial treatment of legal racism against blacks continued in the historiography of the Indiana Constitution. In 1971, Charles Kettleborough began a multi-volume work entitled *Constitution Making in Indiana Vol. I, 1780-1850* (1971); *Constitution Making in Indiana, Vol.*

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[27] Gayle Thornbrough and Dorothy Riker, eds., *Readings in Indiana History* (Indianapolis: Indiana Historical Bureau, 1956).

[28] Committee of History Section of the Indiana State Teachers' Association, ed., *Readings in Indiana History* (Bloomington: Indiana University Press, 1914), 379.

[29] Ralph D. Gray, ed. *Indiana History: A Book of Readings* (Bloomington: Indiana University Press, 1994).

II, 1851-1916 (1975); *Constitution Making in Indiana, Vol. III, 1916-1930* (1977).[30] After Kettleborough's death, John A. Bremer completed Kettleborough's work by writing the *Constitution Making in Indiana, Vol: IV, 1930-1960* (1978).[31] In the first two volumes, Kettleborough devoted fewer than fifty pages to discussing blacks and their legal status in the state. This trend of avoiding constitutional racism in Indiana history continued in historical works, except for a 1957 book by Emma Lou Thornbrough, a history professor at Butler University and a civil rights activist in Indiana. Its re-release in 1993 caught the attention of the public.

Thornbrough's 1957 book *The Negro in Indiana before 1900: A Study of a Minority* was the first devoted to blacks in Indiana; it failed to analyze constitutional interpretations. Thornbrough devoted Chapter Five to legal, economic, and social patterns and discussed involuntary servitude, suffrage, education, and equality. However, it only provided details of legislative actions and devoted little time to criticisms of local issues or Indiana Supreme Court decisions. Although the book did not analyze legal and judicial actions, it took a crucial look at the plight of blacks in Indiana. Thornbrough continued her work with blacks in Indiana until she died in 1994. She was the author, co-author, and editor of multiple books, articles, and essays. Her last book, published posthumously in 2000, *Indiana Blacks in the Twentieth Century*, focused on blacks from the 1920s to the late 1970s. She also authored the third volume of the Indiana Historical Society's sesquicentennial observance of the state's formation in *Indiana in*

[30] Charles Kettleborough, *Constitution Making in Indiana Vol. I, 1780-1850* (Indianapolis: Indiana Historical Bureau, 1971); *Constitution Making in Indiana Vol. II, 1851-1916* (Indianapolis: Indiana Historical Bureau, 1975); *Constitution Making in Indiana Vol. III, 1916-1930* (Indianapolis: Indiana Historical Bureau, 1977).

[31] John A. Bremer, *Constitution Making in Indiana Vol. IV, 1930-1960* (Indianapolis: Indiana Historical Bureau, 1978).

the Civil War Era, 1850-1880 (1965).[32] She was the first to publish her series volume, although this was the third volume. It focused on political, economic, social, and cultural developments, with a considerable portion dedicated to politics because of the importance of the civil rights period. Despite her extensive work on Indiana black history, this book did not focus on the subject, leaving a void to be researched.

In 1986, Indiana University professor James H. Madison published *The Indiana Way: A State History,* which devoted fewer than twenty pages to blacks in the three-hundred-page book.[33] However, Madison included statistical information about the population, including racial breakdown.

In 2006, former Chief Justice of the Indiana Supreme Court Randall T. Shepard and legal historian David J. Bodenhamer published *The History of Indiana Law.*[34] Shepard and Bodenhamer added a short chapter by James H. Madison entitled *Race, Law, and the Burdens of Indiana History*, which discussed superficially the legal issues of racism in Indiana. While the short essay mentioned legal decisions, it did not sufficiently analyze them.[35] The latest book on blacks in Indiana focused on the state capital of Indianapolis. David L. Williams's book *Blacks in Indianapolis: The Story of a People Determined to be Free* (2022) examined race relations from 1820 to 1970 using a cultural perspective.[36]

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[32] Emma Lou Thornbrough, *The Negro in Indiana before 1900: A Study of a Minority* (Bloomington: Indiana University Press, 1993); *Indiana Blacks in the Twentieth Century* (Bloomington: Indiana University Press, 2000); *Indiana in the Civil War Era, 1850-1880* (Indianapolis: Indiana Historical Society Press, 1965).

[33] James H. Madison, *The Indiana Way: A State History* (Bloomington: Indiana University Press, 1986).

[34] David J. Bodenhamer and Randall T. Shepard, *The History of Indiana Law* (Athens: Ohio University Press, 2006).

[35] *Ibid.,* 40-58.

[36] David L. Williams, *Blacks in Indianapolis: The Story of a People Determined to be Free* (Bloomington: Indiana University Press, 2022).

Besides general works on the history of Indiana and black history, biographical works on leading founders, businesspersons, ministers, lawyers, and judges contributed to the depth of this study. *Justices of the Indiana Supreme Court,* published in 2010, provided a biographical background for all the members of the Supreme Court, beginning with the first justices, John Johnson (1816-1817), James Scott (1816-1830), and Jesse L. Holman (1816-1830).[37] Jesse L. Holman was a member of the Indiana Territory of Representatives before becoming a jurist and helped establish Indiana University in 1820. Holman's life was the subject of *Jesse Lynch Holman, Pioneer Hoosier,* written by Israel George Blake (2009).[38]

The Society of Indiana Founders published *The Pioneer Founders of Indiana* in 2016, containing biographical information from the state.[39] This work helped to identify those who founded Indiana. Although it had few details, it is a valuable resource in helping locate people and places for further research. However, this book was primarily based on the founders' ancestors providing general information and was not an independent research project.

Biographies of individual founders further supplement the historiography. Thomas Posey was the first governor of the Indiana Territory. His biography, *General Thomas Posey: Son of the American Revolution* (1992) by John T. Posey, provided a detailed account of the governor's life before and during his administration.[40] However, the book deviated from his political work to a private relationship between George Washington and Posey. William Henry Harrison, the

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[37] Linda C. Gugin, and James E. St. Clair, eds., *Justices of the Indiana Supreme Court* (Indianapolis: Indiana Historical Society Press, 2010).

[38] Israel George Blake, *Jesse Lynch Holman, Pioneer Hoosier* (Indianapolis: Indiana Supreme Court, 2009).

[39] Society of Indiana Pioneers, *Pioneer Founders of Indiana* (Indianapolis: Society of Indiana Pioneers, 2016).

[40] John T. Posey, *General Thomas Posey: Son of the American Revolution* (East Lansing: Michigan State University Press, 1992).

second governor of the Indiana Territory and the governor at the time of statehood, was the ninth President of the United States, and there are multiple biographies on all aspects of his life. However, *William Henry Harrison: A Bibliography* by Kenneth Stevens (1998) offered a thorough source to examine his contribution to the Northwest Territory.[41] Stevens's work provided a greater understanding of Harrison's role in perpetuating slavery in the territory.

This Dissertation's Scholarly Significance

This study will contribute to American historiography by showing that the antislavery white supremacist faction in the antebellum period of Indiana history gained control during the sate formation and then enacted constitutionally racist laws that were prevalent until the Reconstruction period. The faction while opposing slavery embarked on a policy of exclusion of non-whites.

There is a need for antislavery white supremacist historiography to fill the gap in the study of Indiana constitutional development and law, to include blacks and their legal, political, religious, and cultural treatment from the founding to the Reconstruction period, by proslavery and antislavery white supremacists. While legal historians have examined constitutional development and laws during the founding of Indiana, they have provided only superficial views on the treatment of blacks by those who created and interpreted the laws. Only two authors, Dunn and Thornbrough, have focused on Indiana's history and concentrated on racial discrimination from its founding until 1870. Both authors restricted their focus to political and social issues and thus did not provide an analysis from a legal historical perspective. Nor did they view the state founders from a white supremacist's viewpoint.

[41] Kenneth Stevens, *William Henry Harrison: A Bibliography* (Westport, CT: Greenwood Press, 1998).

Chapter Overviews

In Chapter One, the context of the study has been introduced along with the dissertation thesis. The research questions have been identified, along with the dissertation's significance and the relevant historiography.

Chapter Two begins with the Pre-Indiana Territory. The chapter discusses how the French and British treated slaves before and after the French and Indian War. The French created a legal code to regulate the treatment of black slaves like those used in the antebellum South. This system remained intact after the British took possession of the territory at the end of the French and Indian War. The British largely ignored the area until Pontiac's Rebellion and maintained its autonomy until the American Revolution. This chapter describes the actions taken by the Continental Congress to carve out the Northwest Territory after the American Revolution, as well as the actions of the Virginia legislature ceding the territory to the Continental Congress and the Congressional Enabling Act of the Northeast Ordinance of 1787. The section of the 1787 Ordinance, Article VI, which dealt with slavery, is the major focus.

The attempts to circumvent the antislavery clause in the Ordinance Act by creating indenture servitude contracts are discussed in Chapter Three, along with the various pieces of legislation enacted. The acts began with the *Negro Act of 1805* (*Act Relating the Introduction of Negroes and Mulattoes into the Territory*), as well as a review of the *1805–1810 Clark County Register of Negro Slaves, the Knox County Register*, and other acts of legislation, creating quasi-slavery. Along with t*he Negro Act of 1805*, the *Act of 1802* created a *Servants Act* (the *Indentured Act*) and the *Crimes Act of 1818* (relating to interracial sex), show how legal racism in the territory continued and challenged the notion of a free state. The chapter focuses on the development of the proslavery and antislavery white supremacist factions that

vied for control of the territory. The proslavery element found support within the judiciary and the governor's office but was mainly confined to the state's southern portion. The antislavery faction consisted of counties such as Clark that fought against the proslavery forces with the assistance of Quakers.

The legal status of blacks in the Indiana Territory is the topic of Chapter Four. It looks at the laws created by the new government that subjected blacks to a quasi-slavery state known as indentured servants. It discusses the similarities to slavery and how it was protected by the judiciary, which helped create and sustain it.

Chapter Five focuses on Indiana's first constitution, enacted in 1816 after the state constitutional convention, and the arguments presented by proslavery and antislavery forces and free blacks. It concentrates on the rise of the antislavery white supremacist faction that gained control with the election of Indiana's first governor, Jonathan Jennings. It furthers the discussion of Indiana Quakers and their split over abolitionism. It reviews the colonization movement in Indiana and how it gained state financial support.

The attention shifts to the establishment of the Indiana Supreme Court and its power to curtail the proslavery elements in Chapter Six. It analyzes multiple cases; in two instances, archival documents are used to learn more about the litigants. The Indiana Supreme Court cases of *State v. Lasselle* (1820) and *In Re Clark* (1821), for which archival records exist, affirmed that slavery was supposed to be illegal in Indiana, at least by law, if not in practice. It also examines the legislative responses to decisions. The chapter studies the state supreme court justices and their legal reasoning to understand their rulings that sometimes appear contradictory.

Indiana's second state constitution in 1851 shifted the political landscape and is the emphasis of Chapter Seven. The chapter begins with the passing of the constitution and the first acts of the state legislature that focused on blacks. Although the state constitution prohibited slavery, certain political factions continued to press for the possibility of buying slaves. The state legislature enacted laws to subject blacks to various legal barriers, preventing equality. These barriers were evident in the state's constitutional provision that banned blacks from living in the state and denied them equal rights to whites. Topics discussed in this chapter include exclusion, interracial marriage, education, and the rise of political parties. The chapter covers nine state cases and revisits judges' and state legislature's political and cultural responses.

Chapter Eight reviews the aspects of Indiana during the Civil War and Reconstruction. It explores the reversal of Indiana Supreme Court opinions and forced changes to the state constitution considering the U.S. Constitution's Thirteenth, Fourteenth, and Fifteenth Amendments. It looks at the political issues of ending legal racism and the need for the Supreme Court to act when the legislature could not.

The dissertation concludes in Chapter Nine, by reviewing and summarizing the key research findings. It revisits the research's central questions and shows how the antislavery white supremacists gained control of Indiana early in its formation and subjected blacks to unequal legal status. It proposes future work to be done in the study area and discusses how this study expands the historiography of legal racism in the United States.

Chapter Two
The Roots of Slavery in the Pre-Indiana Territory

The French Colonial Period

Before the Europeans settled the territory now known as Indiana, the Miami Confederacy of Indians controlled the entire area, including parts of Illinois, Michigan, and Ohio. In 1672 and 1712, French missionaries entered the territory of the Miami Indians to convert them to Christianity; these endeavors were unsuccessful. However, the French were the first Europeans to contact these indigenous people, and Louis XIV's ambitions to expand his empire required them to keep trying. In 1680, the missionary Hennepin visited the Miami Indians on the Illinois River and stated, "There are many obstacles that hinder the conversion of the savages; But in general, the difficulty proceeds from the indifference they have to everything. When one speaks to them of the creation of the world, and of the mysteries of the Christian religion, they say we have no reason; And they applaud, in general, all that we say on the great affair of our salvation." The second obstacle that hindered the conversion was indigenous people's superstitions, as defined by Hennepin. The last obstacle, according to Hennepin, was their migratory patterns.[1]

Despite the failed efforts to convert the Miami Confederacy to Christianity, the relationship between French settlers and Miami Indians continued to improve. By 1679, the French built a small fort near the Saint Joseph River, which became a principal station for mission instruction and trade.[2] Hostilities between the Iroquois Confederacy and the French prevented much progress until a treaty was signed. This constant warfare checked Louis XIV's desire for a more extensive empire within the Americas. The French escalated their influence,

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[1] John B. Brown, *A History of Indiana, From Its Earliest Exploration by Europeans to the Close of the Territorial Government, in 1816* (Indianapolis: Bingham & Doughty, 1859), 7-8.

[2] *Ibid.,* 11.

building forts and settlements within the Miami Confederacy's territory. Indiana and Ohio became refuge areas for most indigenous tribes, which were pushed from the eastern seaboard by British settlements, such as Mahican, Nanticoke, Delawares, Munsee, and Shawnee, along with tribes from the Great Lakes, such as the Kickapoo, Potawatomi, Miami, Piankeshaw, Wea, and Hurons.[3]

After obtaining peace with the tribes, the French started importing black slaves into the area. By 1724, the French empire grew enough to require Louis XV to publish an ordinance to regulate his territorial government and slavery. The preamble avowed:

> Directors of the Indies company [which was the primary corporation running the French interest], having represented that the province and colony of Louisiana are extensively settled by a great number of our subjects, who employ negro slaves and the cultivation of the soil, we have deemed it consistent with our authority and justice, for the preservation of that colony, to establish there a system of laws, in order to maintain the discipline of the Apostolic Roman Catholic Church and deregulate the estate and condition of slaves in the country. And, desiring to provide therefor, and show our subjects residing there, and those who may settle there in the future, that, although they dwell in regions infinitely remote, we are always present to them by the extent of our sovereignty, and by our earnest study to yield them to aid...[4]

The act created fifty-five articles that regulated slavery in the French colonies in North America.

Article II of the edict stated, "All slaves who may be in our said province shall be educated in the Apostolic Roman Catholic religion and be baptized. We command those colonists who purchase slaves recently imported, thus, to have them instructed and baptized, within a reasonable time, under pain of an arbitrary fine. We charge the directors-general of said

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[3] See John D. Barnhart and Dorothy L. Riker, *Indiana to 1816: The Colonial Period* (Indianapolis: Indiana Historical Society, 1994), 65.

[4] John B. Dillon, *A History of Indiana, From Its Earliest Exploration by Europeans to the Close of the Territorial Government, in 1816; Comprehending A History of the Discovery, Settlement, and Civil and Military Affairs of the Territory of the U.S. Northwest of the River Ohio and General View of the Progress of Public Affairs in Indiana from 1816-1856* (Indianapolis: Bingham & Doughty, 1859), 31.

company, and all the officers, to enforce this strictly."[5] In vain, Article III prohibited any other religion from being practiced within the realm. Article IV stated no overseer could prevent a "Negro" from professing his Catholic faith. Article VI barred interracial relationships and prevented any priest or missionary from performing a marriage between the races. Article VI further proclaimed:

> We also prohibit our white subjects, as well as our blacks affranchised, or born free, from living in a state of concubinage with the slaves; enacting that those who shall have had one or more children by such cohabitation, shall be severely condemned, as well as the master permitting it to pay a fine of three hundred livres. And, if they are masters of the slave by whom they shall have such children, we decree that, besides the fine, they be deprived both of the slave and children, who shall be adjudged to property of the hospital of the district, without the capacity of subsequent affranchisement [*sic*].

Article VIII prevented priests from performing marriages between slaves if they did not have the consent of their masters, and it prevented masters from forcing their slaves to marry against their will. Article IX declared, "Children springing from marriages between slaves shall be slaves and shall belong to the masters of the wives, and not to those of the husbands, if the husbands and wives are owned by different persons." Article X stated that if the husband was a slave and the wife was free, then their children followed the condition of the mother and vice versa; if the mother was a slave, then the children would likewise be slaves.

Article XIII prohibited gathering slaves from different masters for any reason and in any place. The punishment for violation included being whipped and branded. In cases of repeated offenses, a judge could impose a death sentence. Article XV required slaves to have a pass to carry goods to market or sell goods. Article XXXVII allowed all subjects to seize anything the slave had in his possession if he could not produce a pass, showing he had his master's authority to be off the property.

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[5] Dillon, *A History of Indiana*, 32. Dillon included the text of the French edict in his book.

Article XIX prohibited masters from allowing slaves to have a day off from labor to earn money for feeding and supporting themselves. Article XX allowed for the prosecution of slaveholders who failed to feed, clothe, and house their slaves. It furthermore allowed for the prosecution of masters for the cruel treatment of slaves. Article XXI addressed slaves who became old or ill. The article required masters to support their slaves, and if they were abandoned or hospitalized, the masters had to pay eight *sous*, a French unit of currency, per day for the support of each slave.

Article XXV prevented slaves from being parties to a civil case either as a plaintiff or defendant; however, the masters could have sued in their stead. Article XXVI sanctioned the criminal prosecution of slaves without making their masters a party, except in cases of accomplices. Article XXVII permitted the execution of any slave who "struck their master, mistress, the husband of its mistress, or their children, so as to bruise, draw blood or upon the face." While XXVIII allowed for severe punishment for striking any free person, punishment was to be "rigorous" and, if warranted, included death. Articles XXX and XXXI dealt with slave theft, with penalties ranging from whipping to execution. Masters had to repair any wrongs done by their slaves to others.

Article XXXII stated:

> That fugitive slave who shall have run away for the space of one month, counting from the day on which his master shall have reported him to the court, shall have his ears cut off, and be branded with a *fleur de lïs* upon one shoulder; and if he repeat the offense for the space of another month, including in like manner the day of his being informed against, he shall be hamstrung and branded with *fleur de lïs* upon the other shoulder; And the third offense shall be punished with death.

Article XXXVI provided that any slave condemned to death could request two county inhabitants sit as secondary judges to determine whether the execution was appropriate. Article XXXVII prevented officers from being paid to prosecute slaves to avoid extortion. Despite the

authorization of death, Article XXXVIII forbade torture, "putting their slaves, or causing them to be put by their authority, to the torture or rack, under any pretense whatsoever, or from inflicting or causing to be inflicted any mutilation of the limbs, under penalty of forfeiting the slaves and being prosecuted to the last extremity — permitting them only, when they believe their slaves deserve it, to have them tied up and whipped with rods or cords." Article XXXIX ordered the prosecution of any master or overseer who killed his slaves or mutilated their limbs while under his control and to punish any murderer according to the heinousness of the offense.

Article XLIII ordered that a "husband, his wife, and their children underage, can not be seized and sold separately, if they are all within the power of one and the same master, declaring void seizures and separate sales which may be made of them." Article XLIV prohibited slaves from seizure if they were between forty and sixty and worked on land for debts owed by their masters. Masters at least twenty-five years of age could free their slaves under Article L. Article LIV gave any manumitted slave all the rights of a free-born person. These edicts show a Christian European understanding of how to treat slaves.

Louis X abolished slavery inside France in 1315, although there is evidence that the practice remained (this is like England which will be discussed further in this chapter). Historian Christopher Miller discussed the moral and legal complexity of the French slave trade,

> But the moral and legal context in France was complicated. Conditions of slavery and servitude were offset. [By] the Freedom Principle. France signifies freedom and that any slave setting foot on what we now call the hexagon should be freed. There was in fact a tradition of freeing slaves, and it remained influential, if often undercut, during the time of the Atlantic slave trade. That principle made France's negotiation of the slave trade slightly more complicated, posing ethical and legal hurdles along the way.[6]

In essence, France justified slavery as it would enslave the man but free his soul.

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[6] Christopher L. Miller, *The French Atlantic Triangle: Literature and Culture of the Slave Trade* (Durham: Duke University Press, 2008), 20.

The French concentrated their possessions in the Louisiana territory. They maintained two distinct regions: New France, which began in Quebec, was the Canadian province, and the Louisiana colony was considered a separate region for administrative purposes. The forts within the Indiana Territory in the upper Wabash area were under New France. In contrast, the lower regions, such as Vincennes, the last fort built by the French, were administered from the Louisiana colony.[7] While the French had built a fort on Lake Ontario in 1726, not much else had happened in the Ohio Valley.

However, from 1744 to 1754, French interests in the Ohio Valley grew. French policy became more concerned with the fur trade, an economic pillar of New France. The fur trade was centered in Montreal and accounted for two-thirds of all French-Canadian exports during the first half of the 18th century. France built more forts to protect its interest in the Ohio Valley area.[8] In the early 1730s, the French settled in Vincennes on the lower Wabash River, Indiana's oldest urban settlement. Sieur de Vincennes, who died in 1736 in the Chickasaw wars, settled the village. After the French and Indian War, the Treaty of Paris ended French involvement in North America. On February 10, 1763, the French ceded all possessions and claims to Canada and the territory east of the Mississippi, except for New Orleans, to the British. However, the British did not take over the Fort Vincennes until May 1764, upon Chief Pontiac's uprising.[9]

Thus, the French established settlements in the Indiana area, and under the articles issued by King Louis XV, they created a set of laws for the treatment and control of black slaves. These laws, not unlike those passed in the antebellum American South, regulated the interaction of free

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[7]James H. Madison, *The Indiana Way: A State History* (Bloomington: Indiana University Press, 1990), 13.

[8] George Rawlyk, "The Failure of French Policy," in *Indiana History: A Book of Readings,* ed. Ralph D. Gray (Bloomington: Indiana University Press, 1994), 23-25.

[9] August Derleth, "The French Fort at Vincennes," in *Indiana History: A Book of Readings* ed. Ralph D. Gray (Bloomington: Indiana University Press, 1994), 29-35.

people and slaves, codifying legal racism in the French colonies in North America. While the French attempted to establish settlements that included black slaves in the area after the 1720s and prior to the French and Indian War, the area never became heavily populated. Thus, there were settlers of French origin in the area that would remain after the British took control. These French rules and customs would remain after the Treaty of Paris.[10]

British Control of the Indiana Territory

After the French and Indian War ended with the surrender of the French in 1760 and the signing of the Treaty of Paris in 1763, the British took possession of Canada and the territory now known as the old Northwest. While the French had done little to colonize the old Northwest or develop its resources, English settlers long expected to move into the area to take advantage of the vast resources across the Appalachian Mountains. However, indigenous people still inhabited the area. During the French and Indian War, the British government recognized Pennsylvania's Treaty of Easton in 1758, which stated that white men would not settle the lands west of the mountains. Thus, the Proclamation of 1763 forbade settlement in the area, arguing that the genuine desire was to prevent any competition in the fur trade.[11]

In the proclamation of October 7, 1763, the king of England forbade all his subjects "from making any purchases or settlements whatever, or taking possession of any of the lands, beyond the sources of any other rivers which fall into the Atlantic Ocean from the West or northwest." He confined the English settlements in America "to such a distance from the Sea coast, as that those settlements should lie within the reach of the trade and commerce of Great

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[10] The Treaty of Paris, 1793, ended the French and Indian War (Seven Years' War) between Great Britain and France and their respective allies. In the treaty's terms, France gave up all its territories in mainland North America, effectively ending any foreign military threat to the British colonies. See Herbert Aptheker, *Early years of the Republic: from the end of the Revolution to the first administration of Washington (1783-1793)* (New York: International Publishers, 1976), 21-22.

[11] Barnhart and Riker, *Indiana to 1816*, 131-133.

Britain."[12] Thus, the government rejected any proposition from various individuals who wished to establish English colonies in the West.

However, conflicts with indigenous people marred British control, most notably with the Indian Chief Pontiac, who had been loyal to the French during the Seven Years' War. Pontiac was a member of the Ottawa nation, which was not a unified entity before Pontiac's Rebellion of 1763.[13] However, he united the tribal factions with his charismatic and oratory prowess. The Miami and Potawatomi joined Pontiac's rebellion against the British. The British considered Pontiac to be the greatest threat to their rule. Following George II's death and change within the British government, the British response to the indigenous people was delayed until the assent of George III.[14]

Therefore, Great Britain's policy in the old Northwest did not depart significantly from the French's. By default, the British maintained the French laws on treating blacks. In 1765, the total number of French settlers within the territory did not exceed six hundred.[15] And since the king forbade the expansion of his subjects into the area, change did not happen before the American Revolution. Unlike the southern colonies which relied on slaves for labor farming, the French mainly traded furs and thus did not require the same number of slaves.

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[12] King George III, *Proclamation of 1763*. See Terry Fenge and Jim Aldridge, *Keeping Promises: The Royal Proclamation of 1763, Aboriginal Rights, and Treaties in Canada* (Montreal: McGill-Queen's University Press, 2015), 33.

[13] Joseph D. Gasparro, "The Desired Effect: Pontiac's Rebellion and the Native American Struggle to Survive in Britain's North American Conquest," *The Gettysburg Historical Journal* 6 (2007): i. In 1763, the Native Americans led an insurgence, commonly called Pontiac's Rebellion, because of Pontiac, the Ottawa leader. This insurgence would culminate in the first extensive multi-tribal resistance to European colonization in America. In response to Britain's new policies, the Native Americans took ten forts, leading to heightened conflict and the British exposing smallpox blankets to the Native Americans.

[14] Barnhart, *Indiana to 1816*, 141-147.

[15] Dillion, *A History of Indiana*, 84.

In 1772, General Thomas Gage issued an order to remove colonists from the old Northwest, authorizing force to effectuate it. French inhabitants in Vincennes responded to General Gage, informing him of their "sacred title" and presence in the area for over seventy years and that the lands had been granted to them by the king of France.

General Gage responded by requesting proof as well as all the names of the inhabitants so that he could confer with the king's government. In June 1774, the British parliament passed an act which extended the boundaries of the province of Quebec to include the territories of the now states of Illinois, Indiana, Ohio, and Michigan, securing the French inhabitants to their free exercise of religion and the rights to remain in the territories and keep their possessions and slaves.[16]

There is little evidence of how the French in the Indiana Territory conducted themselves during British control, but what is known is that these settlements did not change local customs or laws. Although Indiana historians have not focused on French settlements under British rule, there are journals from British military officers who traveled to the area and encountered these settlements and the indigenous people. Often, these journals spoke of what they saw, experienced, and felt about the indigenous people and the French.[17] The British did not establish colonies or courts of law in the territory. They did not even occupy the former French forts until Pontiac's uprising. During the American Revolution, the French at Vincennes were left to manage their affairs until British Commandant Edward Abbott arrived in 1777.[18]

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[16] Dillon, *A History of Indiana,* 86-89.

[17] See *Early Western Travels* (Cleveland: Arthur H. Clark Company, 1905), in multiple volumes.

[18] Gayle Thornbrough and Dorothy Riker, eds., *Readings in Indiana History* (Indianapolis: Indiana Historical Bureau, 1956), 30.

The British control over the area left the French customs and laws toward enslaved persons in place. There is no evidence the British took any measures to assert control over the process of slavery. Perhaps this occurred because the British officers who entered the former French territory were not Tories from the colonies but from England, which had long since removed slavery from its island, as evidenced by William Blackstone in his *Commentaries on the Law of England*:

> I have formally observed that pure and proper slavery does not, nay cannot, subsist in England; such I mean, whereby an absolute and unlimited power is given to the master over the life and fortune of the slave. And indeed it is repugnant to reason, and the principles of natural law, that such a state should subsist anywhere. The three origins of the right of slavery assigned by Justinian, are all of them built upon false foundations. At first, slavery is held to arise *jure gentium*, from a state of captivity and war... [S]econdly, it is said the slavery may begin *jure civili*, when one man sells himself to another. Lastly, we are told, that besides these two ways by which slaves *siunt*, or are acquired, they may also be hereditary: *servi nascuntur*; the children of acquired slaves are, *jure naturae*, by a negative kind of birth, slaves also. But this being built on the two former rights must fall together with them. If neither captivity, nor the sale of oneself, can by the law of nature and reason, reduce the parent to slavery, much less can it reduce the offspring."[19]

The British Empire allowed slavery elsewhere in its colonies but not the motherland; thus, officers from England may not have felt compelled to deal with slavery. In 1672, King Charles II issued the Royal African Charter. An English Jurist, Edward Chamberlayne, argued that "as for slaves … if any come hither from other realms, so soon as they set foot on land, they become free of condition of their masters." However, Judge Chamberlayne did not cite any legal precedent, and his words went relatively unnoticed until 1772. Judge Chamberlayne's declaration was consistent with the Magna Carta and Article 39, signed by King John in 1215. Article 39 stated, "No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we

[19] William Blackstone, *Commentaries on the Laws of England*, Vol. I (Birmingham: The Legal Classics Library, 1983), 411.

proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land." Article 39 was changed in the fourteenth century by parliament to apply not only to free men but to any man "of whatever estate or condition he may be," and later expanded to read, "… for all the king's subjects."

On June 22, 1772, Chief Justice Lord Mansfield issued a legal opinion in favor of an African slave, James Somerset, who was brought to England by his master and filed a *writ of habeas corpus* petition for freedom. Lord Mansfield's ruling stated,

> The only question before us is whether the cause on the return is sufficient? If it is, the negro must be discharged. Accordingly, the return states that the slave departed and refused to serve; whereupon he was kept, to be sold abroad. So high an act of dominion must be recognized by the law of the country where it is used. The power of a master over his slave has been extremely different, in different countries. The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reasons occasion, and time itself from whence it was created, is erased from memory. It is so odious, that nothing can be suffered to support it but positive law. Whatever inconveniences, therefore, may follow from the decision, I cannot say this case is allowed or approved by the law of England; and therefore, the black must be discharged.[20]

The colonists did not receive this ruling well, but it upheld the long tradition of no slavery in England.

The American Revolution and the Northwest Territory

On May 26, 1777, the British-appointed Lieutenant Governor Edward Abbott wrote to Sir Guy Carleton regarding the condition of the Vincennes territory. In the letter, he said, "[s]ince the conquest of Canada, no person bearing his majesty's Commission has been to take

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[20] Francis Hargrave, *An Argument in the Case of James Sommersett a Negro: Lately Determined by the Court of King's Bench: Wherein it is Attempted to Demonstrate the Present Unlawfulness of Domestic Slavery in England. To which is Prefixed a State of the Case. By Mr. Hargrave, One of the Counsel for the Negro* (London: Hargrove, 1772). See also the legal citation: *Somerset against Stewart*, Easter Term, 12 GEO. 3, 1772, K.B. (May 14, 1772). British legal citation is based on the monarch reign for this case it was the twelfth year of the reign of George III (12 Geo. 3) in the Easter Term and heard in 1772 before the King's Bench (K.B.).

possession; From this your excellence may easily imagine what anarchy reigns. I must do the inhabitants justice for the respectful reception I met with and for the readiness to obeying the orders I thought necessarily to issue." He described the Wabash as perhaps one of the finest rivers in the world, and on its banks were multiple Indian towns; the most notable was the Ouija, which he thought could easily raise an army of a thousand men for a cost. He noted that the indigenous people required an "exorbitant number of demands," which he consented to since he neither had enough troops nor would the French inhabitants assist him because the French "never spoke to them without a barn full of goods."[21]

Abbott would leave Vincennes and resign as Lieutenant Governor because of a conflict with the territorial governor, Guy Carlton, who thought Abbott was spending too much money dealing with the indigenous people. After instructing the commandant of the local militias to take charge of the affairs, Abbott departed Vincennes on February 3, 1778, traveling to Fort Detroit, where he resigned. In his letter of resignation, he criticized the British government's policy of employing indigenous people to attack the frontier settlements.[22]

During the American Revolution, the British employed indigenous people to incite violence against the colonists. It was George Rogers Clark, a Virginian who had helped organize Kentucky as a county of Virginia, who identified the British intent and motives. Clark understood the value of the Northwest Territory to the new United States and traveled to Virginia to meet with its governor, Patrick Henry, and devise a plan. Virginia asserted a claim to the old Northwest Territory based on the royal charter granted to the Virginia Company.[23]

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[21] Thornbrough, *Readings in Indiana History,* 30-31.

[22] Dillon, *A History of Indiana,* 189.

[23] Thornbrough, *Readings in Indiana History,* 32.

American independence was secured by a peace treaty with Great Britain on November 30, 1782, approximately a year after the surrender of General Charles Cornwallis to General George Washington at Yorktown. The final treaty was signed between Great Britain and the United States at Paris on September 3, 1783, and ratified by the Congress of the Confederation on January 14, 1784.[24]

After independence, Virginia claimed most of the territory lying northwest of the River Ohio and west of Pennsylvania, extending northward toward the northern boundary of the United States as defined by the Treaty of 1783 and finally west to the Mississippi River. However, Virginia was not the only state to claim the new territory based on a royal charter. New York, Massachusetts, and Connecticut also claimed large territories lying north of the River Ohio and west and northwest of the western boundaries of Pennsylvania.[25] The Continental Congress recommended these states surrender the territories to the United States on September 6, 1780.[26] New York ceded its claims to the United States by a Deed of Cession, executed in Congress on March 1, 1781.[27] Virginia ceded its portion to the national government on March 1, 1784.[28] Similarly, Massachusetts assigned its claims on April 19, 1785, and on September 18, 1786, Connecticut assigned its claims to the United States.[29]

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[24] William M. Malloy, ed., *Treaties, conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, 1776-1909*, Vol. 1 (Washington, D. C.: United States Government Press, 1910), 580-583.

[25] Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington: Indiana University Press, 1987), 21.

[26] Charles Kettleborough, *Constitution Making in Indiana Vol. I, 1780-1850* (Indianapolis: Indiana Historical Bureau, 1971), 3. This work is a collection of primary source documents reproduced for researchers.

[27] "Deed of Cession" is used to give up property rights to a governmental authority.

[28] Onuf, *Statehood and Union*, 99.

[29] *Ibid.,* 99.

Once the land was in the legal possession of the United States, it became incumbent upon Congress to organize territorial governments. On March 1, 1784, the day Virginia ceded its portion to Congress, a committee comprised of Thomas Jefferson of Virginia, Jeremiah T. Chase of Maryland, and David Howell of Rhode Island submitted a plan for a temporary government for the western territory.[30] Congress amended the plan several times, but it would remain in effect until the passage of the Northwest Ordinance in 1787.

The March 1, 1784, proposed ordinance contained a clause prohibiting slavery and involuntary servitude after 1800. However, before Congress could accept this clause, it was referred to a committee for reconsideration. It was re-submitted to Congress on March 22, 1784, with few changes but still retaining the antislavery clause. Due to a motion by the North Carolina delegate Richard Dobbs Spaight, the clause failed on April 19, 1784. The measure therefore explicitly recognized slavery as an institution. Nonetheless, this provision was a source of profound regret to Jefferson, who said he attempted to prevent further extension of the "abominable crime."[31]

However, the North Carolina attempt to allow slavery into the new Northwest Territory was not to be the final position of Congress. On March 8, 1785, Timothy Pickering wrote to Rufus King regarding the omission of the antislavery clause and pleaded not to extend slavery into the new territory. In response, on March 16, 1785, King introduced a motion prohibiting slavery and involuntary servitude, which William Ellery of Rhode Island seconded. A vote of eight to three passed the motion, then tabled it until 1787, when the new ordinance passed — however, no proposed clause allowed for reclaiming fugitives inside the Northwest Territory.[32]

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[30] Kettleborough, *Constitution Making*, 15.

[31] *Ibid.,* 21.

[32] *Ibid.,* 21-22.

The 1787 Northwest Ordinance

An Ordinance for the Government of the Territory of the United States Northwest of the River Ohio (Ordinance of 1787) was passed by Congress on July 13, 1787, by unanimous vote of the eight states whose delegates were present. Congress amended the ordinance multiple times after its introduction on April 26, 1787; the final version prohibited slavery and involuntary servitude.[33] "Article VI: There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: provided, always, that any person escaping into the same, from whom labor or services lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid."[34] With the enactment of Article VI, slavery and involuntary servitude within the new territory were prohibited except as a punishment for a crime. Congress inserted a provision for capturing fugitive slaves within the newly formed territory.[35]

The significance of this ordinance was its design as a road map to expand a nation. It embodied "a vision of a more harmonious, powerful, prosperous, and expanding union."[36] This vision included the idea that an orderly westward expansion allowed for a nation's growth and reduced hostilities with indigenous people. However, "spectators, squatters, and other adventurers infested the new settlements, promoting their private interest, defying state and national authority, and entertaining overtures from foreign powers; North of the Ohio, hostile

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[33] Kettleborough, *Constitution Making*, 25.

[34] "Northwest Ordinance of 1787," *1 U.S.C. at LVII-LIX* (2012).

[35] See Illustration One for a Map of the Northwest Territory and state territorial claims.

[36] Onuf, *Statehood and Union*, xiii.

Indians remained a formal presence."[37] The new residents of the territories, especially in Indiana, would defy the national government on Article VI.

The Ordinance of 1787 created one vast territory that was "subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient."[38] Thus, on July 4, 1800, an act was passed to divide the territory into two districts. The dividing line started from the Ohio River opposite the mouth of the Kentucky River to Fort Recovery and then north to its intersection with the boundary line between the United States and Canada.[39] The Eastern District is now the state of Ohio, known as the Territory Northwest of the Ohio River, and the Western District became the Indiana Territory.[40]

President John Adams appointed William Henry Harrison to be the first governor of the Indiana territory on May 13, 1800, on the next to the last day of the session of Congress in which Harrison was serving as a delegate from the Northwest Territory. Harrison was a native of Virginia and was initially reluctant to take the position. However, with some persuasion, he eventually took on the challenge of being the governor of the new Indiana Territory.[41]

On June 30, 1805, by an Act of January 11, 1805, the Indiana Territory was subdivided by a line drawn east from the southern extremity of Lake Michigan to its intersection with Lake Erie. The Northern District thus created the Michigan Territory.[42] The move to create the Michigan Territory started with the petition of James May and others in the territory to the Senate, which requested division from the Indiana Territory. On December 6, a similar petition

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[37] Onuf, *Statehood and Union*, xiii.

[38] Kettleborough, *Constitution Making*, 39.

[39] *Ibid.,* 26. Fort Recovery was a U.S. Army Fort built by General Anthony Wayne from 1791 to 1794.

[40] See Illustration Two for Indiana Territory Map.

[41] Barnhart and Riker, *Indiana to 1816,* 314-316.

[42] Kettleborough, *Constitution Making*, 39.

by the Democratic-Republicans of Wayne County, signed by their chairman, was presented to the Senate, dividing the Indiana Territory.[43]

On March 1, 1809, an Act approved February 3, 1809, subdivided the Indiana Territory, and a line drawn from Post Vincennes due north to the territory line between the United States and Canada, the western district became the Illinois Territory and the rest Indiana.[44] The act established a territorial government and statehood process when the population reached 60,000.[45] Under the Ordinance Act, Congress allowed local governments to be organized in counties with at least five thousand free male residents.

However, this explicit instruction on obtaining statehood became marred with political controversies between Federalists and Jeffersonian Republicans. This issue first came about when Ohio attempted to obtain statehood. As the Federalists lost power in Congress, Ohio Republicans tried to push statehood and remove the Federalist Governor Arthur St. Clair who was the first governor of the entire Northwest Territory and remained the territorial governor of the Ohio Territory after the Indiana Territory was partitioned off.

Ohio Republicans considered St. Clair an obstacle, and his term of office was unpopular. The statehood proponents pushed the Jeffersonian Republican Congress to pass an enabling act to allow Ohio to form a state government. The Enabling Act of 1802, signed by President Thomas Jefferson, called for a state convention, and prescribed the new state's admission terms. However, a provision for selling federal lands and prohibiting taxing that land for five years was

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[43] Kettleborough, *Constitution Making*, 47.

[44] *Ibid.,* 26. See Illustration Three for a Map of the State of Indiana circa 1816. For the full text of the ordinance, see *Appendix A*.

[45] *An Ordinance for the Government of the Territory of the United States, North-west of the River Ohio* (Philadelphia: John Dunlap, 1787).

controversial. Federalists argued that an unequal condition would harm the new state. However, their argument failed, and in 1803, Ohio achieved statehood. However, like Indiana, Ohio would enact a second constitution in 1851.[46]

Because of the controversy surrounding the 1802 Act, Indiana statehood was more straightforward. Indiana and Illinois moved more rapidly towards statehood by the "democratization of territorial governments" after Saint Clair's removal. Republicans inserted a new successor who could better manage political issues.[47] This rapid change to statehood would affect slavery since there was no consensus on the topic nor any constitutional guidance from the U. S. Supreme Court. White supremacists, both proslavery and antislavery, would vie for control of the new territory.

Overall, the period of the pre-Indiana Territory, which the French first controlled and then the British controlled before the American Revolution, maintained the French laws and customs that dealt with the enslavement of blacks. The French established a legal system that was like those used in the antebellum South to control slavery, while the British maintained the status quo after the French and Indian War. British officers in the area had little concern about slavery since they were not colonials, and slavery was prohibited in England. In essence, the French and the British colonial regimes were proslavery however they were not exclusionist in that free blacks could live in the territories although most likely as second-class inhabitants.

At the time of expansion into the old Northwest Territory, European settlement had been small, and slavery within the area played no role in establishing a strong presence within the region. The settlers of this unfamiliar territory would be former Continental Army officers and

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[46] Onuf, *Statehood and Union*, 67-69.

[47] *Ibid., 86.*

settlers from the east and Virginia. It is these two groups of settlers who will vie for control over the issue of slavery in the new territory. The area remained constant until the passage of the Northwest Ordinance in 1787, which prohibited the furtherance of slavery. However, the forbiddance of slavery was not without controversy, as will be discussed in Chapter Three.

Chapter Three

Political and Social Issues Stemming from Slavery in the Indiana Territory

Before the creation of the Indiana Territory, the French had settled the area and surrendered it to Great Britain at the end of the French and Indian War. The French had established a system of slavery and created laws like those of the antebellum South to control their black captives. After the American Revolution, the new government established the Northwest Ordnance of 1787 to expand the nation.

The Indiana Territorial Government

In establishing a government for the new territory, the Ordinance Act listed the qualifications for suffrage. The act first allowed only white males at least twenty-one years of age who owned fifty acres of land in the district, had citizenship in one state, lived in the district, or owned fifty acres of land and two years of residence to vote. It was modified on February 26, 1808, and allowed white males to be at least twenty-one years of age, citizens of the United States, and residents of the territory for one year; the qualifications included the ownership of fifty acres of land, the acquisition of fifty acres of land by purchase from the United States; or the ownership of a town lot of at least with an assessed value of one hundred dollars. The ordinance established that only white male property owners could vote within the new territory.[1]

On March 3, 1811, the requirement for property ownership was discontinued. Instead, white males over twenty-one who qualified as residents could vote upon furnishing evidence of having paid a county or territorial tax. The act stated: "that each and every sheriff, in each and every county, that now is or after may be established in said territory, shall cause to be held the

[1] Charles Kettleborough, *Constitution Making in Indiana Vol. I, 1780-1850* (Indianapolis: Indiana Historical Bureau, 1971), 48.

election prescribed by this act, according to the time manner prescribed by the laws of said Territory and this act, under the penalty of one thousand dollars."[2]

The new government would be controlled by an appointed governor and three judges, first by the Continental Congress but later by the president, with Senate approval upon creating the United States Constitution. The congressional law granted broad powers to these men:

> The governor and judges, or a majority of them, shall adopt and publish in the districts such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time, which shall prevail in said district until the organization of the General Assembly, unless disapproved of by Congress; but, afterward, the General Assembly shall have authority to alter them as they think fit ....[3]

The first governor of the Northwest Territory, General Arthur St. Clair, had been the Continental Congress's president during the ordinance's passage. St. Clair was an antislavery northerner who was instrumental in passing Article VI, which prohibited slavery in the new territory. The governor's primary concern was the territory's protection and organization. On September 14, 1789, Governor St. Clair wrote to President George Washington stating, "the constant hostilities between the Indians who live upon the Wabash and people of Kentucky, must necessarily be attended with such embarrassing circumstances, to the government of the northwestern territory, that I am induced to request you will be pleased to take the matter into consideration and give me the orders you may think proper."[4]

President Washington responded to the governor on October 6, 1789, saying that he was empowered to call the states' militias to protect the frontiers from the incursion of the hostile Indians. He said that "as soon as possible, possessed full information whether the Wabash and

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[2] Kettleborough, *Constitution Making*, 59.

[3] 1 Stat. 51, 2 *Territorial Papers of The United States* (n.p., 1934), 39.

[4] Thornbrough and Riker, *Readings,* 56.

Illinois Indians are most inclined for war or peace. If with the former, it is proper that I should be informed of the means which will most probably induce them to peace. If a peace can be established with the said Indians on reasonable terms, the interests of the United States dictate that it should be affected as soon as possible."[5] President Washington's priority was to determine the intentions of the Indians and to negotiate peace.[6] Thus, from the beginning of the creation of the Northwest Territory, the governor was too preoccupied with hostilities with Indians to focus on the immediate concerns of slavery.

Despite dealing with the Indians, the governor eventually turned his attention to slavery when he wrote Luke Decker on October 11, 1793:

> I have again been considering the subject of slavery as it stands with us according to the ordinance of Congress for the government of the territory, and I am more and more confirmed in the opinion which are expressed to you, viz: that the declaration that there shall be neither slavery nor involuntary servitude in the said territory otherwise than in punishment for of crimes that whereof the party shall have been convicted, was no more than the declaration of a principle which was to govern the legislature in all facts respecting the matter, and the courts of justice in their decisions upon cases arising after the date of the ordinance, which is the 13th day of July 1787, but it could have no more retroactive operation whatever; And the grounds upon which that opinion is founded are that, in the first place, retrial laws being generally unjust in their nature have ever been discountenanced in the United States, and in most of them are positively forbidden; And the slaves being a species of property continuance and protected in several of the states, and in the part of the territory which you inhabit, by the ancient laws, and had been acquired under those laws, Congress would not divest any person of that property without making him a compensation, though they doubtless had a right to determine that property of that kind afterwards acquired should not be protected in the future, and that slaves imported into the territory at the declaration might reclaim their freedom. And this I take to be the true meaning and import of the clause of the ordinance, and when I was in the Illinois County, I gave the people there my sentiments on the subject in the same manner, which made them easy.[7]

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[5] Kettleborough, *Constitution Making*, 56-57.

[6] *Ibid.,* 57.

[7] Arthur St. Clair and William Henry Smith, *The St. Clair Papers: The Life and Public Services of Arthur St. Clair: Soldier of the Revolutionary War, President of the Continental Congress; and Governor of the North-western Territory: with His Correspondence and Other Papers,* Vol. III (Cincinnati: Robert Clarke & Co, 1882), 318-19.

In this letter, Governor St. Clair, one of the ordinance's authors, considered the law concerning slavery within the new territory and stated that if a slave were already in the territory before the enactment of the ordinance, then that slave would remain a slave; nonetheless, after the passage of the Northwest Ordinance on July 13, 1787, if brought into the territory, then the slave would be free.

Besides St. Clair as governor, three judges were chosen for the new territory. These judges were Samuel Holden Parsons, James Mitchell Varnum, and John Cleves Symmes. Later judges included George Turner, Rufus Putnam, Joseph Gilman, and Return Jonathan Meigs, Jr. Parsons, who had been a Major General in the Continental Army before he was appointed Chief Judge. Parson was unpopular with many influential people in the Ohio Valley, including Governor St. Clair. Parsons died in the winter of 1789; his body was found in the spring after the river thawed.[8] James Mitchell Varnum had been a general in the Revolutionary War before serving as a judge. He died in 1789 in Marietta, Ohio, at forty-one.[9]

John Cleves Symmes served as a New Jersey delegate in the Continental Congress and as a colonel in the Continental Army. His career included being a twelve-year New Jersey Supreme Court Judge. He moved to Ohio after he was appointed a territorial judge in 1789. His daughter married William Henry Harrison before Symmes died in 1814.[10]

The governmental structure would remain in place after the territorial division in 1800. However, unlike Governor St. Clair, the Indiana Territorial Governor William Henry Harrison owned slaves and was proslavery.

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[8] Charles S. Hall, *Life and Letters of Samuel Holden Parsons: Major-general in the Continental Army and Chief Judge of the Northwestern Territory, 1737-1789* (Binghamton, N.Y.: Otseningo Publishing Co., 1905), vii.

[9] James Mitchell Varnum, *A sketch of the life and public services of James Mitchell Varnum of Rhode Island ... by James Mitchell Varnum of New York City* (New York: D. Clapp and Son, Printers, 1896).

[10] "Symes Township." https://www.symmestownship.org/about/history-2/history-%2B-heritage-5/

The Proslavery Faction

Based on pro and antislavery petitions, letters, newspapers, and territorial legislation, the Vincennes and Illinois areas were more proslavery than other parts of the Indiana Territory. Despite Article VI's express prohibition of slavery in the Northwest Territory, prominent settlers and state organizers petitioned Congress for permission to make the Indiana Territory a slave region. Four St. Clair-Randolph County territorial judges, John Edgar, William Morrison, William St. Clair, and John Dumoulin, sent the first slave petition to the United States Congress on January 12, 1796.[11]

John Edgar was part of the first territorial legislative assembly, which initially met on February 4, 1799. He also served as Chief Justice of Kaskaskia in Randolph and St. Clair County beginning in 1790. William Morrison was a prosperous merchant and trader in Kaskaskia and served as a presiding judge with John Edgar. William St. Clair was the Clerk of Law, in which John Edgar was chief justice and was later appointed judge in Kaskaskia in 1796. John Dumoulin was Chief Justice of the Cahokia Court in 1796 and heard cases with William St. Clair.[12] During the American Revolution, these four men had served under Brigadier General George Rogers Clark, who promised to protect their property rights; these men argued that Article VI violated Clark's guarantees. [13]

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[11] In 1796, Randolph and St. Clair formed one county, split into two counties in 1801 after a request to the territorial governor. *Proclamation Creating New Boundaries for St. Clair and Randolph Counties* (1801). https://www.ilsos.gov/departments/archives/online_exhibits/100_documents/1801-proc-stclair-randolph.html.

[12] Illinois State Historical Society, *Papers in Illinois State History and Transactions* (Springfield: Illinois State Historical Society, 1907), 36, 287, 290. *See also* "Legislation in the Northwest Territory," *Ohio Archaeological and Historical Quarterly* (March 1888): 304.

[13] George Rogers Clark was an important fronter general and commander of the border guards who took British-held Fort Sackville near Vincennes in February 1779. Clark later served as chairman of a commissariat that distributed land to individuals who had taken part in his campaigns. See Temple Bodley, *George Rogers Clark: His Life and Public Services* (Boston: Houghton Mifflin Company, 1926).

These slave owners stated that Article VI constituted an *ex post facto* law depriving them of their property.[14] Alternatively, they called for an amendment to allow slavery to remain in the territory, at least for current slave owners and those born of slaves. The men argued that the children of the slave were still property "because the owners of their parents have and, and your petitioners humbly conceive, always had a fixed and incontrovertible a right to, and interest in, the future issue increase of such slaves as they have to the slaves themselves."[15] In other words, the children of slaves are a valuable commodity. These jurists cited a legal precedent from Great Britain to show that the law would create unequal treatment.

> That a slave or Negro, the moment he lands in England, becomes a freeman, that is, the law will protect him in the enjoyment of his person and property. Yet, with regard to any right which the master may have acquired to the perpetual service of John or Thomas, this will remain exactly in the same state as before; for this is no more than the same state of subjection for life, which every apprentice submits to for the space of seven years, and sometimes for a longer term. And whatsoever service as a negro owed to his American master, the same is he bound to render when brought to England.[16]

While these men attempted to invoke Lord Blackstone's legal opinion on slavery, they misspoke and misinterpreted his meaning. The judges understood this to mean that:

> Any person purchasing, or otherwise acquiring a slave in any of the states, is entitled to his perpetual service in this territory as a servant; but, as a diversity may happen in the opinions of different judges, your petitioners, therefore, humbly desire and request, should it, in the wisdom of Congress, be thought unadvisable to repeal the article concerning slavery in toto, that a law may be passed declaratory of the above maxim laid down by Blackstone, but under such regulations as may be thought necessary and that, in such case, it may be thereby declared how far, and for what period of time, the masters of servants are to be entitled to the service of the children of parents born during such servitude, as an indemnity for the expense of bringing them up in their infancy.[17]

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[14] E*x post facto* laws are prohibited by Article I, Section 9, Clause 3, and Section 10 (applicable to states) of the United States Constitution.

[15] Jacob Piatt Dunn, *Slavery Petitions and Papers* (Indianapolis: The Bowen Merrill Company, 1894), 5-6. This is a collection of primary source documents reproduced for historical research.

[16] *Ibid.,* 7. Citing William Blackstone, *Commentaries on the Laws of England*, Vol. I (Oxford: Clarendon Press, 1765), 412.

[17] *Ibid.,* 7.

In essence, the judges feared different judicial opinions. Since there was no appellate remedy, there was no way to guarantee a result (as will be discussed in *The Territorial Court* section of Chapter Four).

However, the excerpt cited by the judges of Lord Blackstone's interpretation of the law failed to incorporate the entire passage. Before the passage quoted above, Blackstone stated,

> Upon these principles of the law of England abhors, and will not endure the existence of, slavery within this nation; so that when an attempt was made to introduce it, the statute 1 Edw. VI c. 3. which ordained, that all idle vagabonds should be made slaves, and fed upon bread, water, or small drink, and refuse meat; should wear a ring of iron around their necks, arms, or legs; and should be compelled by beating, chaining, or otherwise, to perform the work assigned them, were it never to so vile; the spirit of the nation could not brook this condition, even in the most abandoned rogues; and therefore this statute was repealed in two years afterwards.[18]

Furthermore, in the passage quoted by the judges regarding whether withholding baptism of slaves would free them from bondage, Blackstone said:

> That the infamous and unchristian practice of withholding baptism from Negro servants, lest they should thereby gain their liberty, is totally without foundation, as well as without excuse. The law of England acts upon general and extensive principles: it gives liberty, rightly understood, that is, protection, to a jew, a turk, or a heathen, as well as those who profess the true religion of Christ; and it will not dissolve a civil contract, either express or implied, between master and servant, on account of the alteration of faith in either of the contracting parties: but the slave is entitled to the same liberty in England before, as after baptism; and, whatever serves the heathen negro owed to his English master, the same as bound to render when a Christian."[19]

Accordingly, Blackstone was not stating that a slave would be bound to the master in England; the question before Blackstone was whether being a heathen would alter the law, and it would not; he would remain free. Blackstone discussed servants and masters in the English common law system and made no more references to slavery.

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[18] Blackstone, Vol. I, 412.

[19] *Ibid*., 412-413.

On May 12, 1796, Congress decided on the petition. Congressman Joshua Coit, a Federalist from Connecticut, made the committee report to Congress. The committee determined:

> The petitioners being only four in number, and producing no power by which they claim to petition, even on behalf of the inhabitants of the said counties; and no evidence appearing of the wishes of the rest of the inhabitants of the said counties; And your committee having information that an alteration of the ordinance, in the manner prayed for by the petitioners, would be disagreeable to many of the inhabitants of the said territory: they have conceived it needless to enter into any consideration of the policy of the measure, being persuaded that, if it could be admissible, under any circumstances, a partial application, like the present, could not be listened to; There are, therefore, of opinion that this part of the prayer of the petition ought not to be granted.[20]

While this was the first petition sent to Congress, it would not be the last, and future petitions gained favor and support from the slave-holding territorial governors.

With the creation of the new Indiana Territory on October 1, 1800, the same four judges sent another petition to the Senate. However, after the criticism in the congressional response to their first petition, these men induced others to sign their new petition. The second petition contained the signatures of two hundred and seventy-one men from Randolph and St. Clair counties. The second petition modified the request to gain more support. In the 1800 petition, the signatories requested that slavery be allowed in the Indiana Territory under limited circumstances in that "slaves in any of the United States, who when admitted, shall continue in the state of servitude during their natural lives, but that all their children born in the territory shall serve the males until thirty-one and the females until twenty-eight, at which time they are to be absolutely free."[21] On January 23, 1801, Senator Johnathon Dayton, a Federalist from New

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[20] Dunn, *Slave Petitions*, 10-11. See also *Journal of the House of Representatives of the United States 1789-1875* Vol. 2 (Washington: U.S. G.P.O.,1979), 553.

[21] *Ibid.,* 13-14.

Jersey, presented the petition of the counties of Randolph and St. Clair in the Indiana Territory. After reading the petition, it was "ordered to lie on the table."[22]

Having failed twice to overturn Article VI, the territorial governor, William Henry Harrison, presided over a convention in Vincennes that began on Christmas day in 1802.[23] The convention drafted a resolution to Congress. The convention reported:

> The people they represent do not wish for a repeal of the article entirely, but that it may be suspended for the term of ten years and then to be again enforced, but the slaves brought into the territory during the continuance of the suspension and their progeny, may be considered and continued in the same state of servitude, as if they had remained in those parts of the United States where slavery is permitted and from whence they may have been removed."[24]

The convention sought more exceptions and a more prolonged involvement of slavery in the Indiana Territory than the 1800 Petition from Randolph and St Clair counties. The notes of the convention, as well as their resolution, were transmitted to Congress, as was a letter from Governor Harrison. Congress responded to the convention's request on March 2, 1803. The response was given by Congressman Thomas Mann Randolph, a Virginia Democratic-Republican and son-in-law to Thomas Jefferson, who shared the antislavery white supremacist view that blacks were racially inferior but that slavery was immoral and a threat to the republic.[25] Randolph reported:

> [That] the rapid population of the state of Ohio sufficiently evinces, in the opinion of your committee, that the labor of slaves is not necessary to promote the growth and settlement of colonies in that region. That the slaver, demonstrably the dearest of any, can only be employed to advantage in the cultivation of products more valuable than any known to the quarter of the United States; that the committee deemed it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and

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[22] *Annals of Congress*, Senate, 6th Congress, 2nd Session, 735.

[23] Logan Esarey, ed., *Governors Messages and Letter: Messages and Letters of William Henry* Harrison, Vol. 1 1800-1811 (Indianapolis: Indiana Historical Commission, 1922), 62.

[24] *Ibid.,* 63.

[25] William H. Gaines, *Thomas Mann Randolph: Jefferson's son-in-law* (Baton Rouge: Louisiana State University Press, 1966).

> prosperity of the northwestern country, and to give strength and security to the extensive frontier."[26]

However, Congress took no action and delivered the second report on February 17, 1804. This committee's report was more favorable to the convention's request and resolved:

> The sixth article of the ordinance of 1787, which prohibited slavery within the said territory, be suspended, in a qualified manner, for ten years, so as to permit the introduction of slaves, born within the United States, from any of the individual states: provided, that such individual state does not permit the importation of slaves from foreign countries: and, provided further, that the descendants of all such slaves shall, if males, be free at the age of twenty-five years, and, if females at the age of twenty-one years.[27]

However, Congress did not accept the committee's recommendations and formally responded on December 18, 1805.

Congressional response to the petitions presented to them for the Indiana Territory to suspend Article VI revealed the congressional view of slavery in the new territories.

> The slaves that are possessed South of the Potomac render the future peace and tranquility of those states highly problematical. Their numbers are too great to affect either an immediate or gradual simultaneous emancipation. They regret the African that was first landed in the Country and could wish that the invidious distinction between freedmen and slaves was obliterated from the United States. But however repugnant it may be to their feelings, or to the principles of a republican form of Government, it was entailed upon them by those over whose conduct they had no control. The evil was planted in the Country when the domination of England overruled the honest exertions of their fellow-citizens, it is too deeply rooted to be easily eradicated, and it now rather becomes a question of policy, in what way the slaves are to be disposed of, that they may be least injurious to the Country and by which their hapless condition may be ameliorated.[28]

The response emphasized that the settlers had purchased their lands from the United States, having received a lucrative deal with the suspension of taxes. Congress did not act, which left Article VI intact.

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[26] *Journal of the House of Representatives of the United States, 1801-1804,* Vol. 4, 381.

[27] Dunn, *Slave Petitions*, 33. See also *Journal of the House of Representatives of the United States, 1789-1875,* Vol. 5, 206.

[28] *Ibid.,* 35.

Despite Congress's repeated response to the issue of slavery expansion in the Indiana Territory, residents of Randolph and St. Clair counties again petitioned Congress on January 17, 1806. However, their tactic changed, perhaps because of the latest congressional response. In the 1806 petition, they specified:

> The principle of domestic servitude we do not advocate. Yet domestic servitude has found its way into the United States. It is immovably established there. When an evil becomes irremediable, it is not wisdom to convert it, if possible, to some use? However unnecessary the state of servitude may be thought in the eastern part of this territory, no man has doubted its importance here, where among whites, health and labor are almost incompatible. Here, too, a country to which it would properly bring back the principal settlers of upper Louisiana since they have been driven from home by the fear of losing their servants.[29]

The petitioners shifted their arguments away from property rights to more practical realities. In their view, blacks were better suited to cultivate the territory, and since slavery was already a part of the United States, there was no reason to avoid it.

On January 21, 1807, the legislative council of the House of Representatives of the Indiana Territory passed a resolution and sent it to Congress to suspend Article VI of the Ordinance Act. However, their reasoning for sending another request to Congress was the lack of an elected representative body for the Indiana Territory. The legislators hoped that with the creation of a legislative body for the territory, they would receive more favorable treatment.[30] Benjamin Parke, on February 12, 1807, reported from the committee assigned to review the resolution of the legislative council, as he was one of the delegates to the U.S. House of

[29] Dunn, *Slave Petitions,* 58-59.

[30] *Ibid.,* 65-66.

Representatives on behalf of the Indiana Territory and resolved that Article VI should be suspended on January 1, 1808; however, the resolution was not acted upon.[31]

The Indiana Territory's legislative council and House of Representatives once again attempted to persuade Congress to lift the ban on slavery with its 1807 petition. The language used continued to evolve to placate congressional opposition. The tone of the legislation altered and recognized the slavery controversy.

> Candor induces us to premise that, in regard to the right of holding slaves, a variety and opinion exist; whilst some consider it decent and just to acquire them either by purchase or conquest, others consider their possession, by either tenure years, as a crime of the deepest stain; that is repugnant to every principle of natural justice, of political rights, and to every sentiment of humanity. Without entering into the merits of this controversy, it need only be remarked, that the proposition to introduce slavery into the territory is not embraced by them. It is not a question of liberty or slavery. Slavery now exists in the United States, and in this territory. It was the crime of England and their misfortune, and it now becomes a question, merely a policy in what way the slaves are to be disposed of, that they may be least dangerous to the community and most useful to their proprietors, and by which their situation may be ameliorated.[32]

The Indiana territorial legislature attempted to adopt the language and sentiment of Congress, but it also acknowledged the violation of the law by holding slaves within the territory. Again, the legislative council requested that Article VI be suspended for a given number of years; however, the customary ten years was not stated.[33] Clark County sent a counter-petition to Congress on October 10, 1807, in response to the resolution passed by the Indiana territorial legislature. This petition clearly stated that the Clark County petitioners

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[31] Dunn, *Slave Petitions*, 68. See also *Journal of the House of Representatives of the United States, 1789-1875,* Vol. 5, 582. Benjamin Parke was appointed Federal District Court Judge for Indiana in 1817 and served until he died in 1835. George E. Greene, *History of Old Vincennes and Knox County, Indiana* Vol. 1 (Chicago: The S. J. Clarke Publishing Company, 1911), 282.

[32] *Ibid.,* 74.

[33] *Ibid.*, 75.

objected to the introduction of slavery into the territory, and it even recounted the history of petitions sent to Congress to make their case.

The Clark County petition invoked a religious component that proslavery forces could not use. The authors denoted:

> As to the propriety of holding those in slavery whom it hath pleased the divine creator to create free, seems to us to be repugnant to the inestimable principles of a republican government. Although some of the states, have and do hold slaves, yet it seems to be the general opinion, even in those states, that they are an evil from which they cannot extricate themselves. As to the interest of the territory, a variety of opinions exists; But suffer your memorialist to state that it is a fact that a great number of citizens, in various parts of the United States are preparing, and many have actually immigrated to this territory, to get free from a government which does tolerate slavery.[34]

This objection to the petition showed that not all influential persons attempted to bring slavery into the Indiana Territory. While the antislavery faction had been quiet, at least in the fact of petitioning Congress, it existed and wanted to prevent the expansion of slavery into the Northwest Territory. The Senate reported on the legislative council's petition and the response by Clark County on November 13, 1807. Senator Jesse Franklin, Democratic-Republican from North Carolina, spoke for the committee, recognizing both positions. Unlike previous resolutions that would have compromised and allowed slavery, the committee resolved that "it is not expedient at this time to suspend the sixth article of compact, for the government of the territory of the United States northwest of the river Ohio."[35] The committee did not justify its position.

A final report from General W. Johnston, Chairman of the *Committee to which the Petitions on the Slavery Question had been Referred*, was published in the *Vincennes Western*

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[34] Dunn, *Slave Petitions*, 78. See also, Daniel Wait Howe, *The Laws and Courts of the Northwest and Indiana Territories* (Indianapolis: Bowen-Merrill Company, 1895), 518-520. Clark County's antislavery efforts will be discussed infra in the "Antislavery Faction" section.

[35] *Ibid.,* 79. See also *Journal of the Senate of the United States of America, 1789-1873*, Friday, November 13, 1807.

Sun newspaper on December 17, 1808. General (his given name and not a rank) Johnston was originally from Virginia but settled in the northwest in Vincennes when he was seventeen. Johnston referred to the contradictory concept of slavery in America when he stated:

> In every state, but especially in the Southern section of the Union, an oppressed race of man supplied by a most inhuman trade, portended the most serious evils to the American nation. Sensible that slavery, in a country where liberty was deservedly so dear it had been purchased at so high a price, presented a feature of deformity not to be justified, every state hastens to put it into the hoard traffic; Those states which could do it without danger abolished slavery altogether; And those which from the great number of their negroes could not with a due regard to their safety follow at once that dictates of justice and humanity, and that that laws for the protection of that unfortunate class of men and their gradual emancipation.[36]

Johnston stated Virginia ceded the Indiana Territory, and to help eradicate slavery in the nation, Congress did not extend it into the territory. Johnston noted that the law allowed slaveholders to bring their property into the territories and keep them there for up to sixty days, "during which period the negroes is offered the alternative of either signing an indenture by which he binds himself for a number of years, or being sent to a slave state or Territory there to be sold."[37] Johnston's words clearly showed that this system of indentured servitude was no better than slavery itself since "negroes brought here are commonly forced to bind themselves for a number of years reaching or sending the natural term of their lives, so that the condition of those unfortunate persons is not only involuntary servitude but downright slavery-it is perhaps unnecessary to advert to the novel circumstances of a person under extreme duress of a slave becoming a party to a contract, parting with himself and receiving nothing."[38]

Johnston stated that "slavery though in itself unjust might nevertheless be tolerated for reasons of expediency is a point which your committee do not feel themselves at liberty to

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[36] *Vincennes Western Sun*, December 17, 1808, 1.

[37] *Ibid.*

[38] *Ibid.*

concede."[39] The committee argued that if slavery is immoral, then convince cannot make it right. Johnston emphasized that allowing slavery into the Indiana Territory would vastly increase the number of slaves and encourage the introduction of "negros and mulattos" into the territory.[40] Despite this committee report, Johnston would be involved in the Indiana Supreme Court's *The Case of Mary Clark, a Woman of Color,* which would end involuntary servitude in the state in 1821 (as will be discussed in Chapter Six).

After the failed attempts to remove or suspend Article VI of the Ordinance of 1787, the slaveholders instituted forced servitude (indentured) contracts to maintain a quasi-slavery status in the territory. Johnston's response demonstrated the antislavery white supremacist ideology of opposing slavery yet maintaining a separatist viewpoint by limiting the number of blacks in the Indiana Territory.

The Antislavery Factions in Indiana: Clark County and the Quakers

In 1807, the push to allow slavery continued and was growing — the 1807 territorial elections advanced the proslavery elements who asserted their advantage. Antislavery elements sensed the danger and attempted to push back. The best example is the antislavery faction in Clark County, which held a mass meeting on October 10, 1807, at Springville to determine what action to take against the legislative resolution the territorial government had passed.

By 1807 standards, attendance was large. John Beggs, a future associate judge of the Clark County Circuit Court after statehood, was elected chairman, and Davis Floyd, who would be a Judge of the Second Circuit in 1817, was secretary. A committee, composed of Absalom Little, whose family helped settle the county; John Owens, a militia officer and future

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[39] *Vincennes Western Sun*, December 17, 1808, 1.

[40] *Ibid.*

commissioner of Clark County; Charles Beggs, a surveyor, military officer, and future legislator; Captain Robert Robertson, of the Clark County militia, and James Beggs, who would become president of the legislative branch of the territory, were tasked with drafting the response.

James Beggs penned the response and, in reviewing the issue of slavery, detailed:

> [A]lthough it is contended by some that at this day there is a great majority in favor of slavery, whilst the opposite opinion is held by others, the fact is certainly doubtful. But when we take into consideration the vast emigration into this territory, and of citizens too decidedly opposed to this measure, we feel satisfied that all events Congress will suspend any legislative act on this subject until we shall, by the Constitution, be admitted into the Union, and have a right to adopt such a constitution, in this respect, as may comport with the wishes of a majority of the citizens. The toleration of slavery is either right or wrong, that it is inconsistent with the principles upon which our future constitution is to be formed, your memorialist will rest satisfied, that, at least, this subject will not be by them taken up until the constitutional number of citizens of this territory shall assume that right."[41]

The committee's response was successful since no action occurred in Congress to modify Article VI. Furthermore, the antislavery movement found a new advocate with Jonathan Jennings, who would emerge from Clark County and become the first governor of the State of Indiana in 1816.

Meanwhile, Indiana Quakers before the 1830s had differing opinions on slavery. The way historians typically portray Quakers is that they were almost all antislavery, especially in the eastern states. However, that is not true because some Friends were ideologically and economically entrenched in slavery and thus argued for the institution's continuation. These Quakers had a conflict of interest as they stood to lose financial gains if slavery were abolished.[42]

Even among the antislavery faction of Quakers, there was a division on what emancipation meant. For certain Quakers, it was a matter of delivering the enslaved persons unto Christianity, which would justify their freedom. In contrast, others desired to end slavery and

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[41] Lewis C. Baird, *Baird's History of Clark County, Indiana* (Indianapolis: B.F. Bowen & Company, 1909), 59.

[42] Sarah Medlin, "Resistance to Antislavery Friends in Indiana," *Earlham Historical Journal* (2015): 45-46.

return Africans to their homelands. Even amongst the Friends, there were calls for a gradual response to slavery, even when other members took a more vigorous approach.[43] The view that Quakers were a driving force for abolitionism does not hold in Indiana, at least not until the antislavery movement began in the 1830s (as will be discussed in Chapter Five).

Levi Coffin and the Underground Railroad

One of Indiana's earliest and most successful Quakers to get involved in the abolition movement was Levi Coffin, born to a Quaker family in North Carolina on October 28, 1798. He was a farmer, businessman, and humanitarian who became a leader in the Indiana Underground Railroad. In his autobiography, Coffin stated he became an abolitionist at seven and recalled being on the roadside with his father, who was chopping wood when he saw a gang approaching his location. He saw numerous slaves chained as couples and a slave driver some distance behind them with a wagon of supplies; he remembered his father addressing the slaves pleasantly and asking, "Well, boys, why do they chain you?" One man, who appeared deeply saddened, stated, "They have taken us away from our wives and children, and they chained us lest we should make our escape and go back to them." This sight aroused Coffin's sympathies and interest in the subject of slavery. He recalled thinking, "How terribly we should feel if Father were taken away from us." While this was his first contact with the institution of slavery and its injustices, it would not be the last.[44]

Coffin's views on the inhumane condition of slavery intensified after a second incident. It involved Coffin and his father fishing at a camp owned by the Crump brothers, who were slaveholders who permitted their slaves to fish at night and sell the fish to campers. One of these

[43] Medlin, "Resistance to Antislavery Friends, 45-46.

[44] Levi Coffin, *Reminiscences of Levi Coffin, The Reputed President of the Underground Railroad* (Cincinnati: Robert Clarke & Co., 1880), 13.

slaves sold a fish to Coffin's father, and the next day, the slave asked them if they would buy more fish. However, a nephew of the Crumps felt the man was being too familiar and "seized a fagot from the fire and struck the negro a furious blow across the head, baring the skull, covering his back and breast with blood, and his head with fire; swearing at the same time that he would allow no such impudence from niggers." Coffin's father protested this act, and it brought Coffin to tears.[45]

Coffin's first act in aiding a slave occurred when he was approximately fifteen years old. He recounted being at a corn-husking social at Dr. Caldwell's. As was the custom, the neighbors assembled and brought their slaves to help shuck the corn. At this event, a slave dealer named Stephen Holland attended and transported a band of slaves to help his neighbor shuck the corn. As the white people went to supper, Coffin remained behind to talk with them and to see if he could render them any service. Coffin was shocked to learn that a man named Stephen, who was born free, had been kidnapped and sold into slavery. Coffin recounted the story:

> Till he became of age he had been indentured to Edward Lloyd, a Friend, living near Philadelphia. When his apprenticeship was ended, he had been hired by a man to help drive a flock of sheep to Baltimore. After reaching that place he had been seized one night as he was asleep in the negro house of a tavern, gagged and bound, then placed in a closed carriage, and driven rapidly across the line into Virginia, where he was confined the next night in a cellar. He had then been sold for a small sum to Holland, who was taking him to the Southern market, where he expected to realize a large sum from his sale.[46]

Coffin convinced one of the doctor's slaves to bring Stephen to his father's house, who listened to the slave's case and wrote to Edward Lloyd about what had happened. Within two weeks, Hugh Lloyd, Edward's brother, arrived by stagecoach. Quaker members discussed the

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[45] Coffin, *Reminiscences,* 13-14.

[46] *Ibid.,* 15-16.

situation at the Friend's Meeting House at New Garden the next day.[47] The group raised money for expenses and furnished Lloyd with a horse and saddle, and they left to locate Stephen and secure his freedom.

The group found Stephen in Georgia after he had been sold. Lloyd sued to gain possession of Stephen. The law required proof that the mother had been born free, and Lloyd returned north and sent affidavits and papers that proved Stephen was born free. And in six months, Stephen was liberated and returned home.[48] These first few stories by Coffin show the genesis of his work, which became vital in the Underground Railroad in Indiana. While Coffin only provided a few dates in his autobiography, he recounted many stories of his assistance to blacks seeking freedom (as will be discussed in Chapter Five).

Ultimately, the creation of the Northwest Ordinance and, specifically, Article VI's prohibition of slavery in the new territory formed two primary factions that vied for control politically and socially over the territory. The proslavery faction repeatedly attempted to circumvent and or abolish Article VI's prohibition of slavery to perpetuate the bondage of blacks. The antislavery white supremacist faction fought to prevent the further introduction of slavery into the territory, often for moral and religious reasons, but did not advocate for equality of the races. This antislavery faction consisted of white supremacists, as well as others, such as Quakers, who attempted to undermine the entire system of slavery in the United States. The antislavery white supremacist faction found its members in high-ranking positions within the territorial government, including the judiciary, as will be discussed in Chapter Four.

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[47] *Ibid.,* 16.

[48] *Ibid.,* 17.

Chapter Four

The Development of the Quasi-Slavery System in the Indiana Territory

The passage of the Northwest Ordinance, especially Article VI, which prohibited slavery, created two factions that sought control over the new Indiana Territory. The proslavery faction petitioned Congress multiple times to suspend the prohibition of slavery within the area on various grounds, including the racist concept that blacks were more capable of the harsh work necessary to cultivate new land.

The antislavery faction, which consisted of Quakers, maintained an Underground Railroad to help fugitive slaves escape the tyranny of slavery. The leading faction that gained political and social control over the state was the antislavery white supremacists, who fought the proslavery faction to prevent the expansion of slavery within the territory; however, the faction opposed the equality of the races. While the two factions battled it out, the proslavery faction gained a victory in creating indentured servitude contracts.

The Legal Status of Blacks in the Indiana Territory

The antislavery white supremacist faction battled with the proslavery territorial government both politically and socially. Despite the proslavery faction's multiple attempts to establish the Indiana Territory as a slave region, it remained. However, the court would not prevent but actually protect the proslavery faction's creation of indentured servant contracts, which was actually slavery in everything but name.

Slave codes originated in the colonies by white men to control the captured Africans who often opposed their captivity. Historian Max Mishler has stated the "need to police commodified human laborers who could and did register opposition to slavery by running away, pilfering goods, sabotaging production, and, in some cases, waging war. Slave codes regulated the

physical movement, communication, cultural practices, economic activities, and even the migration of enslaved people in the service of capital accumulation."[1]

Black Codes and slave laws were first enacted in 1805 when the territorial legislature passed *An Act Concerning the Introduction of Negros and Mulattoes into this Territory.* The act allowed for slaves to be brought into the Indiana Territory if they were over fifteen years old, as required under section two:

> That the owner or possessor of any negroes or mulattoes as aforesaid and bringing the same into this territory, shall within thirty days after such removal, go with the same before the clerk of the court of common pleas of the proper county, and in the presence of said clerk the said owner or possessor shall determine and agree to and with his or her negro or mulatto upon the term of years which the said negro or mulatto will and shall serve his or her said owner or possessor, and the said clerk is hereby authorised [*sic*] and required to make a record thereof, in a book which he shall keep for the purpose.[2]

The act, under section three, determined what would happen if this did not occur by declaring that "any negro or mulatto removed into this territory as aforesaid, shall refuse to serve his or her owner as foresaid, it shall and may be lawful for such person within sixty days thereafter remove the said negro or mulatto to any place which by the laws of the United States or territories from whence such owner or possessor may or shall be authorised [*sic*] to remove the same."[3] However, the statute provided some age limitations, under section five, which pronounced:

> That any person moving into this territory, and being the owner or possessor of any negro or mulatto as aforesaid, under the age of fifteen years, or if any person shall hereafter acquire a property in any negro or mulatto under the age aforesaid, and who shall bring them into this territory, it shall and may be lawful for such person, owner, or possessor, to hold the said negro or mulatto to service and labour [*sic*], the males, until they arrive at

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[1] Max Mishler, "Improper and Almost Rebellious Conduct: Enslaved People's Legal Politics and Abolition in the British Empire," *American Historical Review* 128, no. 2 (June 2023): 653.

[2] William Henry Harrison, *An Act concerning the introduction of Negroes & Mulattoes into this Territory*, 1. *See also,* Francis S. Philbrick, *The Laws of Indiana Territory 1801-1809* (Indiana: Indiana Library and Historical Department, 1931), 136-139. *Laws of the First General Assembly of the Territory of Indiana*, 1805, Chapter 26.

[3] *Ibid.,* 1.

> the age of thirty five [sic], and the females, until they arrive at the age thirty two [*sic*] years.[4]

The statute further addressed the status of children of these blacks or biracial persons. "Children born of an indentured mother or to serve her Master, males until the age of thirty-five, and females till the age of twenty-eight."

The new statute considered absconding and antislavery assistance in section eleven, finding that any person found guilty of carrying or taking an indentured servant or slave out of the territory or of assisting another person in so doing was subject to a fine of $1,000. One-third of the sum was to be paid to the county and the remainder to the owner of the slave.[5] A modification of the 1805 statute in 1806 allowed for selling indentured servants.

In 1807, the statute was re-enacted under the title *An Act Concerning Servants,* which proclaimed that any slave or servant found over ten miles from the house of his master without a pass should be taken to a justice who had the authority to use a lash on him or her, not to exceed thirty-five. Another section of the same act provided that if any slave or indentured servant were presumed to have trespassed, the property owner could lash the trespasser ten times on the bare back. It was an offense that carried a fine of up to one hundred dollars to harbor a slave or servant without the master's consent, but to aid or assist the slave or servant in absconding carried a fine of up to five hundred dollars.[6]

The Registration of Negroes Act of 1805, created along with *An Act Concerning the Introduction of Negroes and Mulattoes into the Territory*, kept the records of the indentured servant contracts. At the time of the enactment, there were only four counties in the Indiana

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[4] Harrison, *An Act concerning the introduction*, 2.

[5] *Ibid.,* 2-3.

[6] Philbrick, *The Laws of Indiana Territory 1801-1809*, 203-204.

Territory: Clark, Dearborn, Harrison, and Knox. The registers for Clark and Knox County are the only ones that exist today. Dearborn County had no slaves as of 1810. Harrison County was not formed until 1809, and the records show that most of the slaves were registered in Clark County since it was part of Harrison County before its creation. A census in 1810 showed eighty-one slaves in Clark County, twenty-one in Harrison, and one hundred and thirty-five in Knox (a complete list of those registered in Clark and Knox County is in *Appendix B*). However, the number registered between 1805 and 1810 was only a fraction of those held; thirty-three in Clark County and forty-four in Knox County were recorded during 1805-1810. While the Knox County register only covered the period of 1805-1807, no other records exist.[7]

Sam Gwathmey was the first Clerk of the Court for Clark County after the territorial legislature created it and was prominent in the town. Besides being a clerk, he was one of two trustees who sectioned off the town of Jeffersonville and sold lots.[8] In 1803, he built the first home in Jeffersonville.[9] He was one of three partners who formed a company to build a bridge linking Jeffersonville to Kentucky in 1832.[10] Gwathmey's name would appear on all the *Clark County Negro Registry* entries.

Clark County record shows that Mary Provine appeared on October 6, 1806, before the Clerk of the Court of Common Pleas, Samuel Gwathmey, and registered two black boys: Aaron, age six, and Sam, age five. Provine attested Aaron was a slave who arrived in the territory on

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[7] "Registers of Negro Slaves, Indiana Territory: Clark County, 1805-1840, and Knox County, 1805-1807," *The Hoosier Genealogist*, 17, no. 3 (September 1977): 58-60

[8] Lewis C. Baird, *Baird's History of Clark County, Indiana* (Indianapolis: B.F. Bowen and Company, Publishers, 1909), 49.

[9] *Ibid.,* 57.

[10] *Ibid.,* 92.

December 18, 1805. Sam was brought into the territory on September 30, 1806, as a slave.[11] Mary Provine moved to Clark County Territory from Tennessee and married John McClintock, Jr., in 1809. The couple became prominent community members, owned a large farm, and helped establish Jeffersonville, Indiana.[12]

Besides Provine's registration of two enslaved boys, the name Waller Taylor appeared on June 15, 1808. Taylor registered a black male named Gabriel, aged approximately nineteen. Taylor reported Gabriel was a slave from Virginia; however, the purpose of his visit on June 15 was to enter a contract for indentured service. Gwathmey entered the record that "it is agreed by and between the said Waller Taylor, and the said Negro Gabriel that he the said Gabriel is to serve the said Waller Taylor his heirs &c from the date hereof until the first day of January 1850 as prescribed by a law of this Territory entitled *An Act Concerning the Introduction of Negroes & Mullattoes* [*sic*] *into this Territory*."[13] There is little information about Waller Taylor, who had been aide-de-camp on General Harrison's staff, except for a letter he wrote in 1807 to Governor Harrison. The letter, dated January 12, 1807, concerned a conversation he had with Aaron Burr, who was in Jeffersonville.[14] Burr's "mysterious doings" seemed to excite Taylor as he reported that "there are stationed at this place about two hundred militia, who examined all boats that descend the river."[15]

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[11] *Clark County, Register of Negroes, 1805-10*

[12] Baird, *History of Clark County*, 671.

[13] *Clark County, Register of Negroes, 1805-10*

[14] Aaron Burr – was the third vice-president of the United States (1801-05). He was arrested, tried, and acquitted of treason in 1807. See James Parton, *The Life and Times of Aaron Burr* (Boston: Houghton Mifflin Company, 1892).

[15] Baird, *History of Clark County*, 146.

On May 30, 1809, Willis W. Goodwin appeared before Gwathmey and stated that he purchased a black man named Anthony and brought him into the Indiana Territory. Anthony was forty-five years old and had been the property of the late Bailey Marshall of Shelby County, Kentucky. Gwathmey entered the record that "it is mutually agreed between the said Willis W. Goodwin end the said Negroe [*sic*] Man Anthony, That the said Anthony will serve the said Master Goodwin for and during the expiration of sixteen years from and after the date hereof as proscribed by a Law of this Territory entitled *An Act Concerning the Introduction of Negroes & Mullattoes* [*sic*] *into this Territory*."[16] Goodwin was an associate Circuit Court Judge appointed in 1824.[17]

John Chunn was a Lieutenant in the Battle of Tippecanoe against Tecumseh in 1811.[18] Before his military service and campaign, he registered a seven-year-old black boy named John, whom he brought into the territory three days before the registration on December 27, 1809.[19]

The Knox County Clerk's *Register of Negro Slaves and Masters for 1805 - 1807* provided a different format type. Unlike the Clark County entries, Clerk of the Court of Common Pleas, James Bunton, merely listed the slaves by entry date. The record contains forty-six individual slaves. One of the slave owners listed was Elihu Stout. Stout was born in Newark, New Jersey, on April 16, 1782, and moved to Lexington, Kentucky, at a young age. Stout became a printer when he migrated to Vincennes, Knox County, in 1804, publishing the first

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[16] *Clark County, Register of Negroes, 1805-10.*

[17] Baird, *History of Clark County*, 288.

[18] *Ibid.,* 144. The Battle of Tippecanoe was fought on November 7, 1811, against the Shawnee Chief Tecumseh, who opposed western expansion and united the tribes into a confederacy. The battle was fought under the command of General William Henry Harrison. See Alfred Pirtle, *The Battle of Tippecanoe: Read Before the Filson Club, November 1, 1897* (Louisville: J. P. Morton, printers, 1900).

[19] *Clark County, Register of Negroes, 1805-10*

newspaper in the Northwest, *The Indiana Gazette*, on July 4, 1804.[20] On December 11, 1805, Stout registered a black fifteen-year-old girl named Pheby, whom he brought from Kentucky. Pheby was to serve sixty years until she gained her freedom.[21]

On May 2, 1806, Daniel Smith, a member of the militia at Vincennes, registered a black girl, Anney, age fifteen, whom he brought from Kentucky to serve him for 90 years.[22] John Murphy was in the same militia unit as Smith; he registered a black woman named Watt, who was thirty-eight and from Kentucky for a term of eighteen years.

Research on the rest of the men listed on the registry failed to yield results. No women appeared as owners of slaves or indentured servants in Knox County. Altogether, most of the registered blacks were female, a total of twenty-seven. The average age for the females was twenty-four, with the youngest being three and the oldest sixty. These indentured servants averaged thirty-nine years, with the longest listed at ninety-nine (some had no terms despite the 1805 law requiring it), and the shortest was fourteen years.[23]

After the division of the Indiana Territory, Randolph and St. Claire counties became part of the new Illinois Territory; this allowed the antislavery population of the Indiana Territory to increase and grow rapidly. The result was that the antislavery population of the region soon asserted much more control. Furthermore, a proslavery congressman, Benjamin Parke lost his seat in the territorial legislature while Jonathan Jennings, an antislavery candidate for Congress, triumphed over Thomas Randolph — the proslavery candidate — by an overwhelming majority

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[20] George E. Greene, *History of Old Vincennes and Knox County,* Vol. I (Chicago: S.J. Clarke Publishing Company, 1911), 450. After a fire, *The Indiana Gazette* would become the *Western Sun* (See footnote 13, Chapter 5).

[21] Knox County Clerk, *Register of Negro Slaves and Masters for 1805-1807 Knox County: Indiana Territory Court House at Vincennes.*

[22] *Ibid.,* and Greene*, History of Old Vincennes,* 291.

[23] Greene*, History of Old Vincennes,* 291.

in Clark and Randolph counties. Jennings would remain in office until Indiana became a state; he served as president of the state constitutional convention and became the first governor of Indiana.[24]

The change in antislavery sentiment allowed for the repeal of the indentured servant laws on December 14, 1810. However, the law was not *ex post facto* and thus did not free any indentured servants, including those with lifetime service. However, many indentured servants were sent South and sold back into slavery; one reason was their high demand because of westward expansion and rising value.[25] The effect of repealing the law did little to change the system. The law had already forbidden slavery, yet the number of slaves increased in the territory. The 1810 census showed that 237 slaves resided in the region. The 1800 census reported no slaves but listed 198 blacks. The number of free blacks in 1810 was 393. These free blacks were most likely part of the indentured servant class.[26] Furthermore, legislative action still treated blacks as a separate class.

The legislature in 1814 imposed a tax of three dollars annually on each black male living in Knox County between the ages of twenty-five and forty-five. The stated purpose of this tax was to fund a school for "Negro children." However, there are no records in existence showing any expenditure or that they tax-financed or created a school for "Negro children."[27]

That same year, the legislature passed a law that required every black male sixteen and older to work on the roads or public highways unless exempted by the Court of Common Pleas

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[24] John W. Lyda, *The Negro in the History of Indiana* (Terre Haute, IN: Indiana Negro History Society, 1953), 10.

[25] *Ibid.,* 10.

[26] Paul Finkelman, "Almost a Free State: The Indiana Constitution of 1816 and the Problem of Slavery," *Indiana Magazine of History*, 111 no. 1 (March 2015): 74-75.

[27] Lyda, *The Negro*, 11.

in their respective counties and only for a disability. The statute further specified that in case of a default or non-attendance of minors or servants to work on the road or public highways, the parent, guardian, or master was liable for fines and costs resulting from labor shortages during the War of 1812. After the War of 1812, the age moved from sixteen to twenty-one.[28]

Slaves and Indenture Servants Under Indiana Territorial Law

As discussed earlier, the laws preventing slavery in the Indiana Territory were merely an obstacle for slave owners. They did not prevent them from practicing a de facto system of slavery. Evidence shows that there were incidents where slavery was perpetrated by members of the territorial government, including by Governors William Henry Harrison (1800-1812) and Thomas Posey (1813-1816). Harrison even created indentured servant contracts to contend with Article VI of the Ordinance of 1787. On September 22, 1803, Governor Harrison and the judges of the Indiana Territory adopted a Virginia law that stated: "All negroes and mulattoes [*sic*] (and other persons not being citizens of the United States of America), who shall come into this territory under contract to serve another in any trade or occupation shall be compelled to perform such contract specifically during the term thereof."[29] By adopting this law, the governor and the judges endowed indentured servant contracts with the full weight of the law.

On August 26, 1805, the territorial legislature passed a law that allowed slave owners to bring biracial and black persons above the age of fifteen years and owing service and labor as slaves into the territory despite the prohibition of Article VI.[30] December 3, 1806, the territorial legislature approved an act to punish slaves who left their homes or for writing, unlawful

[28] Lyda, *The Negro*, 11.

[29] Philbrick, *Laws of Indiana Territory*, 42.

[30] *Ibid.,* 136.

assembly, trespasses, and seditious speeches.[31] The law furthermore allowed for the punishment of anyone who harbored a runaway slave.

Most slaves were forced or deluded into signing their manumission papers and agreeing to the indentured servant contracts. One clear example is that of a slave named Thomas Turner. On July 27, 1813, Joseph Burton set Thomas free. The document read: "I, Joseph Barton, have this day set free my slave, Thomas Turner, and I hereby make and acknowledge the emancipation papers for his complete freedom. The said Thomas Turner for the privilege of being known as a free man has agreed to indenture his service for a period of thirty-five years from date." Thomas stated, "I, Thomas Turner, do hereby accept the emancipation papers for which I sincerely thank my former master and do cheerfully agree to indenture myself to the said Joseph Barton as per the above agreement." Despite this positive-sounding piece of paper, on August 30, 1813, Joseph Barton sold Thomas for $500 to a person who smuggled him across the Ohio River, sold him again, and sent him further south.[32]

Another example of these indentured servant contracts is that of Eli Hawkins and Jacob. In 1805, the clerk of Knox County recorded,

> Be it remembered... personally came Eli Hawkins of the said county and a Negro lad of the age of sixteen years being a slave named Jacob belonging to the said Eli Hawkins and by him brought into this territory from the state of South Carolina, which said Hawkins and said Jacob... agreed among themselves... that said Jacob shall and will serve the said Eli Hawkins and his assigns for a term of ninety years from the day of the date hereof, he, the said Eli Hawkins and his assigns providing the said Jacob with necessary and sufficient provisions and clothing, washing and lodging, according to his degree and station. From and after the expiration of said term the said Jacob shall be free to all intents and purposes.[33]

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[31] Paul Finkelman, "Evading the Ordinance: The Persistence of Bondage in Indiana and Illinois," *Journal of the Early Republic* 9, no. 1 (1989): 38.

[32] Lyda, *Negro History*, 12.

[33] David J. Bodenhamer and Randall T. Shepard, *The History of Indiana Law* (Athens: Ohio University Press, 2006), 39.

Based on a review of the Knox County records, this ninety-year indenture was unusual but not unique.[34]

Not all stories of indentured servants whose masters freed them were misled. Thomas Agnew was freed on May 26, 1815, by his owner, Thomas Truman, who then indentured Agnew for thirty years. Truman moved to Indiana from a slave state and brought Agnew with him, not knowing that Indiana was a free state. Truman learned that a *habeas corpus* petition was being prepared for Agnew to be set free. To prevent this, Truman indentured Agnew. The story of Agnew was relayed to Colonel William M. Cockrum during his travels researching a book in May 1854.

The family had considered Agnew a faithful servant, and when Truman died, he left his family in financial straits. His eldest son took over the family farm with Agnew's help. However, when it was time to administer the estate, the mortgage was too high, and the holder of the mortgage, a cousin of Truman, attempted to collect. This cousin offered to take Agnew in exchange for clearing the mortgage, which would have made Agnew a slave again and taken to the South. Widow Truman, who considered the Agnew family, refused to send him with his cousin, especially since Agnew had only three years left on his indentured servant contract. However, "Tom had learned the condition of things as nothing was kept from him and he had planned with this cousin to give his life service for the family's comfort. He would not consent to anything but that he must go to save the farm and the family from want. The agreement was made, the mortgage was canceled, and Agnew went to the home of his new master, now a slave."[35] The story continues:

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[34] See *Appendix B*.

[35] William M. Cockrum, *Pioneer History of Indiana: Including Stories, Incidents and Customs of the Early Settlers* (Oakland City, IN: Press of Oakland City Journal, 1907), 146.

> Sometime after this, an uncle of my mother died and left her several thousand dollars. This made us independent, and my mother's first thoughts were of Tom. She went to hunt for him and found him faithfully working away. She went to his master told him that she wanted to take Tom back with her and that she was prepared to pay him in full for his mortgage, interest, and trouble. This he refused, saying that Tom was priceless and that no money could buy him. She tried in every way to have him agree to let Tom go with her, but he was obdurate. Tom told her not to mind him that there would be but a few more years for him to serve as age was creeping on, and he would soon be in another country where no trouble could come.[36]

Not one to quit, Mrs. Truman found an attorney in Evansville, Conrad Baker, who would become the Indiana Governor from 1867 to 1873. Baker filed the paperwork to prove that Tom had been freed and was an indentured servant who had served his time. The court, having reviewed the evidence, determined that Agnew was free. Agnew went back to Indiana with Mrs. Truman and lived on the farm, and upon his death, he was given "a royal funeral, feeling that we had lost our best friend and one of nature's noblemen."[37]

Cockrum verified Agnew's story when he received a letter from Conrad Baker on September 20, 1870. Baker stated, "It affords me great pleasure to say that no case in my whole practice as a lawyer was so gratifying to me as the liberation from bondage of that true-hearted old Nubian, Tom Agnew. I well recollect the lady, Mrs. Trueman [*sic*], who was my client in the case. She was so well pleased with the good deed she had been instrumental in bringing about that she wanted to pay me three or four times my rightful fee."[38] This shows that not everyone with slaves or indentured servants in Indiana treated them poorly, which is the common assumption. Cockrum emphasized, however, that this story is "evidence to the readers of the way the proslavery people of Indiana intended to perpetuate slavery and that the head of the territorial

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[36] Cockrum, *Pioneer History of Indiana,* 146.

[37] *Ibid*., 147.

[38] *Ibid*., 148.

government was in sympathy with the slavery partisans. When the constitution for our state was being framed in 1816, the slavery clause was defeated by only two votes."[39]

While most indentured servant contracts were simple and written only in the county registries, some provided much more detail. One such is the indenture servant contract between Pickard and Toussaint Dubois, Sr., which reads:

> This Indenture made this sixth day of November in the year Eighteen Hundred and fifteen, Between Pickard, a free man of colour, of the one part and Toussaint Dubois, Sr., of Knox County, Indiana Territory, of the other part, Witnesseth, That the said Pickard who is and acknowledges himself to be upwards of Twenty-one years of age, for and in consideration of the sum of Twenty Dollars to him the said Pickard in hand paid, and of Five Hundred dollars good and Lawful money for me, and at my special instance and request, paid Tompson Taylor, agent of Samuel Oldham, and more especially for the consideration of the said Toussaint Dubois, Sr., having set me free and emancipated me, from all bondage whatever Hath, and by these presents doth, binding self, to the said Toussaint Dubois, Sr., as an Indented Servant for and during the full end and Term of Twenty years, from the date of these presents, and that I the said Pickard, will during the said Term, aforesaid, faithfully, and Honestly serve him, the said Dubois, Sr., his heirs, Executors or administrators or assigns, as well within the Indiana Territory as there out, and that he the said Pickard will at all times give due obedience and attendance, to his or their Lawful business, and not at any time absent himself from his master, without his or their consent during the said Term. And that he will not at any time suffer his property or person to be injured if within his power to prevent it.
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> And the said Toussaint Dubois, Sr., for himself his heirs & doth covenant and agree, to and with the said Pickard, that he will at all times, during the said Term of Twenty years, furnish and provide him with competent and sufficient meat, drink, lodging and wearing apparel, as well in sickness as in health. And at the end of the said Term, to give him a freedom suit of clothes.[40]

The law on indentured servant contracts provided for most of these details and did not require this writing to be so extensive. However, it is an excellent example of the extent to which slaveholders would go to keep their property.

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[39] Cockrum, *Pioneer History of Indiana,* 148.

[40] "Two Indentures of Negroes: Original Documents," *The Indiana Quarterly Magazine of History* 7, no. 3 (1911): 133–35.

The Fugitive Slave Act of 1793

The 1793 Fugitive Slave Law resulted from the kidnapping of John Davis, a black man from Pennsylvania. Governor Thomas Mifflin of Pennsylvania requested the three people living in Virginia who took Davis from his state be extradited for the crime. Virginia's governor, Beverly Randolph, refused to turn over the three men and claimed that Davis was a fugitive slave who escaped into Pennsylvania. Since no federal law concerned the return of fugitive slaves, Mifflin turned to President George Washington and asked him to get Congress to adopt legislation to settle this matter.[41] To prevent the unlawful kidnapping of free blacks from the North and to retrieve runaway slaves, the 1793 Fugitive Slave Law was adopted.[42] However, the statute would be ineffective and thus changed in the 1850s (as will be discussed in Chapter Six).

To track down fugitives who often escaped into the Indiana Territory, slave hunters would post advertisements in local newspapers. Vincennes was one of the many locations where slaves would attempt to escape because of its proximity to the river. On November 18, 1807, an advertisement was posted in the *Vincennes Western Sun* for two slaves, Bob, and Moses. The ad described the runaways:

> Fifty Dollar Reward. Runaway from the subscriber on the tenth instant, opposite to Flint Island, Ohio River, two negro men, one named Bob and the other Moses. Said Bob is about five feet ten or eleven inches high, of a yellow complexion, looks down when spoken to, has three scars on his breast. Moses is five feet five or six inches high, speaks quick, and is a notorious liar. Said negroes had on round about jackets, and trousers of the same cloth, one striped round about jacket, and wool hats, whoever takes up the said negroes and secures them in any jail, so that their master can get them again, shall have the above reward of, or twenty five dollars for either of them, and all reasonable charges paid by Thomas Perham.[43]

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[41] Paul Finkelman, "The Kidnapping of John Davis and the Adoption of the Fugitive Slave Law of 1793," *The Journal of Southern History* 56, no. 3 (August 1990): 397-398.

[42] See Appendix C.

[43] "Fifty Dollars Reward: Bob and Moses," *Vincennes Western Sun*, December 9, 1807, 1.

The amount offered for reward ranged from twenty to fifty dollars per captured slave.

> $50 reward. Ran away from the subscriber, living in Washington, Kentucky, on the eleventh instant, a negro man named Brooks (who calls himself Brookins) about twenty-seven or twenty-eight years of age, five feet nine or ten inches high, stout and well made, very black, his lips of the ordinary size of negroes, rather awkward in his manners and appearance, fond of liquor, and careless as in his dress therefore appears generally dirty, he had on when he went away, a round about and overalls of new and fine brown coat, a good wool hat, two hemp linen shirts, white woolen socks, intolerable good shoes it is believed that he has procured a pass from some person, and that he will make for Detroit. Therefore the above award will be paid to any person who will apprehend and deliver the said Negro to me, or to Mr. Sanford Carrel at Limestone, and thirty dollars for depositing him in any jail, and giving information so that I can get him.[44]

The amount of the reward and the detailed description of the slave and the items he carried provide insight into the desire of the slave owner to recapture Brooks.

The Transferability of Indentures

Indentured servant contracts were fully transferable, as evidenced by legislative statutes, and were documented. On April 17, 1816, Thomas Posey, Harrison County, Indiana, conveyed two indentured servants, Charley, and Betsy, to Hyacinth Lasselle for an eight-year term and payment of seven hundred dollars.[45] Lasselle would be involved in a significant Indiana Supreme Court case (as will be discussed in Chapter Six). Most of these indentures were forced or deluded into signing their emancipation papers and agreeing to the contracts.

Indentured servant contracts were sellable and could be used as collateral, subject to sheriff attachment, as evidenced by a legal notice on October 25, 1807, in the *Vincennes Western Sun*:

> Indiana Territory, whereas a writ of foreign attachment has issued out of the general court for the said Territory directed to the sheriff of Knox County, against the lands, tenements, goods, chattels and effects, rights and credits of Joseph Baird, at the suit of Daniel Smith, in a plea of trespass on the case, by virtue of which writ the sheriff hath attached sundry monies, goods and chattels of the said Joseph Baird-Now notice this here right given, that

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[44] "Fifty Dollars Reward: Brooks," *Vincennes Western Sun,* January 8, 1808, 3.

[45] Lyda, *Negro History*, 11-12.

> unless the said Joseph Baird shall appear by himself or attorney, to give special bail, to answer the said suit, judgment will be entered against him by default, and the said the state so attached, will be sold for the satisfaction of all creditors who shall appear to be justly entitled to a demand thereon, and shall apply for that purpose — John Johnson attorney for plaintiff.[46]

Advertisements for runaway slaves or legal notices were not the only things publicized in the local newspapers; on October 8, 1813, a notice appeared in the *Madison Western Eagle*:

> Notice. Thus subscriber offers for sale at public venue on the 25th of October next if not sold before, the farm on Corn Creek Gallatin County, Kentucky, consisting of 150 acres, about 50 of which are under cultivation, a good fruit orchard consisting of apple, peach and cherries - good fencing-a snug dwelling house with three chimneys-in rooms, also a number of other small buildings and what is all important it is supplied with abundance of water of the first quality. He considerable part of all of the stock which consists of horses, cattle, sheep, hogs etc. twelve months credit will be given to purchasers with bond and approved security, and if not punctually paid to pay interest from the date-**also a few likely young negroes, any gentleman inclining to purchase at private sale may do so at any time** between this and the 15th of October. N.B. To the above named tract of land will be made a clear and unquestionable title warranted and defended from all persons, lawfully claiming or to claim. Abraham King.[47] [emphasis added]

Even though slavery was not legal in the Indiana Territory, the advertisements for selling slaves were still posted within the territory because while slavery was prohibited under Article VI, indentures and slavery persisted. Even in 1806, a Will and Testament was submitted for probate, which disposed of slaves. In Knox County, Hugh McGary's will be administered in May 1806. The will divided McGary's land between his three sons, but it further stated:

> I also give to my Wife Mary Arm, my Black Mare, to hold as her own Property, also one half of all my sheep, also one half of my house hold furniture to hold as her own property. I also desire that my two Negro women, Tenar and Poll, bound to me by indenture, shall be the Slaves of my Wife Mary Ann during the term of seven years to assist in Supporting my young Family and at the Expiration of said term of seven years I desire that they shall be free, and their indentures given up to them, But if my Wife Mary Ann should not continue to hold possession of the land above mentioned and Support my young Family on the same, it is my will that she shall be deprived of all the benefits arising from, or interest in, said land, also of the two Negro Women Tenar and Poll, but the same shall be left to the discretion of my Executor. ... I also leave my Negro girl

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[46] "Legal Notice: Writ of Foreign Attachment," *Vincennes Western Sun,* November 25, 1807, 1.

[47] "Notice of Sale," *Madison Western Eagle*, October 8, 1813, 2.

> Charlotte to my daughter Elizabeth, until she, said Charlotte, attains her freedom by law.[48]

John McClure, in 1813, disposed of his black indentured servant accordingly:

> Item 2nd. It is my desire that my beloved wife Jane McClure have my Negro man Aaron and my Negro woman Sarah ... It is my desire that Elizabeth McClure my third daughter have one Negro girl named Esther, and one Negro Boy Named Harry .... Item 4. It is my desire that my youngest son John McClure have my farm … two Negro Boys known by Names Edmon and Will ... Item 5th. It is my desire that my Negro Man Frank be sold immediately after my decease and the money arising therefrom to be applied to the payment of my debts.[49]

Even judges who were supposed to enforce the law had their own wills regarding the disposition of slaves and indentured servants. In 1813, Henry Vanderburgh, one of the judges in the Indiana Territory, died, and his estate was probated. His will, written in 1804, contained: "I then give and bequeath unto my Wife Francis my house in Vincennes .... and the use of all furniture therein-with the four lots of ground thereunto belonging, my two slaves Daniel and Peg, my two Indented Servants Morday [*sic*] and Sam…"[50]

The final will to dispose of a slave in Knox County, before the adoption of the Indiana State Constitution, was Toapant Dubois, Sr., dated June 5, 1815, and probated in April 1816.

> I will and it is my desire that my wife have the services of one Negro Man named Gabriel and Anne his wife until the youngest child named Jepse Hilgore Duboiz arrives at the age of twenty years-and then in the opinion of my said wife (and the custom of the country permit) that the said People of Colour is able to make a Comfortable living they are to be free-if not they are to be assisted out of my property during their life time. ... It is also my desire that none of the Negroes now in my family be sold so as to be obliged to serve out of the family unless for criminal conduct.[51]

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[48] Earl E. McDonald, "Disposal of Negro Slaves by Will in Knox County, Indiana," *Indiana Magazine of History* 26, no. 2 (1930): 143-144.

[49] *Ibid.*, 144-145.

[50] *Ibid*., 145.

[51] *Ibid.*

Disposal of slaves in wills would continue even after the 1816 Indiana Constitution prohibited slavery. The ability to continue to treat blacks as slaves within the Indiana Territory could only happen with the collaboration of the judiciary, who often perpetuated and participated in the system.

The Territorial Court

Congress passed the first act for the establishment of territorial judges with the Ordinance of 1787, which required:

> Incumbent ... territory judges of the United States, to reside within the districts and territories, respectively, for which they are appointed; And that it shall not be lawful for any judge, appointed under the authority of the United States, to exercise the professional or employment of counsel or attorney, or to be engaged in the practice of law. And any person offending against the injunction or prohibition of this act shall be deemed guilty of a high misdemeanor.[52]

During the territorial period, there were considerable changes in the judicial system. A law adopted by the governor and judges on January 3, 1801, entitled *A Law Establishing Courts of Judicature,* was based on a Pennsylvania code and provided for a supreme court of record, which was to be called the general court. It also established courts of common pleas in each county. In 1805, the territorial legislature created a Court of Chancery. In the same year, another act merged the courts of general quarter sessions and the orphans' courts into the courts of common pleas.[53]

Congress furthermore determined when the court would meet and where they would meet. The act, as modified on February 24, 1815, stated:

> That the Judges of the General Court of the Indiana Territory shall, in each and every year, hold two sessions of the said court, at Vincennes, in the county of Knox, on the first Mondays in February and September; at Corydon, in the county of Harrison, on the third Mondays in February and September; and at Brookville, in the county of Franklin, on the

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[52] Kettleborough, *Constitution Making*, 59.

[53] William Wesley Woollen, Daniel Wait Howe, and Jacob Platt Dunn, eds., *Executive Journal of Indiana Territory: 1800-1816* (Indianapolis: Indiana Historical Society Publications, 1900), 75.

> first Mondays next to succeeding the fourth Mondays of February and September; which courts, respectively shall be composed of at least two of the judges appointed by the government of the United States; and no person or persons, acting under the authority and appointment of the said Territory, shall be associated with the said judges.[54]

This requirement for judges to travel as a circuit allowed individuals access to courts.

When the Ordinance of 1787 was enacted, there was no supreme court, and thus, there was no provision in the statute for appeals from the territorial court. Even after the adoption of the United States Constitution and the formal reenactment of the Ordinance, on August 7, 1789, Congress failed to allow *writs of error* for the territory, so the Supreme Court of the United States could not hear appeals from territorial courts. The lack of appellate review was brought to the attention of the Secretary of State on December 14, 1794.[55] Nearly ten years later, a committee of the House of Representatives reported against the proposed change; nonetheless, in 1805, the defect in territorial organization was corrected.[56]

The first court held in the territory occurred in Marietta on September 2, 1788. According to writers who witnessed the opening, there was a parade and a celebration at the start of the session. After the opening ceremonies, the governor and the judges exercised their judicial and legislative functions in July of the same year. The judges and the governor employed English common law and laws from Virginia and Pennsylvania to determine which would be useful in the territory; this wide latitude and lack of judicial review allowed for corruption.

Despite being judicial officers, not all performed their duties with integrity, as in the example of Judge Henry Vanderburgh. President John Adams appointed Vanderburgh, a judge of probate and a justice of the peace, as one of the first three judges in the Northwest Territory. On

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[54] Kettleborough, *Constitution Making*, 60.

[55] Clarence Edwin Carter, ed., *The Territorial Papers of the United States: The Territory Northwest of the River Ohio, 1787-1803,* Vol. II (Washington, D.C.: United States Government Printing Office, 1934), 332-333.

[56] *Ibid.,* 342.

June 14, 1794, Judge George Turner wrote to Governor St. Clair about the violation of slavery within the territory. Judge Turner wrote that he had discovered abuse by Henry Vanderburgh and Army Captain Abner Pryor. Turner informed the governor that he was determined to impeach Vanderburgh before the territorial legislature and warned him to prevent Vanderburgh from attempting to resign his Commission to avoid punishment. Turner said,

> … it may not be improper to mention that certain persons here have lately been guilty of a violent outrage against the laws. They were employed by [Judge] Vanderburgh to seize and forcibly carry away two negroes, a male and his wife, who are free by the constitution of the territory, and who, being held by him as slaves, has applied to me for a writ of habeas corpus, [out] in affirmance of their freedom. The outrage was accompanied with some acts of cruelty towards the unfortunate blacks. I have caused several of the offenders to be apprehended, but others of them were encouraged by Vanderburgh to resist the execution of process, and in one instance this was actually done by drawing a knife upon the sheriff. Such are the offenders, however, as were not taken have since surrendered themselves, and, full of contrition for their misconduct, have amply exposed the machinations of Judge Vanderburgh in this nefarious business, and who now appears to have been the escalator of the resistance that was made.[57]

The governor responded to the judge on December 14, 1794. St. Clair stated he did not know Vanderburg, a stranger to him but who came highly recommended to fill the judicial office. He was concerned with the fact that corruption may have occurred. He assured Judge Turner that,

> If they are such as punishable by law, upon being informed, I will direct a prosecution, which I believe is the only mode, and that may be done, if I mistake not, as well after removal from office as during the incumbency. As to any impeachment before the Territorial Legislature, I would take the liberty to suggest to you that they have no power to try impeachments. If Mr. Vanderburgh has been guilty of abuses of his in his office (and I am sure you would not accuse him without just grounds), it is improper that he should continue in it one moment beyond what can be avoided. I must, therefore, request that you will, as soon as may be, furnish me with the charges against him, and a summary of the proofs that may have come to your knowledge, and it shall be instantly reviewed, and prosecution ordered against him, if the offense being indictable.[58]

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[57] Carter, *The Territorial Papers*, 325.

[58] *Ibid*., 330.

His letter discusses the ongoing issue of slavery as "a source of discontent that will not very soon be stopped."[59] He offered his opinion and recounted the history of slavery in the territory going back to when France first occupied it. He repeated what he wrote in 1793, "… slaves imported into that territory should immediately become free; And by this construction, no injuries done to any person, because it is a matter of public notoriety, and any person removing into that colony and bringing with him persons who were slaves in another country, does it at the known risk of their claiming their freedom."[60] Judge Vanderburgh was not impeached and remained on the bench until he died in 1812.[61] Because of the corruption of the territorial courts, there are no significant cases or rulings on slavery to be found in the records. The only instances involved fugitive slaves or punishing slaves and indentured servants for unacceptable behavior.

By 1814, the territorial legislature attempted to pass a scheme to improve the court system. The legislators proposed a plan to create circuit courts and require the presidentially appointed territorial judges to serve as justices of these courts. The purpose was to raise the caliber of the judiciary without increasing any financial burdens on the territory. The legislature requested Congress to pass an act enabling this plan; however, it failed to do so.[62]

The territorial legislature recognized the poor functioning of the court system. By 1814, courthouses had yet to be built and would often meet in private homes or other public buildings. Even court records were often kept in the homes of various officials and were sometimes lost or destroyed by fire, such as the Knox County deed records, which were lost because of a fire in

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[59] Carter, *The Territorial Papers*, 331.

[60] *Ibid.,* 331-332.

[61] Henry Vanderburgh, *Biographical Note: Indiana State Library.*

[62] John D. Barnhart and Dorothy L. Riker, *Indiana to 1816: The Colonial Period* (Indianapolis: Indiana Historical Bureau, 1970), 418-419.

1814 while housed in the recorder's private home. Furthermore, the criminal system lacked sufficient county jails, which hindered the court from performing its duties.[63]

The failure of Congress to respond to the territorial legislature concerning territorial judges' submission to their authority and the breakdown of the local judicial system caused Governor Posey to call the legislature back into session on August 15, 1814, instead of the traditional first Monday in December. A bill to establish circuit courts was introduced immediately at the session and was enacted fifteen days later. This new act divided the territory into the First, Second, and Third Circuit; each was presided over by a circuit judge appointed by the governor to hold office during good behavior. In each county, associate judges were appointed in the same manner. These new courts attained extensive criminal jurisdiction, combined with the courts of Common Pleas. They were given jurisdiction "over all crimes and misdemeanors of whatsoever nature or kind" that might be committed in the territory.[64]

On September 14, 1814, Governor Posey appointed Isaac Blackford as Circuit One judge, Jesse L. Holman for the Second Circuit, and Elijah Sparks for the Third Circuit. Sparks died in early 1815, and James Noble succeeded him.[65] Blackford and Holman were appointed to the Indiana State Supreme Court in 1816 and helped define the court's role, especially in dealing with slavery cases (as will be discussed in Chapter Six). With this act, the territorial government corrected the failure and political corruption of the territorial court and created a scheme for a court system that survived statehood.

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[63] Barnhart and Riker, *Indiana to 1816*, 419.

[64] *Ibid.,* 424.

[65] *Ibid.*

Constitutional Convention

Within just ten years of the Indiana territorial legislature being convened under the Ordinance Act, it became the more powerful branch, surpassing the governor. Despite the efforts by the governors and their proslavery supporters' actions to circumvent Article VI of the Ordinance Act, they failed to legitimize slavery and indentured servitude within the territory. The planter class, often migrating from the southern states, attempted to assert dominance in Indiana but failed, and Indiana entered the union as a free state.

An official census in the Indiana Territory in 1814 was transmitted to Congress on January 5, 1816. It showed 63,897 persons residing in the Indiana Territory. A formal request for admission into the union was sent to Congress on December 11, 1815, petitioning to adopt an Enabling Act. The proposal set forth that the Indiana Territory had a population above 60,000 and that all the requirements of the Ordinance of 1787 were complied with. It asked Congress to allow an election on the first Monday of May 1816 to select constitutional delegates to frame a state government or provide for the assembly of representatives to organize a state government.[66]

Congress passed the Enabling Act on April 19, 1816. The territory's citizens learned about it when it was printed in the *Vincennes Western Sun* on May 4, 1816.[67] The act's passage was unsurprising to the territory's residents as it was a foregone conclusion. The struggle for statehood was set around the prolonged battle over slavery in the state. The territorial citizens saw this as the way to elect their governmental officials instead of those appointed by the federal government. Finally, they could enact laws without the possibility of an absolute veto by an appointed governor. Additionally, local self-government allowed the residents of Indiana to

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[66] Kettleborough, Constitution *Making, Vol. I*, 68-69.

[67] "An Act to enable the people of the Indiana Territory, to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states," *Vincennes Western Sun*, May 4, 1816, 2.

participate in national affairs, including the defense of a nation, since the War of 1812 was still fresh in their minds.[68]

The Enabling Act appointed delegates according to the suggestions made by the territorial assembly in its transmission to Congress, with minor changes. Congress set the total number of delegates at forty-three among the thirteen counties founded before 1815. The counties of Clark, Franklin, Harrison, Knox, and Washington had five delegates each; Gibson and Wayne, four; Dearborn and Jefferson, three; and Perry, Posey, Switzerland, and Warwick, one each. As many as twelve delegates were born in Virginia, seven in Pennsylvania, six in Kentucky, five in Maryland, two in New Jersey and Connecticut, one in each North, South Carolina, and Delaware, four in Ireland, one each in Switzerland and Germany. While only six were native Kentuckians, twenty-seven had lived there before coming to Indiana. Only nine members had not lived previously below the Mason-Dixon line.[69] This mixture of southern-born representatives did not appear to bode well for slavery in Indiana.

Historian John Dillon described the convention as like this:

> Mainly of clear-minded, unpretending men of common sense, whose patriotism was unquestionable and whose morals were fair. Their familiarity with the Declaration of American Independence-their territorial experience under the provisions of the Ordinance of 1787-and their knowledge of the principles of the Constitution of the United States were sufficient, when combined, to lighten materially their labors and the great work of forming a Constitution for a new state.[70]

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[68] Kettleborough, Constitution *Making, Vol. I*, 439-440.

[69] *Ibid.,* 442-443.

[70] John B. Dillon, *A History of Indiana, From Its Earliest Exploration by Europeans to the Close of the Territorial Government, in 1816; Comprehending A History of the Discovery, Settlement, and Civil and Military Affairs of the Territory of the U.S. Northwest of the River Ohio and General View of the Progress of Public Affairs in Indiana from 1816-1856* (Indianapolis: Bingham & Doughty, 1859), 559.

Not all historians share this lofty interpretation of the character and fitness of the members. William W. Thornton has argued, "None of them [the delegates] were truly great men; many of them men of limited education, and very few of them learned men. Nearly all ... were frontier farmers, having a general idea of what they wanted, but willing that the more learned members should be put it in shape."[71]

The convention began at Corydon on June 10, 1816, with Jonathan Jennings selected as the president. The Journal of the Convention does not include any record of debates, speeches, or discussions, but only the record of votes. Historians have divided the delegates into political opposition groups based on voting patterns. The majority group, led by Jennings, whose compatriots agreed upon the key issues and disagreed only on minor points, opposed Governor Posey and the Harrison faction, which still dominated the territorial offices.

The opposition, led by Benjamin Parke, David Robb, and James Dill, were all friends of former Governor Harrison. Parke was a native of New Jersey and had served as the attorney general of the Indiana Territory, a representative in the general assembly, and a delegate to Congress (and had recently lost the election to Jennings, as discussed previously). Parke was appointed a judge in 1808 and was an active militia member.

David Robb, Gibson County, held various offices, including being a representative in the territorial legislature. Rob was born in Ireland and settled in Vincennes around 1800 after he resided in Pennsylvania and Kentucky. Furthermore, Rob was a major in the militia and owned businesses, including a sawmill. James Dill, Dearborn County, was the son-in-law of Governor

[71] Barnhart and Riker, *Indiana to 1816*, 444.

Arthur St. Clair, who was frequently appointed to offices by Harrison. Dill was born in Ireland and was a former Kentucky and Ohio resident.[72]

The debate on slavery would be at the forefront of the convention. Even before the convention started, territorial newspapers discussed this prominent issue. The *Vincennes Western Sun,* during the early months of 1816, warned of "uninformed and evil disposed persons" and the status of blacks in the event a territory became a state. This showed the views from the southern portion of Indiana, which remained pro-territory, proslavery, and pro-Posey. In the eastern part of the territory came warnings against accepting slavery by a new government.[73]

Article XI of the proposed constitution concerned slavery and the language was taken from the Constitution of Ohio. The article rejected slavery, but there were concerns that future conventions could amend it. Thus, Article VIII was included, which guaranteed that slavery would never be admitted into Indiana, stating, "But, as the holding any part of the human Creation in slavery, or involuntary servitude, can only originate in usurpation and tyranny, no alteration of this constitution shall ever take place so as to introduce slavery or involuntary servitude."[74]

The result was a constitution for statehood. As historian James Madison surmised:

> The convention adopted the American system of checks and balances and divided the powers of government among legislative, executive, and judicial branches. Reflecting their recent struggles to expand representative power, the delegates made the legislature the dominant branch, able to override the governor's veto by a simple majority vote. They set the governor's term at only three years and prohibited him from holding office longer than six years in any nine-year period. Members of the House of Representatives were to be chosen annually, reflecting the desire for close popular control. The state senators were to serve three-year

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[72] Barnhart and Riker, *Indiana to 1816, 445*.

[73] *Ibid.,* 441.

[74] *Ibid.,* 457-458.

> terms. The judiciary power was vested in a Supreme Court and circuit courts with inferior courts to be created by the General Assembly.[75]

Only white males would receive suffrage upon reaching the age of twenty-one and residing in the state for one year. All males between eighteen and forty-five were required to enroll in the militia except for blacks, biracials, and Indians.[76]

The new state constitution finally determined slavery in Indiana, "there shall be no slavery nor involuntary servitude in this state..." However, some terms were vague such as, "Nor shall any indenture of any Negro or mulatto hereafter made and executed out of the bounds of this state be of any validity within the state." The term "hereafter made" was ambiguous regarding the effect on the existing indentures.[77] Throughout the state, different results were achieved due to the ambiguity. The eastern counties regarded slaves and servants as emancipated, and their masters acted accordingly. In western counties, a few masters removed their slaves, and the courts released some. Nevertheless, most slaveholders continued to hold slaves in bondage, believing that their property was protected by the Ordinance of 1787 and could not be impaired.[78] The Indiana Supreme Court would resolve this ambiguity in the 1820s (as will be discussed in Chapter Six).

As discussed in this chapter, the proslavery faction gained a victory in establishing quasi-slavery in the territory with the creation of indentured servitude contracts and defied Congress. These indentured servants were slaves in all but name and were subjected to many of the same slave laws as found in the South. Nonetheless, the antislavery white supremacist's faction seized

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[75] Madison, *The Indiana Way*, 53.

[76] *Ibid*.

[77] *Ibid.,* 53-54.

[78] Barnhart and Riker, *Indiana to 1816*, 458.

control and prevented the further encroachment of the institution of slavery within the territory and thereby gained political supremacy.

With the formation of the state of Indiana in 1816, the antislavery white supremacist faction secured its final victory. The new state constitution prohibited the expansion of slavery and created greater equality for white men. However, as will be discussed in Chapter Five, the new state government continued to struggle with pro-slavery forces within the state prior to the Civil War.

Chapter Five
The Rise of the Antislavery White Supremacist Faction in Indiana

The antislavery white supremacist faction was dominant in the contest for control over the territorial government. While the proslavery faction was able to create a quasi-slavery system with indentured servitude contracts, it was unable to garner support for Indiana to become a slave state upon its organization in 1816. The state constitutional convention spearheaded by antislavery white supremacists ended the debate on making Indiana a slave state, reducing the proslavery faction to an insignificant factor. However, the new state still faced the national slave question.

The Indiana State Constitution of 1816

Having started the historic work of creating Indiana's first state constitution on June 10, 1816, the state organizers made quick work of it. In less than a month, the founders negotiated and created a document for congressional approval. On June 29, 1816, the state convention approved the Indiana Constitution, and Congress formally admitted Indiana into the Union on December 11, 1816. The new state constitution contained twelve articles. Article I began with a concept of equality: "We declare, that all men are born equally free and independent, and have certain natural, inherent, and unalienable rights; Among which are the enjoying and defending life and liberty, and of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety."[1] This language conformed with other state constitutions and the principles of the Declaration of Independence to guide the state forward. Article I, section 2 of the Constitution stated, "That all power is inherent in the people; and all free Governments are

[1] Indiana State Constitution of 1816, art. I, sec. 1.

founded on the authority, and instituted for their peace, safety and happiness."[2] "That all men have a natural and indefeasible right to worship Almighty God, according to the dictates of their own consciences" provides religious freedoms.[3] Multiple sections within Article I enshrined the Bill of Rights and the principles of a free nation. Article I, section 11 stated, "That all Courts shall be open, to every person, for an injury done to him, in his lands, goods, persons, or reputation shall have remedy by the due course of law; and right and justice administered without denial or delay."[4] These lofty ideals would lead one to believe that the state would be equally open to blacks and whites. However, like the United States Constitution, *all men* did not mean black men.

It limited voting to white male American citizens, twenty-one years of age, who lived in the state for a year immediately preceding any election in which they intended to vote. This was a major victory for the antislavery white supremacists because suffrage was no longer tied to property ownership or a tax. Furthermore, proslavery forces tended to be rich and own land. Despite forming a constitution that expounded freedom and even affirmed that slavery and involuntary servitude did not exist in the state, the General Assembly would enact unequal laws for blacks. Article XI, section 7, asserted, "There shall be neither slavery nor involuntary servitude in the state, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted. Nor shall any indenture of any negro or mulatto hereafter made, and executed out of the bounds of this State be of any validity within the state." However, it would

[2] Indiana State Constitution of 1816, art. I, sec. 2.

[3] *Ibid.,* sec. 3.

[4] *Ibid.,* sec. 11.

take over four years and multiple rulings by the Indiana Supreme Court to remove slavery and indentured servitude in Indiana.[5]

The New State Government

Indiana, under the new constitution, elected Jonathan Jennings as the first governor; he led the antislavery white supremacist faction at the Constitutional Convention of 1816 and ran on the slogan "No slavery in Indiana." Throughout his lengthy career, he kept the slavery question at the forefront. Jennings was a man of the people who owed much of his political success to making those around him happy. Jennings's opponent in the election was Thomas Posey, the territorial governor, proslavery standard bearer, and a resident of Jeffersonville.

Although the official returns no longer exist, the election occurred on August 5, 1816; the total vote for each candidate, as given on the returns sent to the Speaker of the House of Representatives and counted in the presence of the two houses of the General Assembly, was recorded as Jennings, 5,211: Posey, 3,934. Under the 1816 Constitution, the governor served three years, and Jonathan Jennings was reelected on August 2, 1819, by a vote of 9,038 to his opponent Christopher Harrison's 2,900. Two other candidates received votes in the 1819 election: Samuel Carr, 80, and Peter Allen, one.[6] Thus, during the state's first six years, Jennings was decisively in charge of the governor's office.

The first General Assembly met at Corydon in the winter of 1816-1817. There were twenty-nine members in the House of Representatives and ten senators during that first session, and they met annually. The 1816 Constitution called for reapportionment of the legislative districts every five years, based upon the enumeration of the state's white male inhabitants above

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[5] Ibid., art. XI, sec. 7.

[6] Dorothy Riker and Gayle Thornbrough, *Indiana Election Returns: 1816-1851* (Indianapolis: Indiana Historical Bureau, 1960), 137-138.

the age of twenty-one, leaving the legislative affairs for the state in the hands of only a few white men, whose task was to provide a new set of laws, which excluded all other races.

Indiana was unique in that the two-party system slowly developed within the state. Politics for Indiana was based more on factionalism and personality than party and remained so during the first decade of statehood. Leaders such as Jonathan Jennings had to navigate challenges and factions as they developed. Richard McCormick stated, "parties did not form over state matters, the state politics could be conducted without political parties, and that parties were formed chiefly to contest for the presidency."[7] In an editorial, *The Western Sun* stated, "Political parties are forgetting their animosities and extinguishing those fierce contentions that have so long triumphed over patriotism and reason. We hail the period of their decline as the harbinger of better days."[8] This mood permeated throughout the nation during the Era of Good Feelings, which would end over 1824 presidential election.[9]

"At the county level during these early years, where members of the General Assembly were most involved, candidates were self-nominated. They relied on personal popularity and prowess on the stump to secure election and never ran as partisans. As a result, there were no signs of party in the legislature."[10] However, sectional alliances arose, usually over controversial matters. Certain instances appeared to be caused by sectionalism, such as moving the capital to Indianapolis from Corydon.[11] The first actual sign of partisanship began in the 1824 presidential

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[7] Richard P. McCormick, *The Second American Party System: Party Formation in the Jacksonian Era* (Chapel Hill: University of North Carolina, 1966), 270.

[8] *The Western Sun*, June 14, 1817.

[9] Mark H. Haller, "The Rise of the Jackson Party in Maryland, 1820-1829" *The Journal of Southern History* 28, no. 3 (1962): 307.

[10] Justin E. Walsh, *The Centennial History of the Indiana General Assembly, 1816-1978* (Indianapolis: The Select Committee on the Centennial History of the Indiana General Assembly, 1987), 70-71.

[11] *Ibid.,* 71.

election. Members of the 1823-1824 session "designated themselves as pro-Jackson, pro-Adams, or pro-Clay depending on which Democratic-Republican presidential nominee they preferred."[12] Despite John Quincy Adams winning the election in 1824, an era of Indiana Jacksonian democracy began.

"Jacksonian democracy in Indiana was rather a spirit. It was the manifest expression of that intense feeling that the common people were supreme."[13] It was a rebellion against eastern politicians who exuded the incarnation of luxury and aristocracy. Indiana Jacksonians believed Jackson was the embodiment of unsophistication and a frontiersman who fought for his existence, a man to whom they could relate.

Jacksonians equated their support for Andrew Jackson in the 1828 presidential election to the utmost patriotism. *The Western Sun and General Advertiser* printed the following editorial:

> Jacksonians, do your part! — the day comes hastening apace when it is your indispensable duty to evince your gratitude to your country's savior by thrusting upon him your votes for the highest office within the gift of free men. Let nothing prevent you from attending the polls! Every one of you come, and bring his neighbor! Lull not yourselves in the lap of security! The enemy are strong and powerful; but by a united effort they can be beaten. They are backed by the power and patronage of the government, but we by the immutable justice of our cause. Let nothing discourage you — by union and concentration the battle can be won — our numbers are sufficient but, we have none to spare.
>
> Indianians, the third day of next November will be the only opportunity you will ever have to vote for Andrew Jackson. Then why not make use of it? Arouse from your sleep of security — the enemy are at hand flushed with the spoils of a former triumph! Arise, return the honor of your country — let it not hereafter be said that republics are ungrateful![14]

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[12] Walsh, *The Centennial History,* 71.

[13] Adam A. Leonard, "Personal Politics in Indiana 1816 to 1840," *Indiana Magazine of History* 19, no. 1 (March 1923): 29.

[14] *Western Sun and General Advertiser*, October 25, 1828, 1. The paper was previously called *The Western Sun* but changed names in 1817 after the capitol was moved from Corydon to Indianapolis and the state's formation. Under the territorial government, the paper had been financially subsidized. The new name was meant to garner advertisement. Jess Cohen, "Elihu Stout published the first newspaper in Indiana," *Huron Daily Tribune* (August 9, 2016).

After Jackson won the state and the election, the same paper rejoiced that a "backwoodsman" triumphed over the aristocracy.[15] This new era in Indiana politics would allow for the racial laws of the 1830s to pass with little opposition.

The 1830 U.S. Census reported that three slaves still lived in the state, one in each county of Decatur, Orange, and Warrick; however, a local census for Vincennes (Knox County) listed thirty-two slaves.[16] The number of slaves still existing in Indiana by the 1830s was under-reported. Meanwhile, the free black population had significantly increased; however, compelling evidence suggests they were still under long-term indentured servant contracts despite existing laws. The population total for Indiana in 1830 was 343,301: free black males, 1,857, and free black females, 1,772, representing approximately one percent of the population.[17]

The 1840 U.S. Census showed a significant increase in the total population of Indiana to 685,966 and showed three slaves still living in the state but not in the same counties. Putnam County reported one slave, and Rush County reported two, a male and a female. The black population increased to 7,168, holding at approximately one percent of the population.[18]

Indiana continued with growth, and the 1850 U.S. Census reported a total population of 988,416, with the black population at 11,262. The percentage of whites to blacks in Indiana continued to hover at approximately one percent.[19] Within the state, the census reported no

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[15] *Western Sun and General Advertiser,* December 27, 1828.

[16] 1830 Census Records, 34-35. https://www.archives.gov/files/research/census/1790/1790censusact.pdf. See Paul Finkelman, "Almost a Free State: The Indiana Constitution of 1816 and the Problem with Slavery," *Indiana Magazine of History* 111, no. 1 (March 2015): 75.

[17] *Ibid.,* 35.

[18] 1840 Census Records, 81-82. https://www2.census.gov/library/publications/decennial/1840/1840v3/1840c-05.pdf.

[19] There is some statistical information before 1850, but it provides more dependable information on distribution. One addition is that the 1850 census canvassers required all inhabitants to identify the state or foreign nation of their birth. Following the 1850 and 1860 censuses, the published census reports provided statewide nativity

slaves.[20] The 1831 law, which required blacks to have a bond to live in the state, had no impact on migration because the ratio of whites to blacks remained constant before and after the law. In 1851, however, a constitutional amendment prohibited black migration, which profoundly impacted it. According to the U.S. Census of 1860, only 166 blacks had moved to the state in the ten years.[21]

The Antislavery White Supremacist Factions' Resistance to Slavery

On August 6, 1851, the *Indiana State Journal* reported a meeting of the "colored citizens of Indiana," which had convened in 1842, 1847, and then again in 1851, partially to petition the legislature regarding the rights of black residents. The meeting in 1851 was to rally against the proposed 1850 Constitutional Convention's draft constitution.[22]

Slavery, even in free states such as Indiana, was on the minds of the populace. The Chase letters allow insight into the opinions of one prominent citizen, whom presumably many others shared.[23] In these letters, Salmon P. Chase, an independent Democrat who resented his party's proslavery sentiment, expressed no confidence in the opposing party — the Whigs — in fighting slavery. Chase's views proved prophetic, of course, as the Whig Party soon disintegrated over the slavery issue. Chase himself would become a founding member of the new Republican Party thereafter and would eventually become the sixth chief justice of the U.S. Supreme Court.

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data based on this information. See Gregory S. Rose, "The Distribution of Indiana's Ethnic and Racial Minorities in 1850," *Indiana Magazine of History* 87, no. 3 (September 1991): 225n4.

[20] 1850 Census Records, 756, 782. https://www2.census.gov/library/publications/decennial/1850/1850a/1850a-42.pdf.

[21] Compendium of the Ninth Census, 4. https://www2.census.gov/library/publications/decennial/1870/compendium/1870e-03.pdf.

[22] *Indiana State Journal*, August 6, 1851.

[23] Salmon P Chase, Henry Clay, and Henry George, "Letters of Salmon P. Chase, Henry Clay, Henry George: Original Documents," *Indiana Magazine of History* (1911).

In a letter to Joshua R. Giddings, an Ohio Congressman, dated February 15, 1842, Chase wrote, “The country is beginning to awake at length to the danger of slaveholding encroachments, and the time is rapidly drawing on, I trust, when the champions of freedom will have the place which of right belongs to them in the confidence and favor of a long deceived and oppressed, but now awakening public.”[24] He discussed uncompromising fundamental principles. “The principle must be established and acquiesced in that the government is a non-slaveholding government — that the Nation is a non-slaveholding Nation — that slavery is a custom of State law-local-not to be extended or favored, but to be confined within the States which admit and sanction it.”[25]

Chase continued to discuss the issues within the Whig Party, “I hardly think that the Whigs as a party are prepared to take this ground. The most they will do is to tolerate liberty. They will, in this quarter, hardly do that. They will not do it at all unless attachment to liberty is made subservient to party ends and secondary to party obligations.”[26] Chase discussed the issues with supporting the Whigs over the Democrats,

> For such is the policy of opposition to antislavery principle, with many of the Whig party, that thousands would vote for Shannon in preference to him, while many of the Democrats who would otherwise support him, will be persuaded that the nomination is a Whig maneuver, and will fall back into their party ranks. I would prefer, for one, to go into the battle with our own strength. We may be defeated now, but at the next election parties must divide on principle, and then we must triumph.[27]

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[24] Chase, Clay, and George, “Letters,” 123.

[25] *Ibid*., 123.

[26] *Ibid.,* 124.

[27] *Ibid.,* 125. Wilson Shannon was the Democratic candidate for governor of Ohio in 1842, he defeated the Whig incumbent Thomas Corwin by less than two thousand votes on October 11, 1842. See Charles R. Brown *Brown's Primary Government of Ohio: Including the History, Resources, and Jurisprudence of the State: Designed for Use in Common Schools* (Kalamazoo: Moore & Quale, 1875). Also, *Proceedings of the Democratic State Convention: Held in Columbus, Ohio, on the Seventh and Eighth Days of January 1842; Including an Address to the People of Ohio* (Columbus: S. & M. H. Medary, 1842).

In a postscript, Chase asked, "How would it answer for you or some other gentleman to introduce a bill for the repeal of the laws sustaining slavery in the District of Columbia?"[28] These letters reveal the struggle of some Democrats with a proslavery platform.

On September 14, 1843, a meeting of the "antislavery friends of Oakland" assembled in Pendleton, Indiana, for a rally, including Frederick Douglass as a guest speaker. On that day, a mob from Columbus, Indiana, threatened to disrupt the meeting. William A. White of Newcastle, Indiana, wrote about the events and published them in the famous Boston antislavery newspaper of William Lloyd Garrison, *The Liberator*, on October 13, 1843. White described Columbus as "a miserable, rum-drinking place, about 6 miles distant" from Pendleton. He portrayed Pendleton as not necessarily antislavery but willing to hear and discuss the question.

The meeting was to occur at a Baptist Church, which, upon learning of the protesters, feared for the building's safety and withdrew its offer for its use. When the friends of Oakland arrived for the meeting, they faced an intoxicated mob of thirty people, making threats of violence. Pendleton resident Dr. Cook and a person called Bradburn attempted to address the mob, but fortunately, a rain shower diffused the situation.

The friends gathered the next day at a meeting location in the woods. Initially, eleven "mobocrats" took seats within the audience; White noticed one man secretly winking as Bradburn spoke; he gave a signal, and a giant mob formed. The audience comprised one hundred men and thirty women as the mob came looming through the woods, approximately thirty or more armed with stones and eggs and led "by a fellow in a coonskin cap, tail and all, as a representation of the great Whig party, and another barefooted man, with nothing but a dirty shirt

[28] Chase, Clay, and George, "Letters," 126.

and pantaloons on, and the former half of his shoulders, as a representation of the democracy of the country."[29]

The crowd became agitated and retreated, but White implored them to remain seated, and the majority did. He recounted that the women in the audience were the "most courageous" as the mob surrounded the group. The mob threw eggs and stones even as Dr. Cook attempted to address the mob, as he had done the day before. Speaking to White, James Jackson asked, "Why we did not go to the South and preach?" He then took the stand and made what White described as "a most ridiculous spectacle, interlarding his speech with copious oaths, and ending off by saying he could not talk, but he could fight-that he had too much good blood in his veins to let us go on," and the violence continued and escalated.[30] The mob was more incensed with the call for racial equality and not the abolishment of slavery since the Pendleton area was antislavery.

> The mob joined in, and commenced pushing the audience back and knocking them down. Mioajah White, a warm friend, was knocked down, with another friend named Graham. Frederick Douglass who at this time, was safe among friends, not seeing me, thought I was knocked down, and seizing a club, rushed into the crowd. His weapon was immediately snatched from him, and he finding he had attracted their anger against himself, fled for his life, and ten or more the mob following, crying 'kill the nigger, kill the damn nigger.' I hope never to look upon so fearful a sight, as poor Frederick fleeing before these hell hounds, panting for his blood. It was a fearfully true picture of the flight of the fugitive slave, and it was fitting it should take place on the soil of this pro slavery state.[31]

White was struck in the head and the front but suffered no severe injury. He further said, "Frederick was taken up, and though at first he seemed to have been severely injured, he soon recovered and was able to lecture the next day."[32]

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[29] William A. White, "Letter from William A. White," *The Liberator*, October 13, 1843. See also John L. Thomas, "Early History of Pendleton," *The Pendleton Times*, July 22, 1915.

[30] *Ibid.*

[31] *Ibid*.

[32] *Ibid*.

The events described by White could be construed as abolitionist propaganda. The story was republished in the *Muncie Morning Star* in 1911, and a letter to the editor was published on January 16, 1911. J.H. Hicks wrote to the editor of the *Star* and stated:

> In a recent issue of your paper you refer to the assault made on Mr. Douglas and others. I noticed that you say that "probably few now living remember the affair." I wish to inform you that I was present and was an eyewitness of the whole affair. I was then a young boy and had gone to Pendleton to mill, and saw the onslaught. Douglas was knocked down and being pounded when Mr. W. A. White came to his rescue, but he was hit with a rock on the back of his head, from which I saw the blood flowing in a stream. The man who wore the coonskin cap was a Mr. David Crowl; The man who was so poorly attired was Mr. Tom Collins. He and Mr. Adams were the leaders in the attack. Messers. [*sic*] Neal Hardy, John Cook and John Mingle were the parties that rescued Douglas and took them home. I am now 83 and thought a word from me would not be amiss.[33]

The time and distance from the events relayed by Hicks confirm White's recollection.

Of course, not all stories of resistance to slavery involve just white men. Stories of African American courage abound, such as that of Millie Wilkerson, who in 1839 stood up to a slaveholder who appeared on a doorstep seeking her granddaughters. The story goes:

> One day around harvest time in 1839, Margaret and Susan, two of Millie Wilkerson's teenage granddaughters showed up at her house in Cabin Creek [Randolph County, Indiana]. They were slaves in Tennessee. Margaret the oldest was barely 13. Millie Wilkerson thought quickly. She knew that the slaveholder or some slave catchers would soon track the two young girls. She gave her young grandson a horn and mounted him on a horse. She told him to ride like Thunder while blowing the horn to alert their neighbors. As expected, Thomas Stringfellow, the slaveholder from Tennessee appeared in the settlement with a posse. He was angry. But Millie Wilkerson was determined. She stood guard at the door with a corn knife, and formed the slaveholder and his posse that she would use it on anyone who tried to enter her house. Meanwhile her neighbors had come running with clubs, axes, hoes, and anything else they could find. Stringfellow and the posse realized that they were outnumbered and retreated.[34]

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[33] J. H. Hicks, "He Saw It," *The Muncie Morning Star*, January 16, 1911.

[34] "Millie Wilkerson," *The Indiana Department of Commerce, Tourism & Film Development Division* (1994).

This story is rare because Randolph County had a sizeable amount of black-owned farmland, mainly in Cabin Creek, Snow Hill, and Greenville.[35] It was a unique county within the state, which could have aroused the help of black neighbors for protection. Stringfellow attempted to sue Wilkerson and others for the value of the girls, but the court dismissed the case.[36]

Indiana Quakers

Indiana Quakers, in general, opposed discriminatory legislation and attitudes toward blacks. However, in the state, it was not until the 1830s that they became pro-abolitionists, thus vocal opponents of anti-black laws, and participated in the political system. In 1831 when the bill, *An Act Concerning Free Negroes and Mulattoes, Servants and Slaves,* was being proposed to prevent blacks from moving into the state, a Quaker senator, Daniel Worth, sarcastically proposed an amendment that would require "Negroes to shew [*sic*] cause why they are black" instead of why they should give bond to live in the state.[37]

In the 1824 election, the strongest antislavery sentiment in Indiana was in the eastern part of the state, where Quakers supported John Quincy Adams. Adams was the only candidate not to own slaves since both Andrew Jackson and Henry Clay, his major opponents, were slave owners.[38] An editor, viewing the campaign as a contest between Adams and Clay, declared that for voters to prefer Clay over Adams, "they must first learn to disregard all distinction between right and wrong — between freedom and slavery — between a man polluted with the crimes of

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[35] "Early Black Settlements by County: Randolph County," *Indiana Historical Society*. https://indianahistory.org/research/research-materials/early-black-settlements/early-black-settlements-by-county/

[36] "Wilkerson," *Indiana Department of Commerce*.

[37] Walsh, *Centennial History*, 149. *An Act Concerning Free Negroes and Mulattoes, Servants and Slaves*, is discussed in Chapter Six.

[38] Henry Clay manumitted his slave Charlotte Dupee in 1840, but her husband, Aaron Dupee, remained until the Civil War. See William Kelly, "Slavery and Strategy in Decatur House: Charlotte Dupee's Suit for Freedom in Early Washington, D.C.," *The White House Historical Association*.

gaming and duelling [*sic*], and one whose moral character is 'without spot and blemish.'"[39] The 1824 election was just one political contest in which the Quakers united.

The Quakers in Richmond in 1842 attempted to confront Henry Clay, who again was a candidate seeking the office of president, with a petition of over two thousand signatures; they hoped to get support for the immediate emancipation of the slaves. Henry Clay, a Whig and slave owner, had helped transport free blacks to West Africa with the American Colonization Society. He was in Richmond for the Indiana Yearly Meeting of the Society of Friends.[40] While the Quakers were unsuccessful, these acts showed the number of Hoosiers who opposed slavery and racial laws had become more vocal.[41]

On November 21, 1849, the Quakers in Wayne and Randolph counties published their opposition to Indiana race laws. The headline in an editorial that ran inside the newspaper *Palladium* in Richmond, Indiana, read "Black Laws of Indiana."

> The proximity of the time for the annual meeting of the state legislature suggests the inquiry as to what important measures will be brought before it for legislative action. Among other propositions and not the least important, will be the repeal of the black laws, which have so long disgraced our statutes. The same proposition has from time to time, been heretofore presented, but that consideration has not been given to it, which it is worthy of; And as there is a diversity of opinion among the people themselves on the subject we propose to publish so much of the statutes referred to, as we regard objectionable.[42]

The works of Quakers were not just confined to the political arena; they also were an integral part of the Underground Railroad and settling racially diverse communities.

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[39] *Public Ledger*, May 15, 1824.

[40] American Colonization Society was a movement that started in 1816. It was a response to Northerners' resistance to allowing free blacks to immigrate to the North.

[41] Hoosiers are residents of Indiana. There are multiple theories on the origin of the term, but no definitive explanation. "What is a Hoosier?" *Indiana Historical Bureau.*

[42] "Editorial," *Palladium*, November 21, 1849.

In the early 1840s, Billy Clark, John Wright, Robert Smith, Robert Brazelton, and Robert Brown (all black men) migrated from the Carolinas to find a new home in Indiana. They were not all slaves, as only Smith, Brazelton, and Brown were former slaves; it is not clear if they escaped or were set free. By 1844, the men moved to farmlands southwest of Marion, Indiana, in modern-day Grant County. These men, with the help of Quakers such as Aaron Betts, established a community despite the discriminatory laws that forbade blacks from migrating to Indiana without a bond.

These six men are credited with helping future black settlers in the area by starting a growing community for blacks and Quakers there. Most black families that migrated to the area arrived during the next ten years. One example is the Weaver family, whose name is now used for the community of black settlers in Grant County, who arrived in 1847 from North Carolina. These migrant blacks brought their religious expression, and in 1849, the Hills Chapel African Methodist Episcopal Church was built in Grant County. The county and community are an example that not all areas of Indiana enforced or supported legislative enactments that would prevent blacks from integrating into communities.[43]

Not all Quakers, of course, supported an antislavery platform. In the fall of 1842, Quakers from the Meeting for Sufferings removed eight members for their abolitionist sympathies; this caused abolitionist Friends to separate and form the Indiana Yearly Meeting of Antislavery Friends, which grew to around two thousand. In *Moral Choices: Two Indiana Quaker Communities and the Abolitionist Movement,* the authors argued:

> While the events of the separation are not in dispute, its causes are. At the time, there was no lack of explanations. Antislavery friends saw themselves upholding traditional Quaker testimony against slavery, while their opponents had abandoned it. Their opponents,

[43] Jerry Miller, "People of Color: Grant County's Black Heritage," *Chronicle-Tribune Magazine* (July 9, 1978): 4.

> meanwhile fond of non-Friends' applause, prosperous because of the economic ties with the South, and committed to the Whig party, looked on abolition as calculated to deprive them of the means of amassing wealth.[44]

The Underground Railroad

Although the term "Underground Railroad" was not coined until around 1840, some antislavery whites had been helping runaway slaves escape to Canada since the 1820s.[45] Indiana was a prime location for conducting the railroad; it connected Kentucky, a slave state, with a direct route to Canada via Michigan. It was the center of all activities in the Midwest. The railroad was in operation by 1825; however, with the passage of the 1850 Fugitive Slave Law, the secrecy and frequency of use of the so-called railroad became more critical.

This law further increased the need for abolitionists to be careful not to get caught abetting runaways. Historian Joseph Burgess argued that at least one person in every Township participated in the Underground Railroad movement in Indiana and Quaker communities; it could have been higher. Burgess suggests that no less than two hundred and forty-four Hoosiers aided fugitive slaves and speculates that the number of slaves who made it to freedom must have been in the thousands.[46]

It is important to note that while Quakers and other progressive whites aided fugitives, there were a considerable number of free blacks and former slaves who helped with the Underground Railroad. Some historians advocate that "the Underground Railroad was the first

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[44] Thomas D. Hamm, David Dittmer, Chenda Fruchter, Ann Giordano, Janice Mathews, and Ellen Swain, "Moral Choices: Two Indiana Quaker Communities and the Abolitionist Movement," *Indiana Magazine of History* (June 1991): 120.

[45] The Underground Railroad was neither underground nor a railroad, but a secret network of antislavery opponents who worked covertly, over vast distances, to help escaped slaves to Canada. For a view of the Underground Railroad, see Wilbur Henry Siebert, *The Underground Railroad from Slavery to Freedom* (New York: The Macmillan Company, 1898). Sibert was a history professor at Ohio State University and spent six years researching and interviewing participants of the Underground Railroad.

[46] Betty J. Lane, "Unground for Slaves: Railroad Without Rails," *Outdoor Indiana* (March 1968): 4.

multicultural, multiclass, multiethnic human rights movement in the United States that was dominated by people of African descent."[47] However, the argument that blacks dominated the Underground Railroad is not widely accepted.

According to researchers, there were three primary routes for the Underground Railroad in Indiana. The first was the western route, which began at the river crossing near Rockport and Evansville, where one leader was Judge A. L. Robinson. Other vital spots included Petersburg in Princeton, where John W. Posey and Reverend B. McCormick (who fled to Canada to avoid being arrested by U.S. Marshalls) resided. From Princeton, the route continued through Vincennes, Terre Haute, Lafayette, and finally into South Bend, where they crossed into Niles, Michigan.[48]

The second route began just over the river from Brandenburg, Kentucky; after crossing, the fugitives would land in Mauckport and Morvins Landing. The route continued through Salem, Columbus, into Indianapolis, Logansport, and Plymouth; it ended in Kalamazoo, Michigan. This route afforded help from Quaker settlements at Mooresville and Marion County, where Hiram Bacon in Washington Township was the primary station master. Another Quaker community along the route was Westfield, where Levi Pennington's depot was located.[49]

The final eastern route was one of the most prevalent, beginning in Madison or Lawrenceburg on the Ohio border. From Madison or Lawrenceburg, the fugitive could trek to Indianapolis and follow the central route or head to Greensburg or Richmond and transverse along the Ohio border to Michigan. The eastern path headed through Decatur, Fort Wayne, and

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[47] Eric R. Jackson, "Quest for Freedom: The Underground Railroad in Southwest Ohio, Northern Kentucky, and Southern Indiana," *Traces of Indiana and Midwestern History* 27, no. 2 (2015): 39.

[48] Arville L. Funk, "Railroad to Freedom," *Outdoor Indiana* (November 1964): 5-6.

[49] *Funk, "Railroad to Freedom,"* 7.

Auburn; it eventually led to Battle Creek, Michigan. It was on this eastern path that Levi Coffin would often assist the fugitive slaves.[50]

Coffin's autobiography discussed the number of fugitives he helped over twenty years as being in the hundreds. While he recalled many of the stories, he rarely gave dates or names. Coffin stated, "When the fugitives came to our house, they seldom gave the name, by which they had been known in slavery, or they did, we gave them another name, by which they were afterward known both at our house and in Canada."[51]

The stories provided by Levi Coffin have common themes that have been discussed in various works: beatings, kidnapping, and other inhumane treatment. In each of these stories, he brought to life the plight of the slaves and the closeness of his community that assisted the fugitives to escape. The Indiana Underground Railroad was successful in circumventing state and federal laws that prevented legal equality for blacks.

Proslavery and White Supremacist Policies and Criminal Codes

Despite the Indiana State Constitution of 1816's prohibition on slavery and indentured servitude, the practice of selling humans within the state continued. In the *Vincennes Western Sun* on February 15, 1817, G. R. C. Sullivan and James B. McCall advertised for the estate of Henry Vanderburgh to sell to the highest bidder a "Negro woman and child" on Friday, February 28, 1817. The advertisement stated that the woman was brought into the Indiana Territory and registered at the Clerk's Office of Knox County; however, it did not state whether she was

[50] Funk, "Railroad to Freedom," 7.

[51] Levi Coffin, *Reminiscences of Levi Coffin, The Reputed President of the Underground Railroad* (Cincinnati: Robert Clarke & Co., 1800), 139.

considered a slave or an indentured servant. It said, "for the health and qualities of the woman," to inquire.[52]

In 1818, the Indiana General Assembly passed several black codes. One such law stated that no biracial or black person could testify against a white man.[53] Chapter V, section 59 of the new statute said: "If any white person shall have sexual intercourse, with any negro within this state, he or she so offending, shall, on conviction by presentment or indictment, if a male be fined in any sum not exceeding one hundred dollars, and if a female, be imprisoned not exceeding ten days; and it shall not hereafter be lawful for any white person to intermarry with any negro in this state," but no penalty was listed.[54] The Indiana Supreme Court never ruled on this issue, and the 1818 statute did not impose a criminal punishment on interracial marriages until modifications in 1840 and 1842.

In 1840, a scandal in Indianapolis broke out, and Levi Coffin told the story in his book. According to Coffin, a man and his family moved from Massachusetts to Missouri and purchased a farm; next door was a biracial indentured servant man whose term was soon to expire. The man came to work for the white family and stayed after his indenture contract expired. He soon became entrenched in the family, which decided to move back to Massachusetts, but the father died before the journey began. Before his final breath, he asked the young man to ensure his family returned home, which he promised to do.

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[52] *Vincennes Western Sun*, February 15, 1817, 4.

[53] *Laws of the State of Indiana, Passed and Published, at the Second Session of the General Assembly, Held at Corydon, on the First Monday in December, in the Year One Thousand Eight Hundred and Seventeen* (Corydon: A. and J. Brandon, 1818), 39-40.

[54] *Ibid.,* 94.

While returning to Massachusetts, the family arrived in Indianapolis and could not continue because of winter storms. They hoped to wait out the winter, so the young man took work inside the city and supported the family. Coffin described the biracial man:

> Who was really almost white and possessed none of the Negro features, was very genuinely in his appearance and manners, and so kind and attended to them in thoughtful for their welfare, that one of the daughters became very much attached to him. He had long loved her in secret, without daring to speak, but now, finding that his love was reciprocated, saw no reason why they should not be married. The mother gave her consent and accompanied her prospective son-in-law to obtain the marriage license.[55]

So, the marriage was consensual and welcomed by the family; however, Coffin went on to say,

> On the evening of the wedding, the news spread through the city that a Negro had married a white woman, and an infuriated mob filled the street in front of the house, and with hoots and yells proceeded to search for the man-several shades lighter than some of themselves-who dared to marry a white woman. The bridegroom escaped by a back way and fled to the woods for safety, as if they were a fugitive slave. Not finding him, the mob dragged the bride out of the house and rode her on a rail through the streets, as a demonstration of the popular indignation. The bridegroom remained concealed in the woods for a while, finding no way to communicate with his wife, and not daring to venture back to get his clothes or to say goodbye. He was in deep distress and knew not what to do.[56]

However, this was not to be the end, as Indianapolis citizens searched the homes of blacks for the bridegroom; fearful for his life, the man moved eastward. He sought refuge in a black settlement in Flat Rock, Henry County, then proceeded to Coffin's home. Eventually, newspapers ran the story throughout the state, and the state legislature, being in session at Indianapolis, took immediate action.[57] The legislature imposed heavy penalties on all who could

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[55] Coffin, Reminiscences, 155-160.

[56] *Ibid.*

[57] Coffin's story is partially verified through newspapers. The story of the marriage appeared in the *Brookville Indiana American*, February 14, 1840, 4. Which was a reprint from the *New Albany Argus* on January 15, 1840. The story reads: "But recently, at Indianapolis, a negro, seduced, a young white girl. Finding her situation, with the consent of her mother, she married the negro. Divers and sundry individuals collected, and the negro has not been heard of since. A hole cut through the ice of the canal pretty clearly accounts for his absence. The circumstances of the marriage created a considerable sensation in Indianapolis, owing to the fact that the girl was highly accomplished and bore a respectable standing in the society of that city." Calvin Fletcher completes the story, see infra.

be involved in such a marriage.[58] The motivation for the mob and the legislature was the mixing of the races and the prevention of racial equality.

Calvin Fletcher, in his diary, narrows the day the events took place to January 2, 1840, and provides details of Coffin's story. He writes:

> This night a mob was assembled in consequence of the marriage of an intelligent white girl of 18 or 20 to a negro or mulatto — a family it is said originally from Massachusetts who emigrated to Missourie [*sic*] — there the father purchased a farm & the negro in question. [The father] died & the family with the [negro] set out for Massachusetts & while on the way the mother 3 daughters & the negro stopped at this place where they lived for 2 or 3 months passed. They were visited by several of our most respectable & one of the young ladies was employed to play upon the organ [in] Episcopalian Church after the death of Mrs. Morrison. It is said the young ladies are intelligent. The license was obtained from the Clerk on the application of the mother. Her story was that it was the injunction of her deceased husband to the negro to take care of his family & she consented to the marriage &c for such reasons. The parties were married at Crouders over the river 2 miles distance on New Years eve [*sic*]. Jim Johnson J.P. refused to marry them but Esqr. Weaver consented & said the ceremony & on this Eve [2 Jany.] when I was leaving my office at ½ past 9 heard the mob as they proceeded [up] the street in good order singing "a long time ago." They proceeded over the River to Crouders. The negro man fled. They took the woman made her ride in on a horse & marched her up & down the street. Dr. Stipp undertook to interfere & he was knocked down & much injured. This affair has created much excitement. There is not an individual in the place to my knowledge who justifies the white family who have submitted to such indignity.[59]

Threatened and humiliated, the bride signed the divorce petition thrust upon her by the state. The legislature divorced the couple, and the lady was declared free from any disgrace. Coffin stated people blamed him for taking the young man, now called Charlie, and harboring him against the mob. Coffin hid Charlie for several months, and finally, one of Coffin's friends agreed to venture to Indianapolis to retrieve Charlie's clothing and determine how the family was

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[58] "Indiana Legislature," *Indianapolis Indiana Journal*, January 18, 1840, 1; *Indianapolis Indiana Democrat*, February 25, 1840, 3.

[59] Emma Lou Thornbrough, ed., *The Diary of Calvin Fletcher*, Vol. II (Indianapolis: Indiana Historical Bureau, 1972), 132-133.

doing. The family remained in Indianapolis until the spring, sending word to Charlie, and eventually, they met up in Cincinnati, never to be heard from again.[60]

The session of the 1840 General Assembly, which Coffin mentioned, adopted a stringent penal code that declared all biracial marriages void and the children illegitimate. It defined the marriages as felonies with punishment set as a fine of not less than one thousand and not over five thousand dollars and imprisonment for not less than ten years and not over twenty.[61] In 1842, a modification reduced imprisonment to one to ten years of hard labor, and those assisted or abetted were equally punishable. Officiants of these marriages were fined up to five hundred dollars and could no longer perform marriages. The law further changed in 1881 with a reduced maximum fine of one thousand dollars and the possibility of one to ten years imprisonment, and it remained the law until its repeal in 1965.[62]

Exclusionist: The Indiana Colonization Movement

"I long to see the day when there will not be a Nigger in the U.S. I want them all sent away to a country by themselves and let the Whites be by themselves, to work out there [*sic*] Salvation the best they can," declared Luman Jones in 1863.[63] The American Colonization Society (ACS) began in 1816. It was the product of national interest in addressing and responding to northerners' resistance to allowing free blacks to immigrate to the North. Robert

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[60] Coffin, Reminiscences, 155-160.

[61] "An Act," *Indianapolis Indiana Journal*, March 21, 1840, 4.

[62] Thomas P. Monahan, "Marriage Across Racial Lines in Indiana," *Journal of Marriage and Family* 35, no. 4 (November 1973): 633.

[63] Luman Jones, "Letter from Luman Jones to Elizabeth Jones, November 12, 1863," *Luman Jones Collection*, Indiana Historical Society Library.

Price, a resident of Indiana, stated, "We don't want them up North... Let the curse stay in the south."[64]

On Friday, December 13, 1816, Charles F. Mercer, a representative from Loudoun County, Virginia, in addressing the Virginia House of Delegates, proposed a resolution that passed 137 to 9 to find land to resettle the free black population. The resolution reads in part:

> Whereas the General Assembly of Virginia have repeatedly sought to obtain asylum, beyond the limits of the United States for such persons of color, as had been or might be, emancipated under the laws of this Commonwealth, but have heretofore found all their efforts frustrated either by the disturbed state of other nations, or domestic causes equally unpropitious to its success;
>
> They now avail themselves of a period when the peace has healed the wounds of humanity, and the principal nations of Europe have concurred, with the government of the United States, and abolishing the African slave trade. That the executive be requested to correspond with the president of the United States for the purpose of obtaining a territory upon the shore of the North Pacific, or at some other place not within the states or territory territorial governments of the United States, to serve as an asylum for such persons of color, as are now free, and may desire the same, and for those who may be hereafter emancipated within this Commonwealth.[65]

The General Assembly made the resolution in a closed-door session.

In 1817, Samuel Milroy, a member of the Indiana General Assembly, introduced a resolution calling on Congress to colonize blacks in the far west.[66] The Indiana General Assembly invited persons to form an auxiliary of the ACS and to attend an organizational meeting on the evening of January 20, 1820, in the Senate chambers in Corydon and resolved: "That the principle and practice of slavery, are wholly unrecognized with the free constitution of the American government, and the best feelings of the American government, and the feelings of

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[64] Robert J. Price, "Letter from Robert J. Price to D. Price, June 6, 1863," *Robert J. Price Collection*, Indiana Historical Society Library.

[65] "Virginia House of Delegates: Friday, December 13," *Vincennes Western Sun*, January 11, 1817, 4.

[66] "Preamble [and] Resolution by General Samuel Milroy offered in the Indiana Legislature, 1817 on the Subject of Colonizing Negroes," photo static copy, *Robert Milroy Papers*, Box 2, Folder 1: *Samuel Milroy Papers*, Indiana Historical Society Library.

human nature." This all-male society asserted that "No exertions which can properly be made for the eradication of this great evil, should be withheld; and that the use of every means which can justly be resorted to, be recommended to the citizens of this State, to check its extension and to accomplish its abolition as far as practicable." The Society's mission was, "to aid and assist the American Colonization Society... in its laudable and humane intentions." Members paid the Society two dollars in annual dues and appointed officers and managers. Governor Jennings served as the Society's president; members included some of the most prominent citizens.[67]

However, despite its formation in 1820 and a few motions voted upon, the Indiana Colonization Society (as the auxiliary was formally named) accomplished little during its first ten years. However, it was revived in 1829 with Supreme Court Justice Jesse L Holman becoming the Society's president. Its stated purpose was defending colonization as a human undertaking that would allow free states to escape "a flood of suspected and unwelcome population" should the blacks ever be emancipated.[68]

On December 31, 1829, at the annual meeting of the Indiana Colonization Society (ICS), the organization stated that slavery was incompatible with republican institutions.[69] Chief Justice Isaac Blackford (who will be discussed further in Chapter Six) addressed the society in a speech delivered nine years after the decision to free slaves in the state (as will be discussed under *State v. Lasselle* in Chapter Six). Blackford described the purpose of the meeting as "not only the subject of our country's welfare, which invites our attention; But is the sacred cause of humanity also, that assembles us together — that cause which is fondly cherished in every virtuous bosom;

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[67] *Corydon Indiana Gazette*, January 20, 1820, transcription, in "Extract from *Corydon Newspaper*, 1820-1838." Indiana State Library.

[68] Walsh, *Centennial History*, 151.

[69] Donald F. Carmony, *Indiana 1816-1850: The Pioneer Era* (Indianapolis: Indiana Historical Bureau, 1998), 563.

In which never appeals in vain to a generous community."[70] Blackford furthermore described the purpose of the American colonization movement as:

> The necessity of taking some measure to remove the free blacks from among us, has long been obvious to every reflecting man. The rights of those unfortunate people, and the increasing degeneracy of their morals, are pressing themselves more strongly, every day, upon the consideration of the public. It is very generally admitted, that the introduction of negroes into the New World, is the greatest misfortune that ever has befallen it.[71]

Blackford discussed the history of slavery in North America. He concluded on the history of the slave trade: "It is to the same shameful traffic, that the United States are indebted for their black population. This consisted, in 1820, of 1,538,118 slaves, and 235,557 free blacks."[72]

Blackford then addressed the history of the ICS and its origins. He emphasized that the legislature of Virginia proposed over twenty years ago the colonization of Africa by the free blacks. He cited a letter from Thomas Jefferson "on the subject dated in 1811; and another from Dr. Finley, of New Jersey, in 1814. In the early part of 1816, about thirty free blacks were induced to sail from Boston, with Paul Cuffee, in order to unite their fortunes with their brethren at Sierra Leone."[73] He discussed the first meeting in Washington and the attempts to get Congress to support the organization.

> In 1820, the first ship, the *Elizabeth*, sailed in this noble cause, for the western coast of Africa. Beside two agents on the part of the government, and one for the society, this vessel carried with her about eighty free people of color, to commence an establishment at the expense of the United States; Which was to be not only the government agency, under the act of Congress, but the asylum of freedom, under the direction of the society.[74]

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[70] Isaac Blackford, "Judge Blackford's Address," *The Papers of Isaac Newton Blackford, 1817-1882*, Indiana State Library, Article 128-129.

[71] *Ibid.,* 129.

[72] *Ibid.,* 130.

[73] *Ibid.,* 131. Paul Cuffee was a prominent and financially successful black man in the early United States. Cuffee became a prominent member of the Society of Friends in Westport, CT, building a meetinghouse and a school. He used his commercial success to promote the advancement of Sierra Leone and encourage the resettlement of blacks to Africa. His name is spelled two ways in historical documents Cuffe and Cuffee. Michael R. Harrison, "Who was Paul Cuffe?" *Nantucket Historical Association*.

[74] *Ibid.,* 132.

Blackford indicated that the settlement area on the Island of Sherbro proved very unhealthy, and the agents and some colonists perished; the remaining colonists reached Sierra Leone in the spring of 1821. In the same year, the United States purchased land on the western coast of Africa for three hundred dollars and named it Liberia.

Nine years had elapsed since the *Elizabeth* set sail, and Blackford reported, although the evidence today indicates otherwise, that there had been no more difficulties for the settlers. "Its prosperity, indeed, for the seven last years, has few examples in the eventful history of colonial settlements. Large acquisitions of territory have been made, within the three or four last years. In 1827, there were eight stations, within one hundred and forty miles, under the government of the colony; and, in 1828, there were fourteen hundred inhabitants."[75] His speech continued, discussing agriculture and commerce in the new colony.

Blackford told the audience that free blacks would voluntarily resettle in Liberia. He stated, "The Twelfth Annual Report of the Board of Managers, made in January last, states, that there were then nearly six hundred free persons of color, seeking a passage to Liberia; and that the owners of over two hundred slaves, had, during the previous year, offered to liberate them, provided the society could send them to the colony."[76]

Blackford reported that the only problem the society faced was the ability to raise the money necessary for the voyages. "The expense of transportation across the Atlantic is great — that of taking over each individual being about twenty dollars."[77] Blackford requested donations

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[75] Blackford, "Judge Blackford's Address," 134.

[76] *Ibid*., 136.

[77] *Ibid*., 137. In 2023 twenty dollars is equivalent to six hundred and forty U.S. Dollars.

for future relocation expenses and argued that Liberia was essential in stopping the slave trade throughout the world.

"But the society, implanting these colonies, are not limited to the abolition of slave trade, or the defusing of knowledge in a foreign land, it has other objects to accomplish, intimately connected with the prosperity of our country, and deeply affecting the future destiny of its black population."[78] Blackford believed that racial separation was necessary for both blacks and whites:

> There is one other effect to be produced by the operations of the Colonization Society, to which I must ask your attention before I conclude. It is the benefit that will be conferred on those free blacks of our country, who shall be sent to Africa. They are of no service here to the community, nor to themselves. Their situation may be compared to that of the fabled sufferer, who, surrounded by water in the most delicious fruit, is never permitted to partake of either. They live in a country, the favourite [*sic*] abode of liberty, without the enjoyment of her gifts. It is the privilege and the pride of an American citizen, to take a part in arranging, establishing, and improving the forms of his government. He may aspire to its highest office, or to a seat in its Legislative Halls.[79]

Blackford went on about the virtues and religious freedoms enjoyed by white Americans. He stated that white men and black men will never be equal because "the negroes have been too long our subject slaves — they are generally, here, and always have been, to the based — to be received as our equals. Our prejudice against them, however unjust it may be, must continue. It is as fixed and unchangeable as the popularity of their hair, or the blackness of their complexities."[80] Blackford ended his speech by stating:

> The degradation of the free blacks, resident within our country, is their misfortune, not their fault. It becomes us, as a civilized and Christian community, to unite in every rational plan proposed for their benefit, not interfering with the rights of others, that of the American Colonization Society — to remove them, with their consent, to their own country-is such a one. They will there commence a new life. They will there enjoy not merely the shadow, but the substance of freedom. The excellence of this plan has been

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[78] Blackford, "Judge Blackford's Address," 145.

[79] *Ibid.,* 145-146.

[80] *Ibid.,* 146.

> tested by experience. Hundreds who, were the outcasts of society here are, at this time, worthy and independent citizens of Liberia.[81]

However, the society took few steps to cement its intention to move blacks to Liberia.

After the 1831 prohibition on blacks moving into the state, the Society again revived in 1845 but accomplished extremely little. The organization continued to exist; however, it was not until the 1850s and the establishment of Article 13 of the 1851 state constitution that persistent efforts at colonization for blacks rebounded. Ultimately, the program failed because blacks were reluctant to move to Africa despite financial incentives from the state government.[82]

Thus, the antislavery white supremacists were successful in defeating the proslavery forces with the help of the Quakers. The factions, however, collaborated with proslavery elements to pass laws that deemed blacks to be inferior. They continued their efforts to remove blacks from the state via the American Colonization Society and created a state fund to support their efforts. However, Chapter Six will show that legal cases from the Indiana Supreme Court create setbacks for the antislavery white supremacist's agenda despite the court being members of the faction.

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[81] Blackford, "Judge Blackford's Address," 198.

[82] Douglas R. Egerton, "Its Origin Is Not a Little Curious: A New Look at the American Colonization Society," *Journal of the Early Republic* 5, no. 4 (1985): 463–80.

Chapter Six

The Indiana Supreme Court Rules to End Slavery and Indentured Servitude

With the state's political and social structure securely in the hands of the antislavery white supremacists, the General Assembly created laws with the assistance of the proslavery element. These laws continued to subjugate blacks and relegate them to an inferior class. Besides the black codes, such as the criminalization of mixed-race marriages, the antislavery white supremacists were able to use their power to create state funding for the colonization movement. But were these new laws constitutional?

The Indiana State Supreme Court

During the state's formation, the antislavery white supremacist faction gained control of the state both politically and socially. The faction contained not only the political leadership but the judiciary as well. The power of the Indiana Supreme Court was vested under the 1816 Constitution in Article V:

> Sect. 1st. The Judiciary power of this State, both as to matters of law and equity, shall be vested in one Supreme Court, in Circuit Courts, and in such other inferior Courts, as the General Assembly may from time to time, direct and establish.
>
> Sect. 2nd. The Supreme Court shall consist of three Judges, any two of whom shall form a quorum, and shall have appellate Jurisdiction only which shall be co-extensive with the limits of the State, under such restrictions, and regulations, not repugnant to this constitution, as may from time to time be prescribed by law. Provided nothing in this article shall be so construed, as to prevent the General Assembly from giving the Supreme Court original Jurisdiction in Capital cases, and cases in chancery, where the President of the Circuit Court, may be interested or prejudiced.[1]

Members of the judiciary would serve seven-year terms.[2] Section five reads, "The Judges of the Supreme Court shall by virtue of their offices, be conservators of the peace throughout the State, as also the Presidents of the Circuit Courts, in their respective Circuits, and the associate

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[1] Indiana State Constitution of 1816, art. V.

[2] *Ibid*., sec. 4.

Judges in their respective Counties."[3] Under section six, the court met in the capital city and not on a circuit as the territorial courts had done.[4] Section seven specified that "the Judges of the Supreme Court shall be appointed by the Governor, by and with the advice, and consent of the senate," same as the U.S. Supreme Court.[5]

The court held its first term on May 5, 1817. The first three men appointed to the high court were James Scott of Clark County, on the Ohio border in the southeast; Jesse Holman of Dearborn County, which is also on the Ohio border in the southeast; and John Johnson of Knox County, which is on the Illinois border in the southwest. Chief Justice John Johnson died before the second term and was succeeded by Isaac Blackford, who had lived in Knox and Washington counties. As each of these men originated in the southern part of the state, it is necessary to understand the men who comprised the 1816 court to comprehend the significance of their rulings.

Justice Isaac Blackford

Chief Justice Isaac Blackford was born in New Jersey on November 6, 1786, attended Princeton, studied law, and was admitted to the New Jersey bar in 1810. However, in 1812, he moved to Indiana and settled in the Vincennes area. By 1815, Blackford had received a commission as a judge of the first judicial circuit in the Indiana Territory. He resigned his commission, ran for, and won the territorial representative for Knox County seat in 1816, and was chosen Speaker of the House. After statehood, Governor Jennings appointed Blackford as the Chief Justice of the Indiana Supreme Court on September 10, 1817; at 30 years old, he replaced John Johnson, who had died. Blackford, a Democrat, ran for the nomination of governor

[3] Indiana State Constitution of 1816, sec. 5.

[4] *Ibid.,* sec. 6.

[5] *Ibid.,* sec. 7.

in 1825 but was defeated by James Brown Ray. In another attempt at politics in 1826, Blackford ran for the U.S. Senate as a Democrat but lost to former governor William Hendricks. While still on the court, in 1830, Blackford published the first reports of the Indiana Supreme Court and created a uniform reporting system. From 1817 to 1851, Blackford played an integral part in interpreting the rights afforded by the 1816 state constitution.

Biographers of Chief Justice Blackford often speak of this valuable contribution to establishing law in Indiana. He is ranked as one of the all-time prominent jurists in the nation, and without his influence, Indiana would have struggled to create legal precedents for the state courts to follow. In the 1800s, there was no uniform standard for writing Supreme Court decisions or providing for their distribution; Blackford created the *Blackford Reporter* in the 1830s, and it would remain the Indiana journalistic standard for decades. However, biographers downplay his white supremacist views. Former Indiana Supreme Court Chief Justice Randall T. Shepard wrote a short biography of Chief Justice Blackford:

> Blackford played leadership roles in the major social movements of his time, opposing slavery and promoting education. He was a founder and president of Indiana's chapter of the American Colonization Society, which sponsored free blacks in returning to Africa. Modern generations view this effort with skepticism, but it once drew support from abolitionists, religious leaders, and people such as James Madison and Bushrod Washington.[6] Blackford was also prominent in the "common school" movement, seeking to establish free and general education as a way of building Indiana's future. He allied himself with people such as Caleb Mills and presided at the common school convention of May 1847.[7]

However, the American Colonization Society was a white supremacist organization, and even the common school movement of the 1840s in Indiana specifically excluded blacks from

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[6] Bushrod Washington was an Associate Justice of the U.S. Supreme Court, 1798-1829. Horace Binney, *Bushrod Washington* (Philadelphia: C. Sherman & Son, 1858).

[7] Randall T. Shepard, "Isaac N. Blackford: September 10, 1817- January 3, 1853," in *Justices of the Indiana Supreme Court*, eds., Linda G. Gugin and James E. St. Clair (Indianapolis: Indiana Historical Society Press, 2010), 15.

taxpayer-funded schools. While various leaders in the United States have been white supremacists, Shepard's comments seemed to downplay the criticism of these leaders.

Conversely, it is evident by the decisions of the Indiana Supreme Court under his leadership that, despite his personal white supremacist views, he was an advocate of the state constitution, as is shown in several cases.

Justice Jesse Lynch Holman

Justice Jesse L. Holman, who sat on the state high court from 1816 to 1830, is not as famous as Chief Justice Blackman, but he has a similar background, personal ideology, and legal opinions. Holman moved to Indiana from Kentucky in 1810. His education in law came from his apprenticeship with Henry Clay. By 1814, he was one of the Indiana Territory's leading lawyers and presided over the second judicial circuit before the enactment of the state constitution. In 1835, he was appointed to the Indiana Federal District Court, where he served until his death in 1842.[8] Outside of his judicial opinions, Holman's legacy is that he founded Franklin College, later renamed Indiana University in Bloomington, Indiana. His legacy included the establishment of the Indiana Historical Society in 1830.[9]

The Indiana chapter of the ACS, revived in 1829 in Indianapolis, elected Justice Holman as the Society's president before Chief Justice Blackman, who served Holman as vice president. The Society reformed to deal with slave state laws requiring freed blacks to leave their states. "The existence of these laws, and in the increasing desire to be rid of the evil of slavery, is continually pouring in upon the free states a flood of suspected and unwelcome population." [10]

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[8] Melissa A. Fanning and Elizabeth R. Osborn, eds., *Jesse Lynch Holman, Pioneer Hoosier* (Indianapolis: Indiana Supreme Court Legal History Series, n.d.), 1.

[9] Pamela Greenwood, "Introductory Note," in *Jesse Lynch Holman, Pioneer Hoosier*, eds. Melissa A. Fanning, and Elizabeth R. Osborn (Indianapolis: Indiana Supreme Court Legal History Series, n.d.), 3.

[10] Donald F. Carmony, *Indiana 1816-1850: The Pioneer Era: The History of Indiana* Vol. II (Indianapolis: Indiana Historical Bureau & Indiana Historical Society, 1998) 563.

Justice Holman contributed to the white supremacist attitudes that were prevalent. Like Chief Justice Blackford, he would apply the Indiana Constitution professionally and legally in the indentured servant and slave cases of the 1820s.

Justice James Scott

Of the three state Supreme Court Justices discussed in this dissertation, Justice James Scott is the least known but was the author of the most important cases on slavery in Indiana. Scott served on the Supreme Court from 1816 to 1830 and was an original delegate to the state constitutional convention in 1816. He served as chairman of the committee drafting the article on education and headed the committee that wrote the constitutional provisions regarding the judiciary. Like Governor Jennings, Scott was from Clark County, an antislavery stronghold within the state. He was born in Pennsylvania and moved to Indiana, but little is known about his early life (including when he migrated to the Indiana Territory). After leaving the Supreme Court in 1830, when Governor William Hendricks declined to reappoint him, he moved to Charleston to practice law. In 1840, when William Henry Harrison was elected president, Scott received the job of registrar of federal land and returned to Indiana, moving to Jeffersonville. During the final years of his life, he moved to Carlisle, Indiana, where he passed away on March 2, 1855.[11]

The record is void of any reason to believe that Justice Scott supported the colonization movement or engaged in any activities that would be defined as white supremacist. However, based on his judicial opinions, it could be inferred that he shared some of the same racial attitudes as the other two Supreme Court Justices. His 1820 opinion in *State v. Lasselle*, discussed below, is his most significant contribution to the Indiana Supreme Court legacy.

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[11] Ray E. Boomhower, "James Scott: December 28, 1816 – December 28, 1830," in *Justices of the Indiana Supreme Court*, eds, Linda G. Gugin and James E. St. Clair (Indianapolis: Indiana Historical Society Press, 2010), 5-7.

The First Attempts at Freedom

After the Constitution of 1816 was adopted, blacks attempted to gain their freedom. Indiana Circuit Courts comprised a presiding judge and two associate judges with some legal experience. Indiana did not require legal training to become an associate judge, and the rulings show this lack of knowledge of constitutional law. One of the first cases was from Clark County Circuit Court in 1817. *In Re Lucy Clark,* also called *Lucy, a woman of color vs. Isaac Shelby* (since Indiana did not have a uniform system for titling or recording cases), began on March 7, 1817. Lucy started the case by filing a *habeas corpus* petition by her "next friend," John. H. Thompson. In legal terms, the "next friend" is an individual who appears in court in place of another who is not competent to do so for various legal reasons, and age was the factor used for this assertion. The petition stated:

> And the said Lucy, by her next friend John H./ Thompson who is admitted by the Court here to prosecute/ for the said Lucy who is an infant under the age/ of twenty one years for plea and reply to the/ aford answer and return of the said Shelby to the/ writ afford says at the time of the pretended execution/ of the supposed indentured and said return mentioned, she/ the said Lucy was an infant under the age of twenty/ one years, to wit of the age of sixteen years and no/ more-and this is ready to verify./
>
> And the said Lucy further says that at the time/ mentioned in said supposed indentured she/ was held by the said Shelby as his slave; and was/ so much under his power, without government and &/ duress that she had not legal capacity to assert to sd supposed indentured or any other contract.
>
> And the said Lucy further avers that species/ of service attempted to be imposed upon her by the/ said Shelly by the said supposed indenture/ is involuntary servitude and forbid by the ordinance of the/ United States in Congress assembled, passed on the thirty July 1 in the year of our Lord one thousand seven hundred and eighty seven — and/ also by the Constitution of the State of Indiana/
>
> And the said Lucy further says, that the/ said Shelby, on the day of swearing said writ, or on/ any other day, did not, and could not sell the/ service of said Lucy to one Thomas Pyle or any other person./
>
> And the said Lucy further allegis that she/ was in possession and under the control of/ the said Shelby both at the time the said writ/ was issued - and at the time of service of the/ and sd, and still is in the control & in the power of sd Shelby/ the said Shelby- all which is said/
>
> Lucy is ready to verify-wherefore by means of the/ premises the said Lucy says that she was unjustly taken & detained/ for a long time to wit for four years by said

> Shelby./ To her damages and injury as she saith, one thousand dollars/ which she praised may be adjudged and allowed her.[12]

On March 13, 1817, Associate Judge William Goodwin of Clark County ordered Isaac Shelby to bring Lucy before the court regarding the *habeas corpus* petition on the first day of the March term. March was the first term of the Clark Circuit Court since its formation under the 1816 Constitution. David Raymond was appointed presiding judge, with Goodwin and John Beggs as the associates. However, Isaac Shelby was the Clerk of Clark County. On March 14, 1817, Shelby filed a reply, stating that Lucy was not with him and he never had her in his custody, yet he submitted this formal response:

> To the annexed writ of *habeas corpus* the undersigned says that the within named Lucy before the time of the issuing of the writ was his voluntary indentured servant and bound to him by a Certain indenture executed in Clark County Indiana Territory which reads as follows to wit:
>
> This indenture made this 19th day of March in the year of our Lord one thousand eight hundred and thirteen/ negro woman Lucy formerly the property of James Blue Junior of the County of the Union and State of Kentucky and by him conveyed/ to Isaac Shelby of Clark County Indiana Territory of the one/ part, and the said Isaac Shelby of the other part Witnesseth that/ the said negro woman Lucy who is upwards of the age of fifteen/ years for an in Consideration of the/ sum of one dollar to her in/ hand paid the receipt whereof is hereby acknowledged, and of the/ covenants to be performed by the said Shelby and more Especially/ on account of the said Shelby having this day emancipated and/ Liberated her from perpetual slavery Hath and by these presents/ both bind herself to the said Shelby as his servant for and dur=/ ing the full end of the term of thirty five years from this date/ And that she is will during the said term faithfully and honestly/ serve him his heirs Executors Administrators or assigns, as well/ within the said Territory as thereout. And that she will at all times/ give due attendance to his or their lawful business and not at any/ time absent herself therefrom without his or their consent during/ the said term and that she will not at any time suffer him in/ person or property to be injured, if within her power to prevent it/ And the said Peter Jones for himself his heirs Exect &c doth/ Covenant and agree to and with the said Negro Lucy, that he/ will at all times during the said term furnish and provide/ her with c\Competent and sufficient meal drink lodging and/ wearing apparel and at the expiration of her term of service/ to give her one Milch Cow and Calf sow and pigs and a/ decent suit of new clothes - and Bed & Bedding. In Witness/ whereof the said Negro Lucy and the said Isaac Shelby have/ hereunto set their hands and affixed their seals.[13]

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[12] *Papers of Lucy*, Indiana State Library.

[13] *The Isaac Shelby Court Papers,* Indiana State Library.

It is unclear why the name Peter Jones is in the document. However, Goodwin's name is on the original document as the Justice of the Peace who witnessed and sealed the indentured servant contract. Shelby further attached to the reply:

> And that she had deserted his service/ and that early in the morning of the day of the issuing of/ the annexed writ, he had reclaimed her as such servant, and/ on the same day disposed of the balance of her time of/ service by sale to a certain Thomas Pile in Clark County Indiana but whether or not that disposition was or was not previous to the hour/ that the writ issued, he does not know, but believes/ it was and in further answering says that at the time/ the writ was served on him, he had not the said Lucy/ either in his possession or under his control, nor has he since/ had the said Lucy in his possession or under his/ control or power.[14]

The court dismissed the case on March 14, 1817. A writ of *capius in withermam*, which commands a sheriff to seize goods removed from a county and cannot be recovered, was filed by Thompson on March 28, 1817. However, this motion does not appear to be appropriate under applicable law. The attorney attempted to move the case to Knox County since Lucy would not get a fair trial in Clark (because one judge signed the indenture, and the defendant was the Clerk of Clark County); yet, the writ shows that the clerk's office never filed his request.[15] However, no further records appeared in Clark County, although documents showed a transfer to Knox County, and the case was heard with Julia's case, resulting in the same ruling.

In the May 1817 Knox County Circuit Court term, a *habeas corpus* case, *Julia v. Evan Shelby,* was instituted, lasting from May 1817 until September 14, 1819. The two associate judges, John Ewing and John B Drennan, ruled against Julia and returned her to Shelby, with the presiding judge, Jonathan Doty, dissenting. The majority stated: "If any Act of Congress could invalidate contracts made under the territorial act, they would not have sanctioned the

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[14] *Isaac Shelby Court Papers.*

[15] *Ibid.*

Constitution of the State of Illinois, who was equally bound by the ordinance; Yet we find they have legalized such contracts in her construction made under precisely the same by her citizens." The opinion concluded: "the sixth article of the ordinance is and was at the period the Territorial Legislature enacted the law 'concerning the introduction of negroes and mulattoes into this territory' incompatible with the constitution of the U. States [*sic*], and void and of none effect, and that all agreements and indentures made under the conformable to the Territorial Act before the adoption of our constitution our binding and valid."[16]

While Julia and Lucy were unsuccessful in their cases, Katy was much more fortunate. On July 11, 1818, in *Katy, a girl of color vs. Jean Bte Lamplant*, the Knox County Circuit Court ordered her to be discharged from her bondage (the court record does not state whether she was a slave or indentured servant). The Knox County record is void of any information or legal reasoning for the discharge and merely gives an entry in the books.[17] Likely, Lamplant did not have the same political connections Evan and Isaac Shelby had; thus, her case had a different result.

State v. Lasselle

Proslavery forces within the state continued the practice of slavery despite Article VI of the 1787 Ordinance and the Indiana State Constitution of 1816, which prohibited slavery in the state. Southern counties such as Knox County, with its slave-owning judges and its proslavery law enforcement, maintained a system of slavery that was neither hidden nor curtailed.[18] After July 22, 1820, this practice could finally be ended.[19]

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[16] Dani Pfaff, "Let the Records Show: Slavery and Involuntary Servitude in Vincennes, Indiana," *Traces of Indiana & Midwestern History* 24, no. 2 (Spring 2012): 36.

[17] *Ibid.,* 37.

[18] 1820 U.S. Census shows Knox County presiding judge General Johnston owning three slaves.

[19] *Vincennes Indiana Centinel [sic]*, August 5, 1820, 3.

As discussed above, the Knox County Circuit Court had already heard cases from Lucy and Julia, who sought their freedom. In both cases, the court determined that the Ordinance of 1787 did not retroactively apply, and neither did the state constitution concerning slaves already within the state. Conversely, the Mississippi Supreme Court freed three slaves in June 1818 based on the Northwest Ordinance and the Indiana State Constitution's prohibition of slavery.[20] Between April and July 1818, fifteen blacks attempted to gain their freedom in Knox County.[21]

On May 11, 1819, at the Knox County Circuit Court, the case of *James and Polly v. Lasselle* was brought before Judge General Johnston. However, the counsel for Hyacinthe Lasselle got the case dismissed, "The parties appeared in the case by their counsel and on motion of the defendant by his counsel, the cause is dismissed it appearing that this case... was placed irregularly upon the docket." Johnson used a legal technicality to remove the case; whether the case was placed irregularly on the docket is unknown.

According to his memorial, Amory Kinney, Indiana's first true abolitionist, was born in Bethel, Vermont, on April 13, 1791. He moved to Cortlandville, New York, to study law under Samuel Nelson, a future United States Supreme Court Justice, and met his wife, Hannah. They moved to Vincennes, Indiana, and along with his brother-in-law, John Osborn, the editor of *The Western Sun* newspaper, worked to represent blacks who were improperly enslaved in Knox County. As a result, Kinney re-filed the case against Lasselle on Polly's behalf.[22]

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[20] *Harry v. Decker & Hopkins*, 1 Miss. 36 (1818). The court ruled that: "Any state, may by its constitution, prohibit slavery within the limits of such state, and so may the legislature of any state, when not restrained by the constitution. Slaves within the limits of the north-western territory, became freemen by virtue of the ordinance of 1787, and can assert their claim to freedom, in the courts of this state."

[21] Pfaff, "Let the Records Show, 37.

[22] "Armory Kinney," *Indiana Memory*. https://digital.library.in.gov/Record/WV3_vchs-559.

On January 27, 1820, Kinney filed a *writ of habeas corpus*, commanding Lasselle to bring Polly to the court the next day. Polly Strong was born into slavery around 1796 and was purchased by Lasselle in 1806. The records reveal that Strong's mother, Jenny, was a slave whom an unidentified tribe kidnapped before the Treaty of Greenville in 1795.[23] The tribe sold her to Antoine Lasselle near present-day Fort Wayne. Jenny had two children, Polly, born in 1796, and James, born in 1800. Antoine sold Polly to Joseph Baron and James to a person called Laplante. Lasselle then bought Polly from Baron.[24]

Lasselle complied with the court order and presented Polly on January 28, 1820. He stated he had purchased Polly, who was already a slave, as other blacks in the state had been recognized. He cited the compact between the two governments (Indiana Territorial and State of Indiana) and the laws of the United States. Kinney replied that although Polly's "mother may have been taken by Indians and sold a slave, yet by the laws of nature & nations, she could not be held by them as a Slave much less her offspring and although her mother might have been purchased by Indians, and liable to be held as a Slave yet she said Polly was born since the Ordinance of Congress passed in the year of 1787, to wit in the year 1796, and therefore she is entitled to freedom."[25] LaSalle requested a continuation to get testimony in Fort Wayne and Detroit, which the court granted.

While awaiting the next hearing, a new *habeas corpus* petition was filed in Knox County Circuit Court on February 19, 1820, by Francis Jackson, who sought freedom from Francoise

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[23] *The Treaty of Greenville* in 1795, aimed to end hostilities between whites and Natives in the Great Lakes region. *Treaties & Agreements and the Proceedings of the Treaties and Agreements of the Tribes and Bands of the Sioux Nation* (Washington: Institute for the Development of Indian Law, 1974), 22.

[24] "Poly Strong Slavery Case." https://www.in.gov/history/state-historical-markers/find-a-marker/find-historical-markers-by-county/indiana-historical-markers-by-county/polly-strong-slavery-case/.

[25] Pfaff, "Let the Record Show," 38.

Tisdale. The court ordered Jackson to be hired out by the Knox County Sheriff "for the benefit of the party who may have judgment in their favor" and held Jackson's case until the next Lasselle hearing.[26] On May 1, 1820, the court stated:

> Both cases assuming the same aspect, and involving the same question-after some argument by the council, it was agreed on both sides at the two cases should be submitted to and decided by the court upon the following facts:
>
> 1. The mothers were legally held as a slave in the territory claimed by Virginia prior to its 1783 Cession to the United States and the 1787 NW ordinance.
> 2. Both Polly and Francis were born after the cession and the ordinance.
> 3. Their mothers were never liberated unless that was effected [*sic*] by the passage of the sixth article of the Ordinance of Congress.[27]

The Knox County Circuit Court ruled that slavery was legal in Virginia and the territories before the Ordinance of 1787. It found that the ordinance could not affect a legal claim before its passage, explicitly stating, "would be not only contrary to the spirit of all laws but would be in the open violation of the constitution of the United States which make private property invariable." Further, the court determined that a child would still inherit his mother's fate since the Northwest Ordinance could not affect a master's claim to a slave, and so, the child was also legally a slave. It declared "that the present applicants were born slaves, that they present claimants can hold them as such. It is therefore ordered by the court that the said Polly be restored to the said Hyacinth Lasselle, her master, and they said Francis, alias Mulee, be restored to the said Francois Tisdale, his mistress."[28]

Lasselle did not recover Polly immediately; a two-hundred-dollar bond was posted for her release, pending appeal to the Indiana Supreme Court. Despite Lasselle's efforts to dismiss

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[26] Pfaff, "Let the Record Show," 39.

[27] *Ibid.,* 39-40.

[28] *Ibid.,* 39.

the case before the Indiana Supreme Court, the case was heard on July 20, 1820, and the court issued its opinion on July 22, 1820.[29] Justice Scott, writing for the court:

> The question before this Court is, as to the legality of Lasselle's claim to hold Polly as his slave. This question has been presented before us with an elaborate research into the origin of our rights and privileges, and their progress until the formation of our State government, in 1816. On one hand, it is contended that, by the ordinance for the government of the Territory north-west of the river Ohio, and by the Constitution of Indiana, slavery was, and is, decidedly excluded from this State; while, on the other hand, it is insisted that, by the act of cession of the State of Virginia, and by the ordinance of 1787, the privilege of holding slaves was reserved to those settlers at Kaskaskies and St. Vincents, and the neighboring villages, who, prior to that time, had professed to be citizens of Virginia, and that they had a vested right which could not be divested by any provision of the Constitution.[30]

The court quickly dismissed the need to review the country's earliest settlements and Virginia's rights as the land that was ceded. "That legislative authority, uncontrolled by any constitutional provision, could emancipate slaves, will hardly be denied. This has been done in several of the States, and no doubt has been entertained, either of the power of the Legislature to enact such a Statute, or of the binding force and efficacy of the law when enacted."[31] The court cited the legal opinions of "Coke, Levinz, Blackstone, Bacon, and others of the first respectability."[32] In essence, Indiana was a sovereign state and could decide the law on slavery.

"We are, then, only to look into our own constitution to learn the nature and extent of our civil rights, and to that instrument alone, we must resort for a decision of this question." The court looked at the language of the Indiana State Constitution, Article I, sec. 1: "That all men are born equally free and independent, and have certain natural, inherent and unalienable rights, among which, are the enjoying and defending of life and liberty, and of acquiring, possessing

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[29] Pfaff, "Let the Record Show," 40.

[30] *State v. Lasselle*, 1 Blackford 60 (1820), 61.

[31] *Ibid.,* 61.

[32] *Ibid*.

and protecting property, and pursuing and obtaining happiness and safety."[33] The court further looked at section 24 of Article I and its prohibition of encroachment on civil rights. It then reviewed Article XI, sec. 7, "There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted."[34] The court found this language to be clear that a "total and entire prohibition of slavery" in Indiana.

The court dismissed the concept of pre-existing rights:

> We are told that the constitution recognizes pre-existing rights, which are to continue as if no change had taken place in the government. But it must be recollected that a special reservation can not be so enlarged by construction as to defeat a general provision. If this reservation were allowed to apply in this case, it would contradict, and totally destroy, the design and effect of this part of the constitution. And it can not be presumed that the constitution, which is the collected voice of the citizens of Indiana declaring their united will, would guarantee to one part of the community such privileges as would totally defeat and destroy privileges and rights guarantied [*sic*] to another.[35]

The court found "that, under our present form of government, slavery can have no existence in the State of Indiana, and, of course, the claim of the said Lasselle cannot be supported." It reversed the ruling of the Knox County Circuit Judge and freed Polly, and the court would later order Jackson to be set free.

Lasselle refused to follow the court's decision to release Polly initially; he attempted to appeal to the United States Supreme Court by an *assignment of errors*. The court, however, refused to hear the case, and the state supreme court's decision was upheld. Unfortunately, while this was the first slavery case decided by the Indiana Supreme Court, it did not automatically free any slaves. However, it set the legal precedent for all slaves to be released. Although two of the

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[33] Indiana State Constitution of 1816, art. 1, sec.1.

[34] *Ibid.,* art. XI, sec. 7.

[35] *State v. Lasselle*, 62.

three Indiana Supreme Court justices were members of a white supremacist organization, their membership in the ICS, their antislavery beliefs, and their willingness to assert the civil rights provision in the state constitution hastened the ending of slavery within the state. However, even finally outlawing slavery did not mean all racially motivated laws were unconstitutional.

In Re Mary Clark

On November 6, 1821, Justice Holman issued the opinion of the state supreme court *In Re Clark*, ruling that indentured servitude could not be enforced if the servant wished to be discharged. The facts are not much different from those of the hundreds of indentured persons who had been slaves in all but in name since 1787. The records reveal that in 1814, Clark had been purchased as a slave by Benjamin L. Harrison in Kentucky. Harrison was the great-nephew of Benjamin Harrison V, one of the signers of the Declaration of Independence. Harrison then brought Clark to Vincennes, Indiana, in 1815 and technically freed her. During the same freedom transaction, Clark contracted with Harrison to be his indentured servant for thirty years.

On October 24, 1816, Harrison "canceled, annulled, and destroyed" the contract for an indenture, liberating Clark. On the same day, however, Clark was bound again to General W. Johnston, "his heirs, executors, administrators, and assignees," as an indentured servant and a housemaid for twenty years. Harrison and Johnston were related. Johnston was an elected judge and an affluent person in the state. While his case was being tried before the state Supreme Court, Johnston served as a member of the Indiana General Assembly. The indenture contract read in part:

> [General Johnston agrees to] find, provide and allow unto her, during all her aforesaid term of servitude, good and wholesome meat, drink, lodging, washing and apparel both linen and woolen, fit and convenient for such a servant. And upon the expiration of her term of servitude, she serving out her present indentured faithfully, gave under her one

> suit of new clothes (not to exceed however in value twenty dollars) and also a flax wheel.[36]

Clark signed the document with an X. Clark had worked for Johnston for approximately nine months when she married Samuel on July 12, 1817; she had two children when the lawsuit was filed. Samuel was a horse handler for William Henry Harrison at the Battle of Tippecanoe. He was a slave to Luke Decker, a prominent slaver in Knox County, whose family member, John Decker, was the sheriff.[37]

Armory Kinney, who had won the *Lasselle* case, filed a petition for *habeas corpus* on behalf of Mary Clark; it is unclear how Kinney and Clark became acquainted or if Clark had any role in suing. However, the *writ of habeas corpus* declared that Clark was a slave, not an indentured servant, and filed in the Knox County Circuit Court on April 13, 1821. The court judges were Henry Ruble, Jonathan Doty, and Mark Barnett; each owned slaves, according to newspaper reports.[38]

As previously discussed, Johnston was the first attorney in Knox County. He was an immensely powerful man not only in the county but in the state and thus was prepared for the court battle. Johnston brought to court on April 14, 1821, his documentation showing all his indentured servant's transactions, all dated October 24, 1816, including Clark's paperwork. Clark's voluntary indenture contract was witnessed by Justice of the Peace Eli Stout, the publisher of *The Western Sun*, the Vincennes newspaper, and a slave owner. Thus, everyone involved in the case against Clark, even the court, were all slave owners and white supremacists.

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[36] *Mary Clark v. G.W. Johnston*, Indiana State Archives File.

[37] Eunice Brewer-Trotter, "Mary Bateman Clark: A Woman of Color and Courage," *Traces of Indiana & Midwestern History* 27, no. 4 (Fall 2015): 42.

[38] *Ibid*.

In response to the petition, Johnston argued he had purchased Clark's indenture contract from Harrison for three hundred and fifty dollars and that she had signed it "on her free will and accord" by placing an X as proof she had agreed to its terms. The Knox County Circuit Court agreed with Johnston and ordered Clark to return to work for the rest of her term and to pay his expenses. Kinney started an appeal to the Indiana Supreme Court.[39]

The court on appeal reversed the Knox County Circuit Court in November 1821. In its opinion, the court stated:

> This application of Mary Clark to be discharged from her state of servitude, clearly evinces that the service she renders to the obligee is involuntary; and the Constitution, having determined that there shall be no involuntary servitude in this State, seems at the first view to settle this case in favor of the appellant. But a question still remains, whether her service, although involuntary in fact, shall not be considered voluntary by operation of law, being performed under an indenture voluntarily executed.[40]

The court needed to review and interpret the state Constitution to answer the legal question.

> The clause in the 7th section of the 11th article of the Constitution, that provides that no indenture hereafter executed by any negro or mulatto without the bounds of this State, shall be of any validity within this State, has no bearing on it. An indenture executed by a negro or mulatto out of this State, is by virtue of this provision, absolutely void; and can be set up neither as a demand for the services therein specified, nor as a remuneration in damages for a non-performance.[41]

If the indenture were formed inside the state, could it be valid? Did race matter?

> But the Constitution, having confirmed the liberty of all our citizens, has considered them as possessing equal right and ability to contract, and, without any reference to the color of the contracting parties, has given equal validity to all their contracts when executed within the State. We shall, therefore, discard all distinctions that might be drawn from the color of the appellant, and consider this indenture as a writing obligatory, and test it, in all its bearings, by the principles that are applicable to all cases of a similar nature.[42]

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[39] Brewer-Trotter, "Mary Bateman Clark," 42 - 43.

[40] *In re Clark*, 1 Blackford 122 (1821), 123.

[41] *Ibid.*

[42] *Ibid.*

While this passage appeared to confirm state citizenship for blacks, based on future cases, it is improbable the court advocated that stance. The court needed to determine if specific performance contracts were enforceable. "It may be laid down as a general rule, that neither the common law nor the statutes in force in this State recognize the coercion of a specific performance of contracts."[43] In determining that specific performance contracts are different from other types of contracts, the court provided a detailed rationale.

> Whenever contracting parties disagree about the performance of their contract, and a Court of justice of necessity interposes to settle their different rights, their feelings become irritated against each other, and the losing party feels mortified and degraded in being compelled to perform for the other what he had previously refused, and the more especially if that performance will place him frequently in the presence or under the direction of his adversary. But this state of degradation, this irritation of feeling, could be in no other case so manifestly experienced, as in the case of a common servant, where the master would have a continual right of command, and the servant be compelled to a continual obedience. Many covenants, the breaches of which are only remunerated in damages, might be specially performed, either by a third person at a distance from the adversary, or in a short space of time. But a covenant for service, if performed at all, must be performed under the eye of the master; and might, as in the case before us, require a number of years.[44]

Enforcing such personal service contracts "would produce a state of servitude as degrading and demoralizing in its consequences, as a state of absolute slavery; and if enforced under a government like ours, which acknowledges a personal equality, it would be productive of a state of feeling more discordant and irritating the slavery itself."[45] The court determined that every case had to be individually decided on its own merits.

> While the appellant remained in the service of the obligee without complaint, the law presumes that her service was voluntarily performed; but her application to the Circuit Court to be discharged from the custody of her master, establishes the fact that she is

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[43] *In re Clark,* 123.

[44] *Ibid.,* 124.

[45] *Ibid.,* 124-125.

> willing to serve no longer; and, while this state of the will appears, the law cannot, by any possibility of intendment, presume that her service is voluntary.[46]

The court ordered Clark discharged from Johnston's service. By removing race as a factor, the court could void indenture clauses. However, the reasoning appears to be that the antislavery justices saw the system for what it was: slavery. Thus, the antislavery white supremacist justices displayed no sympathy for slaveholders or de facto slaveholders, as evidenced by *Lasselle* and *In Re Mary Clark*. This is further evident in future decisions and actions that would reaffirm their white supremacy ideology. The justices did not grant these former slaves or indentured servants' citizenship or equality. Based on their membership in the colonist movement, the justices wanted the blacks to leave the state, as will be apparent in the additional cases discussed in this chapter.

Jerry v. State

In 1825, the Supreme Court again proved it could be fair to blacks in the state. *Jerry v. State* was an appellate case out of Clark Circuit Court, where a black man, Jerry, was indicted for murder and sentenced to death. The court first established the crime of murder as it stood in the common law and described the jury as "good and lawful men." After praising the jury and announcing the standard of law, the court recited the facts of the case:

> Joseph Gibson, was at his residence at M'Donald's ferry, in the county of Clark and State of Indiana, and the defendant was at the time living with the deceased in the capacity of a servant, having placed himself under the protection of said deceased, but without wages. That before, on the same day of giving the blow mentioned in the indictment, the defendant, after giving the wife of the deceased some insolent language, and being reprimanded by the deceased, took up an axe and swore that if he the deceased did not let him alone he would knock his brains out; the deceased then took the axe from the defendant, and chastised him pretty severely with a cane or walking stick. It was testified that the defendant appeared sullen and dissatisfied before the beating, and when asked by

[46] *In re Clark,* 125.

> the wife of the deceased what was the matter, he replied that he had cut his foot with a g-d [*sic*] rock.[47]

Here, the court had established jurisdiction and described an indentured servant. The court went on:

> After the beating was over, the deceased went into the house to eat his dinner; when the family were done, the deceased requested defendant to come in and eat his dinner, which he refused; he was requested the second time to eat or go to his work, which he also refused; then the deceased kicked his feet from under him so that he fell on his back partly in the door. The defendant then stated that he would go to town, and asked some member of the family for a quarter of a dollar which he alleged they had in keeping. The defendant, after receiving the money, went out through the gate of the yard into the road leading to town; the deceased asked the defendant where he was going, who replied he was going to town.[48]

This passage again confirms that the defendant was an indentured servant since he did not use a pass to go to town. The court's recital of the facts continued as:

> The deceased replied that he would see whether he would or not, and immediately pursued the defendant in a walk; when the deceased came within five or six yards of defendant, the defendant stooped down and took up a large stone weighing five or six pounds and turned round facing the deceased, advanced a step or two swearing that he would kill deceased if he did not let him alone, and threw the stone at the same instant. As he raised the stone, the deceased retreated a few steps and was in the act of returning, when defendant threw the stone and knocked him down; the defendant attempted to repeat his blow but was prevented by the by-standers. The defendant when pursued by the by-standers, after he had knocked down the deceased, threatened to kill them if they touched him. It was further proved, that the defendant was not 21 years of age when the aforesaid transaction took place.

The court emphasized that the defendant was under twenty-one, making him a minor.

> It was further testified, that the contusion was of the description mentioned in the indictment, and such as was calculated to produce death; and that, in the opinion of the witnesses, the death was occasioned by the blow or wound as set forth in the indictment. It was further proved, that the defendant had been raised by Peter Smith who was then dead, and whose widow the deceased had married. That the said Smith in his life-time claimed the service of the defendant, by virtue of indentures upon the mother of the defendant, under the territorial government of Indiana; and had been in the habit of hiring out the defendant and receiving the profits of his labor. It was further proved, that the

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[47] *Jerry v. State,* 1 Blackford 395 (1825), 397.

[48] *Ibid.,* 397-398.

> wife of the deceased, (who was the widow of Peter Smith,) had exercised the same authority which had occasionally been exerted before and after the marriage of the deceased with the widow of the said Smith. The deceased had claimed the same right. It was further proved, that the defendant was born in the Indiana territory long after the ordinance of 1787, (to wit, in 1806 or 1807,) respecting the government of the said territory north and west of the Ohio River.[49]

The court highlighted that the defendant was forced into being an indentured servant because his mother had been, and this was tantamount to slavery.

> It was further testified, that about the time of the marriage of the deceased with the widow of the said Smith, and twice afterwards, the defendant had threatened to kill the deceased; but the declaration had always originated from the suggestion of others to the defendant, touching the power of the deceased over the defendant in consequence of the marriage aforesaid, between the deceased and widow of Peter Smith, who had claimed the right to the services of the defendant as above stated; and the threats were always accompanied with the condition of an attempt being made by the deceased to meddle with him. It was further proved, that the defendant wept very much in consequence of the chastisement inflicted by the deceased. The above and foregoing was the substance of the testimony offered upon the issue of not guilty aforesaid.[50]

With these facts, the court determined that the evidence did not support the verdict, leaving doubt about the defendant's guilt. It is unclear precisely what the doubts were since the defendant had struck the deceased in the head with a rock.

The court provided a lengthy dissertation on the law and the conduct of the jury; it even offered an exceptionally long paragraph of facts, yet it only issued a one-sentence ruling without justification. The court returned the case to the Clark Circuit Court for a new trial. One attorney argued, “This decision made a strong statement about the Indiana Supreme Court’s commitment to justice for all citizens, black and white.”[51] However, as discussed below, future court decisions

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[49] *Jerry v. State,* 398.

[50] *Ibid.*

[51] Sandra Boyd Williams, "The Indiana Supreme Court and the Struggle against Slavery," *Indiana Law Review* 30, no. 1 (1997): 309.

shed doubt on this commitment to equal justice, especially in ruling the Act of 1831 as constitutional.

Statute of 1831

On February 10, 1831, the Indiana General Assembly enacted a law entitled, *An Act Concerning Free Negroes and Mulattoes, Servants and Slaves.* The act stated:

> That from and after the first day of September next, no black or mulatto person coming or brought into this State, shall be permitted to reside therein, unless bond with good and sufficient security be given on behalf of such person of colour, to be approved of by the overseers of the poor of some township in this State, payable to the State of İndiana, in the penal sum of five hundred dollars, conditioned that such person shall not at any time become a charge to the said county in which said bond shall be given, nor to other county in this State, as also for such person's good behaviour; which bond shall be filed in the clerk's office of the county where the same may be taken. And a conviction of such negro or mulatto, of any crime or misdemeanor against the penal laws of this State, shall amount to a forfeiture of the condition of such bond: Provided, That on any suit brought upon such bond for the penalty thereof, a less sum than the penalty, may, in the discretion of the jury trying such action, be assessed against any defendant or defendants, by way of damages.
>
> SEC. 2. If any negro or mulatto coming into this State as aforesaid, shall fail to comply with the provisions … it shall be and is hereby made the duty of the overseers of the poor, in any township where such negro or mulatto may be found, to summon him, her or them, appear before some justice of the peace, to show cause why he, she or they shall not comply with the provisions of the is act; which summons shall be issued by a justice of the peace, on the application of any overseer of the poor in this State, and shall be executed by the proper constable. And if such negro or mulatto shall still fail to give the bond and security required by the first section of this act, after being brought before such justice as aforesaid, it shall be the duty of the overseers of the poor of such township, to hire out such negro or mulatto for six months, for the best price in cash that can be had. The proceeds arising from such hiring shall be paid into the county treasury of the proper county, for the use of such negro or mulatto, in such manner as shall be directed by the overseers of the poor aforesaid: Provided however, That it shall be lawful for the overseers of the poor, to remove such negro or mulatto, without the jurisdiction of this State, in the same manner and under the same rules and regulations as are pointed out in the act for the relief of the poor, instead of hiring such negro or mulatto out, at the discretion of said overseers.[52]

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[52] *The Revised Laws of Indiana: In which are Comprised All Such Acts of a General Nature as are in Force in Said State; Adopted and Enacted by the General Assembly at Their Fifteenth Session. To which are Prefixed the Declaration of Independence, the Constitution of the U.S., the Constitution of the State of Indiana, and Sundry Other Documents, Connected with the Political History of the Territory and State of Indiana* (Indianapolis: Douglass and Maguire, 1831), 375-376.

The legislative intent was clear that blacks and biracials were unwelcomed in Indiana and viewed as a burden. Even the term "overseer of the poor" harkened to slavery. The question is, would the Supreme Court of Indiana uphold such discriminatory legislation?

In November 1839, Justice Blackford issued the opinion in *State v. Cooper*. The case involved Edward Cooper, a black man detained by the sheriff under the law since he failed to provide the bond and was thus hired out for six months to Charles T. Noble. Cooper filed a notice of *habeas corpus* in Vigo Circuit Court, which discharged him, and the State appealed. The court recited the stipulated facts:

> It is agreed that the above-named I was, at the time he came into the State of Indiana, a free man of color; that he came to the State since the taking effect of the act of 1831, which requires free negroes, mulattoes, &c., to give bond for their good behaviour, and that they will not become a public charge; that he was regularly brought before the magistrate named in the record of this cause by the said overseers of the poor, and on failing to give the bond required by law, hired out to the said Charles T. Noble for the term of six months, under authority of the said act; and that the illegal detainer, complained of by the said Edward Cooper in the said writ of habeas corpus, is and was the hiring aforesaid. This agreement is made to supply any possible defect in the transcript of the proceedings in the Court below, and is thereby made a part of the record.[53]

The issue for the court was whether the statute of 1831 was constitutional. Speaking for the court, Blackford determined that "in questions of this kind, it is our duty to decide in favor of the statute's validity unless its unconstitutionality is so obvious as to admit of no doubt. With this view of the subject, we have examined the statute in question and are of the opinion that the

[53] *The State v. Cooper*, 5 Blackford 258 (1839), 258.

objections made to it cannot be sustained."[54] The court reversed Vigo County and remanded Edward Cooper back into servitude to Noble.

In 1840, in another case decided on the 1831 statute, *Baptiste v. State*, the statute's constitutionality was only one issue. Here, the Jefferson Circuit Court ordered the sheriff to remove Baptiste from the state. The facts, detailed by the court, included:

> The overseers of the poor for Madison township, Jefferson county, on February 7, 1839, filed a complaint before a justice of the peace, representing that George D. Baptiste, a mulatto person, then was a resident of that township; that he came to this State since September 1, 1831, and that he had not "given bond with security as is required by the first section of an act entitled 'An act concerning free negroes and mulattoes, servants and slaves,' approved February 10, 1831." Baptiste was summoned to appear and show cause, if any he could, why he should not comply with the provisions of the aforesaid act; he appeared and pleaded not guilty. The justice, having heard the evidence, adjudged that Baptiste had come to this State since September 1, 1831; that he had not given any bond; and that he should give bond with surety "as required by the first section of the aforesaid act, or, in default thereof, that he be removed from this State by the overseers of the poor of the township aforesaid, to the State where he was last legally settled." Baptiste appealed to the Circuit Court, by which it was adjudged "that the judgment of the justice of the peace be affirmed;" and the Court ordered "that the said justice issue his warrant to the overseers of the poor of Madison township, commanding them to remove the said defendant from this State to the State where he last legally resided, unless, within _ days, he should give bond and security as required by the first section of the act entitled 'An act concerning free negroes and mulattoes, servants and slaves,' approved February 10, 1831." From this judgment Baptiste has appealed to this Court. The counsel for the appellant has called in question the constitutionality of the law on which these proceedings are founded, and contends that it is null and void.[55]

The court denied this first argument because of the *Cooper* decision but went on to the second objection.

> Another objection against the correctness of the judgment of the Circuit Court has been urged, which must prevail; it is, that the judgment is unauthorized by the act itself.
>
> The first section provides that no black or mulatto person, having come, or been brought into this State since September 1, 1831, shall be allowed to remain, unless he give bond in the manner prescribed. The second section prescribes, that if such person shall fail to comply with the provisions of the first section, it shall be the duty of the overseers of the poor in any township where he may be found, to apply to a justice of the

[54] *The State v. Cooper*, 258.

[55] *Baptiste v. State*, 5 Blackford 283 (1840), 283-284.

> peace for a summons calling before him such negro, or mulatto, to show cause why he should not comply with the provisions of the act; and if the defendant shall fail to give the bond and security required by the first section, after having been brought before the justice, it shall be the duty of the overseers to hire him out for six months, for the best price in cash that can be had — the avails of which hiring shall go into the county treasury, and be applied to the use of the person hired at the discretion of the overseers; or the overseers, at their option, shall remove such negro or mulatto without the jurisdiction of this State, in the same manner, and under the same rules and regulations, as are pointed out in the act for the relief of the poor.[56]

The court continued by saying that the Circuit Judge had no power to order Baptiste out of the State; that decision belonged to the "overseer."

> In this investigation the questions are, did the defendant come into the State after September 1, 1831? Has he given the requisite bond? If these matters are found against him, the justice is to adjudge that he give such a bond as the statute requires, describing it. Here the power of the justice ends, for the time. If the defendant fail to give the bond, the overseers of the poor are to make choice of one of the alternatives imposed upon them; that is, they are either to hire the defendant out for six months, or they are to remove him from the State. If they choose the former, they act upon their own authority independent of the justice; if they determine upon the latter, they must be governed by the regulations prescribed for the removal of paupers. These regulations require a justice's warrant or order, that the pauper be taken to the township, county, or State, where he was last legally settled. That the warrant or order must designate that place by name, is evident from various features of the statute; one of which is, that if the overseers are unable to ascertain and establish the last place of residence of the pauper, they are not authorized to remove him at all; another is, that the overseers of the poor of the township or place, (if within this State), to which the pauper shall be removed, under the warrant or order of the justice, shall receive him. It is clear, therefore, we think, that no negro or mulatto who may be subject to the act of February 10, 1831, can be removed from this State without a warrant or order specifying the place to which he is to be taken, which must be the State where he was last legally settled.[57]

Therefore, the court reversed the removal order, but it was on procedural grounds. The "overseer" did not follow the proper legal procedure in requesting a warrant.

The Supreme Court heard only one case contesting the validity of section four of the 1831 statute. In 1847, *Hickland v. State*, the court held constitutional the statute after an

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[56] *Baptiste v. State*, 285-286.

[57] *Ibid.*

"indictment alleging that a certain Negro had come into the state since September 1, 1831, without giving bond, &c., and that the defendant, knowing, &c., had hired him." The one-paragraph opinion provides no more details, not even the county where Hickland lived.[58]

The 1831 Act remained law in Indiana for over twelve years, and the Indiana Supreme Court thrice upheld it and did not prevent discrimination against blacks entering Indiana in these cases. The 1831 Act would not be the last act passed by the General Assembly or enshrined into the Indiana Constitution to discourage or prevent blacks from moving into the state (as will be discussed in Chapter Seven).

Prigg v. Pennsylvania

In 1839, the General Assembly passed a resolution about slavery. "Any interference in the domestic institutions of the slaveholding states of this union... either by Congress or the state legislatures, is contrary to the compact by those states became members of the union."[59] On its face, the resolution appeared to encourage slaveholders to enter the state and retrieve their "property." However, the legislature established a more favorable procedure for the alleged fugitive than the Fugitive Slave Act of 1793, as did Pennsylvania, ruled upon by the United States Supreme Court in the case *Prigg v. Pennsylvania* in 1842.[60]

Edward Prigg was a resident of Maryland indicted in Pennsylvania for kidnapping by forcefully taking a slave and her children from Pennsylvania to Maryland. Margaret Morgan fled in 1832 to Pennsylvania. An attorney for Margaret Ashmore, who claimed ownership of Morgan, hired Prigg. Thus, acting as a slave catcher, he found Morgan and her children, who were born in Pennsylvania, after she escaped and removed her, held her, and sold her back into slavery in

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[58] *Hickland v. State*, 8 Blackford 365 (1847), 365.

[59] Indiana General Assembly, *Resolution of January 29, 1839*.

[60] *Prigg v. Pennsylvania*, 41 U.S. 539 (1842).

violation of a statute passed by Pennsylvania on March 26, 1826. Prigg, who pled not guilty, was convicted by a jury and appealed to the United States Supreme Court. Prigg argued Margaret was a slave for life under the laws of Maryland and that Ashmore owned her. The U.S. Supreme Court stated:

> The owner of a fugitive slave has the same right to seize and take him in a state to which he has escaped or fled, that he had in the State from which he escaped; and it is well known that this right to seizure or recapture is universally acknowledged in all the slave-holding states. The court have not the slightest hesitation in holding, that under and in virtue of the constitution, the owner of the slave is clothed with the authority in every State of the Union, to seize and recapture his slave, wherever he can do it, without any breach of the peace or illegal violence. In this sense, and to this extent, this clause in the constitution may properly be said to execute itself, and to require no aid from legislation, State or national.
> …
> The provisions of the sections of the act of Congress of February 12, 1793, on the subject of fugitive slaves, as well as relative to fugitives from justice, cover both the subjects; not because they exhaust the remedies, which may be applied by Congress to enforce the rights if the provisions shall be found, in practice, not to attain the objects of the constitution; but because they point out all the modes of attaining those objects which Congress have as yet deemed expedient and proper. If this is so, it would seem, upon just principles of construction, that the legislation of Congress, if constitutional, must supersede all state legislation upon the same subject; and by necessary implication, prohibit it; for if Congress have a constitutional power to regulate a particular subject, and they do actually regulate it in a given manner, and in a certain form, it cannot be, that the state legislatures have a right to interfere.[61]

The high court declared the Pennsylvania law unconstitutional in a sixty-one-page opinion. The Indiana Supreme Court would review the Indiana procedure with *Graves v. State.*

Graves v. State

Graves v. State is a case that resulted from slave catchers' attempt to capture a runaway slave in the antislavery area of Northern Indiana, Elkhart County. The county prosecutor charged

[61] *Prigg v. Pennsylvania*, 541-542.

Joseph A. Graves, Elisha W. Coleman, and Hugh P. Longmore with causing a riot. The court found them guilty and fined them a total of thirty dollars. On appeal, the issue before the high court was whether the instructions given by the Elkhart Circuit Court were appropriate, considering the Indiana statute provided more protection for alleged slaves than the federal statute. The law in question was *An Act to Prevent Manstealing*, passed in 1816 by the first state legislature.[62] A slave catcher who forcibly seized alleged fugitives without first establishing a claim and obtaining an arrest warrant was subject to fines under this act. It created a procedural process and penalized those who gave false manumission certificates or encouraged fugitives. This act differed from the federal act of 1793 as it required a warrant for any arrest of the alleged fugitive slave and a trial by jury. The facts, as stated by the court:

> It appears that the alleged riot was occasioned by the proceedings of the defendants in arresting a negro as a fugitive slave, and who was claimed by Graves as his property. The arrest was made under the authority of a warrant issued by a justice of the peace. The noise and tumult which gave to the affair the characteristics of a riot, appear to have been occasioned by the interference of others with a view of preventing the defendants from forcibly taking the negro before the magistrate. The negro was finally taken before a justice of the peace, who discharged him, on motion, on the ground that the warrant for his arrest was insufficient.
>
> The Court instructed the jury, substantially, that the statute of this State, providing that the person having a claim to the services of a fugitive from labor, due in another state and escaping into this State, may go before the clerk of a Circuit Court, and, upon proper affidavit, such clerk shall issue his warrant authorizing the arrest of such fugitive, and his conveyance before any justice of the peace or judge of the Circuit or Supreme Court, is not in contravention, either of the constitution of the United States or the laws of Congress made pursuant thereto, and is, therefore, constitutional and binding on all persons within the State; that, in this case, the only question for consideration was as to the legality of the arrest; that the warrant under which the defendants acted, being issued by a justice of the peace, was wholly void and afforded them no protection whatever; and that they had no right to proceed without such warrant as is provided for by the statute of the State, unless they obtained forcible possession of the fugitive.[63]

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[62] Acts of the Indiana General Assembly, *House Journal* (1816-1817), 11.

[63] *Graves v. State*, 1 Ind. 368 (1849), 368.

Here, the court discussed the law of Indiana and compared it to *Prigg* and ruled that the power to legislate, as it relates to fugitives, is the sole prerogative of the national legislature. When Congress has exclusive authority over a subject, the state legislature cannot circumvent or override it.[64] The court remanded the case for a new trial.[65]

In 1850, U. S. Congress passed the amended Fugitive Slave Law in response to demands of congressional representatives from slave states and made it a part of the Compromise of 1850.[66] This new law incentivized federal commissioners who heard fugitive slave cases to find in favor of slaveholders since they were paid twice as much to rule against the fugitive. The law also prohibited testimony from the accused but allowed mere allegations from the slave hunters. The act allowed for the arrest of anyone who interfered with the capture of the fugitive slave (the Fugitive Slave Law of 1850 will be discussed further in this chapter).

The South Bend Fugitive Slave Case

The South Bend Fugitive Slave Case is the name provided by a New York antislavery organization that published a twenty-four-page account of the events in 1851.[67] Officially, the case is *Norris v. Newton,* which was heard by a jury in 1850 and presided over by Judge John McLean of the Federal Circuit Court for Indiana.[68] A jury was tasked to decide whether John

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[64] *Graves v. State,* 372.

[65] See also, *Degant v. Michael*, 2 Ind. 396 (1850), in which Anthony Degant was sued for having Michel arrested and taken before a justice, claiming he was a criminal, and then not appearing. Michael a black man sued under the same act. The court held the act unconstitutional.

[66] United States Congress, *Fugitive Slave Law of 1850*, § 6, 9 Stat. 462 (repealed 1864).

[67] *The South Bend Fugitive Slave Case, Involving the Right to a Writ of Habeas corpus* (New York: n.p, 1851). The antislavery organization never identifies itself by a name. It only directs the purchaser to the Antislavery Office at 48 Beeman Street, New York. However, the Library of Congress states it was the New York City Antislavery Society. https://www.loc.gov/item/17010649/.

[68] *Norris v. Newton*, 5 McLean 92 (1850); 18 F. Cas. 322.

Norris of Boone County, Kentucky, had the right to sue Leander B. Newton and other residents of South Bend for a denial of the services of his fugitive slaves. The court summarized the facts:

> The plaintiff has brought this action to recover damages for harboring and concealing four colored persons who were his slaves in Kentucky, by reason of which they were enabled to escape, and he has lost their services. It is proved that the plaintiff is a citizen of Boone County, Kentucky, and that he held, as his property, the negroes Lucy, Lewis, George, and James — named in the declaration. It is also proved by several witnesses, that these negroes absconded from the service of the plaintiff, on Sunday night, the ___ day of October 1847.

The court's rendition of the facts asserted that a witness, Otho Dowdon, had seen the fugitive slaves in the home of one defendant in South Bend, and the next day they had absconded. Norris eventually hunted down the escaped slaves and stopped to rest when the sheriff and an assembly of armed men approached him. The court described the scene:

> While thus engaged, Crocker, the sheriff of the county, and others, rode up to them, and in a few minutes the company increased to one hundred and forty, or upward, some of them being armed, others had bricks, stones, or clubs. Some of the plaintiff's party observed that force was about to be used to take the negroes from them, and they must resist it. The slaves were directed to get into a wagon, and weapons were drawn.

The court asserted that the defendant informed Norris he was there to serve a writ of *habeas corpus* to determine whether the slaves belonged to him. Norris thought any resistance would be futile because of the number and force of the mob and agreed to return to South Bend with the fugitives. When they approached South Bend, the court stated, “As they approached the courthouse, a great number of black and white people joined them.” This further showed that the court believed this was mob violence, not law enforcement.

The slaves were brought before a justice who determined that under the U.S. Supreme Court’s *Prigg* case, he had no choice but to deny the *habeas corpus* petition. However, Norris did not appear at the hearing, perhaps because he feared for his safety, but he never retrieved the slaves; instead, he sued. A jury returned a verdict for Norris for $2,850 in damages.

The antislavery society that published the account decried that the U.S. Circuit Court sitting in Indianapolis would go to any lengths to sustain slavery. The society's publication reprinted case documents, such as the *habeas corpus* petition and the *writ* return, and endeavored to fill in gaps in the stated facts. Rumors, speculations, or even invented facts seem to have been used to further their agenda. For example, they described what happened between Norris and his attorney, which was likely unavailable to them. They wrote:

> On Sunday morning Norris had a consultation with his attorneys, at which it was concluded that it would be useless to attempt to take his captives out of the county, in the face of so many armed negroes; that they would abandon all legal proceedings, and endeavor to make the friends of the captives liable in damages for their value. Mr. Crocker, having been most active in befriending the negroes, was to be entrapped into some violation of the law, if possible. To carry out this scheme, on Sunday morning, they sent for the sheriff, and formally demanded the negroes of him, though they well knew that he had been served with a writ of *habeas corpus*, and that he would render himself liable to a fine of $1000 should he fail to obey the writ. He, of course, declined.[69]

This dialogue showed a conniving slaveholder and his attempt to take revenge on innocent men. The antislavery society furthermore printed the entire decision by the court and questioned the judge's impartiality in the case. They pointed to facts and legal questions raised, *sua sponte,* by the court, such as jurisdiction, which was unusual because the plaintiff did not present any request for the court to consider it.[70]

Historian Paul Finkelman described the case accurately when he stated it “provides a useful framework for examining a variety of antebellum legal and social issues. ... the case — is a textbook example of the moral and practical difficulties posed by seizing fugitive slaves in the North.”[71]

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[69] *The South Bend Fugitive Case, 6.*

[70] *Ibid.,* 15.

[71] Paul Finkelman, “The Law, and Not Conscience, Constitutes the Rule of Action': The South Bend Fugitive Slave Case and the Value of 'Justice Delayed'” in *The Constitution, Law and American Life: Critical*

Lewis v. Henley

In November 1850, the Indiana Supreme Court ruled on the education of black children in public schools. The case began with a *mandamus* issued by the Wayne County Circuit Court and a request by James Lewis against the trustees of School District Six to prevent black children from attending a public school.[72] Lewis was a white inhabitant and taxpayer of the district and had children who attended the school. He was offended because black children had also attended the school after having paid tuition to the teacher and received no benefit from public money. The question before the court was whether black children should be allowed to attend a public school if they paid their tuition, where a parent of a white student objected.

The legislature had passed a statute funding white-only schools, and the court's task was to interpret the meaning toward black children. According to the law, "when any school is supported in any degree by the public school fund, or by taxation, so long as the money so derived shall be expending thereon, such school shall be open and free to all the white children resident within the district, over five and under twenty-one years of age." The court interpreted it to mean that school was free for white children, but it was silent on whether black children could attend as taxpayers or by paying their tuition. The court looked at legislative intent.

> It may aid us in answering this question, to inquire, why the legislature has excluded them from attending at the public charge. This has not been done because they did not need education, nor because their wealth was such as to render aid undesirable, but because black children were deemed unfit associates of white, as school companions. Now, surely, this reason operates with equal force against such children attending the schools at their own, as at the public, expense.[73]

Aspects of The Nineteenth Century Experience, ed., Donald G. Nieman (Athens: University of Georgia Press, 1992), 24.

[72] *Mandamus* is a command to an inferior court or a court ordering a person to perform a public or statutory duty.

[73] *Lewis v. Henley*, 2 Ind. 332 (1850), 322.

The court cited an Ohio case called *Chalmers v. Stewart,* in which the Ohio Supreme Court stated:

> In this case the obligation not to admit blacks is imposed by statute. I have no hesitation, however, in laying it down as a general principle, in all cases, that a teacher of a public school is under the implied obligation to regard the morals of the youth entrusted to his care, and, should he so far disregard his duty as to admit the vicious and corrupt, controlled by no sense of moral obligation, should he fill his school with prostitutes or thieves, or those openly profane or licentious, such teacher would forfeit all claim to compensation; and where the statute imposes the prohibition for reasons which were satisfactory to the law-making power, as to whom the teacher may admit to the privileges of his school, its enactments, if disregarded, must be followed by the same consequences.[74]

The court ruled that black children had no right to attend a white school and that separate schools may need to be organized to educate black children.[75] While not saying the schools should be equal, the court advocated the separate but equal doctrine, which would be developed several decades later by the U. S. Supreme Court and applied in *Cumming v. Richmond County Board of Education.*[76]

The 1850 Fugitive Slave Law

September 18, 1850, Congress passed the Fugitive Slave Act of 1850, officially called An *Act to Amend, and Supplementary to, the Act entitled "An Act respecting Fugitives from Justice, and Persons Escaping from the Service of their Masters," approved February twelfth, one thousand seven hundred and ninety-three.* The purpose of the amendment was to require the federal government to take a more active role in sending fugitive slaves back to their legal owners.

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[74] *Lewis v. Henley,* 332. See also *Chalmers v. Stewart* 11 Ohio R. 386.

[75] *Ibid.*

[76] *Cumming v. Richmond County Board of Education*, 175 U.S. 528 (1899).

Congress created commissioners and federal judges empowered to issue warrants to slave catchers and required U.S. Marshals to arrest alleged fugitive slaves; however, the statute allowed for seizure without a warrant. The new law created a right of the slave catchers to demand help from the marshals, "and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law." Interference in the arrest was punishable by six months in jail and a fine of one thousand dollars.

The law changed the rights of the alleged slave when presented to the commissioner or federal judge since it allowed alleged slave owners to submit an affidavit under oath that the person before the court was the escaped slave. This affidavit provided the circumstances of the escape. At the hearing, the law prohibited the accused fugitive slave from testifying in his defense. The commissioners were incentivized to find that the person before them was the fugitive slave. If the ruling was for the slave owner, he was paid ten dollars; if he found the accused, he was paid five dollars. This act did not go over well in the free states and hastened the breakup of the union.

The Constitutional Convention of 1851

By 1850, Indiana faced an economic collapse, and the people pressed for a second state constitutional convention. However, economic reforms were not to be the only matters addressed in drafting a new constitution. The crucial issues of slavery still needed to be considered because of its importance on the national level.[77] For example, the Illinois Constitutional Convention of 1847 proposed a "Negro exclusion" provision, and the voters adopted it:

> When the subject of the state's black population was first raised during the 1847 convention, the delegates unanimously supported a provision, drawn from the 1818 statehood constitution, which prohibited slavery and involuntary servitude. But ultimately the delegates included a constitutional provision that banned the migration of free blacks

[77] Earl M. Maltz, *Slavery and the Supreme Court, 1825-1861* (Lawrence: University of Kansas Press, 2009), 71-75.

> into Illinois and prohibited masters from bringing their slaves into the state for purposes of manumission. This joint provision was presented to voters as a separate proposition in March 1848, when they cast ballots on the ratification of the constitution as a whole. The Negro exclusion provision was adopted by a 70-30 percent margin.[78]

Historian Silvana R. Siddali analyzed the black exclusion debates and those concerning banking, judicial selection, land rights, and married women's rights in the antebellum state constitutional conventions of the "old Northwest." She concluded, "Many of the bitterly fought-over provisions were overturned, some within twenty years. The constitutional prohibitions that prevented black families from migrating into Illinois and Indiana and that deprived black men of the franchise everywhere in the region were all gone (at least from the state conventions) by the early 1870s."[79]

Paul E. Herron, a professor of Law and Political Science at Providence College, has argued that the antebellum southern state constitutions: "While the South might have appeared to follow the nation in state constitutional development, slavery actually had a profound impact on the fundamental law. Southern elites only agreed to democratize suffrage, office holding, the amendment process, and elective offices in exchange for the explicit textual protection of slavery in state constitutions." Herron has analyzed the "American Paradox," where antebellum state constitutions expanded democratic rights such as voting for white men while protecting slavery and limiting democratic participation by black people. Herron contends that:

> [D] uring the first half of the nineteenth century, greater access to the vote for white men came with limitations and outright restrictions on access to the vote for black men. This unfortunate phenomenon took place in new and old states, North and South. There was, however, another similarly disturbing development in state constitutions. In slave states, the expansion of rights for white men, including universal male suffrage, was dependent on the continued dominance of black men, so democratization came at a cost: the

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[78] Jerome B. Meites, "The 1847 Illinois Constitutional Convention and People of Color," *Journal of Illinois State Historical Society* 108 (Fall/Winter 2015): 266-267.

[79] Silvana R. Siddali, *Frontier Democracy: Constitutional Conventions in the Old Northwest* (New York: Cambridge University Press, 2016), 382.

> constitutional protection of slavery. The cost was borne exclusively by African Americans. Few southern whites were abolitionists, so the exchange of additional slaveholding security for new political power seemed to be a bargain without a downside.[80]

In the convention in Indiana, as in the South and in Illinois, there was a debate regarding the exclusion of free blacks from the state.

The Indiana Constitutional Convention opened on October 7, 1850, and race policy immediately became a prominent issue. The make-up of the parties showed ninety-five Democrats and fifty-five Whigs.[81] Despite this political partisanship, Article 13 of the new state constitution passed almost unanimously, and it barred free "negroes and mulattos" from immigrating to Indiana. Article 13 voided all contracts contrary to the exclusion, providing fines for anyone who employed blacks or encouraged them to remain in the state. These fines were placed in a fund to encourage blacks already in Indiana to emigrate to Africa; the article included language that the General Assembly "shall pass" laws to enforce this provision.[82]

Thus, the antislavery white supremacist state supreme court judges viewed the 1816 constitution to end the last vestiges of slavery within the state. Despite the progress made during this period, the final removal of slavery and involuntary indentures, Indiana would adopt a new state constitution in 1851. The new constitution once again created roadblocks to racial legal equality. Antislavery white supremacists at the constitutional convention, as well as the electorate, enshrined race discrimination into the state's new constitution with Article 13, as will be discussed in Chapter Seven.

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[80] Paul E. Herron, *Framing the Solid South: The State Constitutional Conventions of Secession, Reconstruction, and Redemption, 1860-1902* (University Press of Kansas, 2017), 32; "Slavery and Freedom in American State Constitutional Development," *Journal of Policy History* 27, no. 2 (2015): 301-302.

[81] Justin E. Walsh, *The Centennial History of the Indiana General Assembly, 1816-1978* (Indianapolis: The Select Committee on the Centennial History of the Indiana General Assembly, 1987), 151.

[82] Indiana State Constitution of 1851.

Chapter Seven

The Party of Lincoln Comes to Power in Indiana

Despite the progress made by antislavery white supremacist supreme court judges around slavery and forced servitude, Indiana continued to struggle with race-neutral laws. Antislavery white supremacists at the 1850 constitutional convention were able to pass Article 13 to prevent blacks from immigrating to the state.

The Constitution of 1851

The Constitution of 1816 allowed Indiana to transition from a territory to a state; however, it had limitations. Indiana's population had grown from 64,000 in 1816 to just under a million by 1850.[1] Furthermore, the economy moved from pioneer subsistence farming to a diverse specialized system that depended on mercantile, manufacturing, and agricultural production. Society became more complex, as did the issues around urbanization. Between 1820 and 1847, fifteen calls for a constitutional convention were brought for a vote; however, it was not until 1848 that Governor James Whitcomb and the General Assembly heeded this call.

The new state constitution adopted in 1851 did not radically alter Indiana's form of government. Instead, it addressed concerns and problems that had emerged during the first thirty years of state formation. The first major change was simply the time of sessions for the General Assembly. The second forbade the state from incurring debt except to meet casual deficits in revenue, pay the interest on the present state debt, and repel invasion or suppress insurrections. A third change was to increase the number of elected officials, including that of state judges, whom

[1] George Tucker, *Progress of the United States in Population and Wealth in Fifty Years: As Exhibited by the Decennial Census from 1790 to 1840, with an Appendix, Containing an Abstract of the Census of 1850* (New York: Press of Hunt's Merchants' Magazine, 1855). See also "Indiana Statistics in the Decennial Census Publications." https://www.in.gov/library/files/INDecennialStats.pdf.

the General Assembly and governor would no longer appoint. The fourth extended the right to vote to foreign immigrants if they stated their intention to become citizens of the United States.

The two most relevant changes to the state constitution were the requirement that the General Assembly create a uniform system of common schools supported by taxes and the addition of Article 13 to the state constitution that declared, "No Negro or mulatto shall come into or settle in the state, after the adoption of this constitution."[2] The state conventioneers decided to submit Article 13 separately from the rest of the constitution to the electorate, knowing it was more controversial. The new constitution passed by 113,230 to 27,638, while the vote on Article 13 was even higher, at 113,828 to 21,873, demonstrating a strong white supremacist sentiment. The Constitution of Indiana went into effect on November 1, 1851.[3]

The Antislavery Movement

As discussed in Chapters Two and Three, being antislavery did not imply supporting racial equality; many opposed the institution for religious, economic, or moral reasons but were still white supremacists. However, some white men, like George Washington Julian, did advocate for equality. On May 14, 1850, Indiana congressman Julian gave a speech to a committee in Congress on the question of slavery. He addressed a statement issued by a Senator from North Carolina and restated it as:

> The gentleman from North Carolina [Senator Thomas Lanier Clingman] tells us, that less pauperism and crime abound in the South than in the North, and that there never has existed a higher state of civilization than is now exhibited by the slaveholding States of this Union; and so in love is he with his "*peculiar institution*," which thus promotes the growth of civilization by turning three millions of human beings into savages, and prevents them from becoming paupers by converting them into brutes, that he gives out the threat, doubtless in behalf of his southern friends, that unless they are permitted, under national sanction, to extend their accursed system over the virgin soil of our territories, they will block the wheels of Government, revolutionize the forms of

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[2] Indiana State Constitution of 1851, art. 13.

[3] David G. Vanderstel, "The 1851 Indiana Constitution," *Indiana Historical Bureau.*

> legislation, and involve this nation in the horrors of civil war, Nay, he goes farther, and anticipating the triumph of northern arms, and comparing the vanquished "chivalry" to the Spartans at Thermopylae, he kindly furnishes the future historian with the epitaph which is to tell posterity the sad story of slaveholding valor: "Here lived and died as noble a race as a sun ever shone upon," fighting, (he should have added) for the extension and perpetuation of human bondage![4]

He then discussed the comment by Senator Albert G. Brown of Mississippi. Brown declared that he regarded slavery "as a great moral, social, political, and religious blessing — a blessing to the slave and a blessing to the master."[5] Julian furthermore stated that Brown said, "My friend from Mississippi graciously admits that we think slavery an evil; but he adds, very well, think so; but keep your thoughts to yourselves."[6] The general tone of the speech continued on the same path; each side invoked God as justification, but Julian concluded by expressing:

> But, however this may be, my own course is clear. I shall take no backward step. I have thrown my fortunes into the scale of freedom, and I am willing to abide the issue. Holding the views I have honestly embraced, reared as I have been in a free State, and representing as I do a constituency of freeman, I trust there is no earthly temptation that could seduce me from the cause I have espoused. And that cause, whatever may for the time betide it or it's votaries, will as certainly triumph as the truths is omnipotent, or that God governs the world.[7]

This speech demonstrates the complexity and the tension in Congress as they debated issues such as the Fugitive Slave Act and emancipation.

Julian was a member of the abolitionist movement and sought black equality. Julian was a Quaker who grew up in Wayne County, one of the most progressive areas of Indiana. He was a lawyer who had practiced in Greenfield and served in the Indiana House of Representatives in 1845 as a member of the Whig Party. In 1848, he helped found the Free Soil Party and was

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[4] "Speech of Hon. George W. Julian, of Indiana, on Slavery Question" (Washington: Congressional Globe Office, 1850), 1.

[5] *Ibid.*

[6] *Ibid.*

[7] *Ibid.*, 16.

elected to Congress in 1848.[8] Shortly after this speech, Indiana would adopt Article 13 of the Constitution.

Politics before the 1860 Elections

The decade before the Civil War, Governor Joseph A. Wright (1849-1857), a Democrat, was a popular figure in the State of Indiana who convinced the General Assembly to agree to the constitutional convention of 1850, and it was a time of sectional strife in the nation. Governor Wright kept Indiana solidly in the Union while the federal government settled the Compromise of 1850. In a speech to the Indiana General Assembly, after Congress adopted the Compromise of 1850, he stated, "Indiana takes her stand in the ranks, not of *Southern destiny*, *nor yet Northern destiny*. She plants herself on the basis of the Constitution; and takes her stand in the ranks of American destiny."[9] This was an attempt to avoid sectionalism in the state, and he hoped to show the strength of the growing West and emphasized that Indiana and her neighbors were responsible for strengthening the union.

The same sentiment was delivered at a speech by the governor in 1850 at Indiana Asbury College (now called DePauw University) upon the induction of the university president, in which he stated:

> I trust you will inculcate in the minds of the young men who shall come hither for instruction, a burning love for the union of these States. It is too common an occurrence to see our young men in the North and South on examination days, and at school exhibitions, engaged in rehearsing the beauties of this, or the evils of that section of the

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[8] Andrea Neal, "George Julian Served Indiana as its Radical Republican," *Indiana Policy Review* (November 23, 2014). He lost the election in 1850 but emerged as a Republican in 1860, was re-elected to Congress, and served for ten years. Julian was one of the Republicans, who, along with Charles Sumner of Massachusetts and Thaddeus Stevens of Pennsylvania, crafted the national policy for ending slavery, bringing blacks into the mainstream, and rebuilding the country after the war. Julian also advocated for women's suffrage.

The Free Soil Party, founded in 1848, has a motto of "Free Soil, Free Speech, Free Labor and Free Men." It opposed expansion of slavery into the West. See Henry Wilson, "Coalition in Massachusetts. Election of Sumner," *History of the Rise and Fall of the Slave Power in America* (Boston: Houghton, Mifflin, and Company, 1872).

[9] Emma Lou Thornbrough, *Indiana in the Civil War Era: 1850-1881* (Indianapolis: Indiana Historical Society, 1992), 3.

> country, fostering in the youthful mind bigoted love for this or that section of the country at the expense of the other. I have no patience to sit down and hear men talk about this or that section of the Union, or the peculiar framework of society in this or that State, in opposition to those of other States. This continuously Speaking of Northern interests, Southern interest, Northern population, and Southern population is an evil that demands a remedy. This union is not composed of a few cities in the North or South; the people of this Union consist of something else that iron mills and wooden clocks in the North, or of rice and cotton bales in the South. We of the West have something to say as to who and what compose this Union; and it is a glorious truth that there is a spot of earth on this continent, known as the West, in which there are now more than six millions of inhabitants engaged in all the duties of active life — the great mass of whom know nothing short of this Union as comprising of the Republic, and whose voice in the public councils, and all the great questions of the day, have heretofore been, and I trust will so continue to be, conservative.[10]

The governor downplayed sectionalism and discussed the importance of the West: "The time has now arrived when the influence of the West, in her conservative spirit, should be felt in the settlement of our national questions." He underscored his "love for the Union over that of sectionalism" and was a member of the Indiana chapter of the American Colonization Society. [11]

Historian Emma Lou Thornbrough has argued that Indiana politics from 1850 to the Civil War period were strongly Democratic within the state, harkening to the Jeffersonian-Jackson tradition.[12] Politicians referred to *laissez-faire* government economic principles, spoke of democracy, republicanism, and equality (for white men), and believed in the limited role of government in the people's daily lives.[13]

The Indiana Republican platform, adopted at their convention on July 13, 1855, stated, "That we are uncompromisingly opposed to the extension of Slavery; and further, that we utterly repudiate the platform of principles adopted by the self-styled Democratic Convention, on the

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[10] Joseph A. Wright, *An Address Delivered at the Installation of Rev. L. W. Berry, D.D., as President of Indiana Asbury College University, July 16, 1850* (Indianapolis: John D. Defrees, 1850), 14-15. Indiana Asbury College was renamed to DePauw University in 1884.

[11] *Ibid.,* 15.

[12] Thornbrough, *Indiana in the Civil War,* 4.

[13] *Ibid.,* 4.

21st of May, endorsing and approving the Kansas Nebraska iniquity." The party did not support abolition; however, "That our Revolutionary ancestors regarded Freedom as national, and Slavery as sectional. That we will steadfastly adhere to their policy and firmly resist every attempt to revise it." The party wanted to maintain the status quo. The platform clearly targeted the Kansas violence between pro and antislavery factions.

> *Resolved*, That an Administration that lacks the courage, ability, and disposition to protect the citizens of one State, or Territory, in the free exercise of the elective franchise, against the assaults of armed mobs from other States or Territories, is undeserving the confidence of a free people; and ought not to be continued in power, longer than a constitutional opportunity is afforded to exchange it for one that will be untrammeled by the Slave power, and that will have moral courage and independence enough to raise itself above all party prejudice; one that will not in its zeal to support "compromise measures," lose sight of *Freedom, Justice and the Constitution*, but will administer the government fearlessly, wisely, and for the good of the whole people.[14]

The platform did not hesitate to attack the Democratic Party as being proslavery and encouraged violence to expand slavery; agitation within the state became more divisive.

On February 12, 1857, the new Indiana Governor Ashbel Parsons Willard, a Democrat, made his inaugural address, adopting an anti-Know-Nothing policy.[15] Willard's position was cited by *The New York Times* as being proslavery; however, his speech argued for a state's rights position subject only to the limitations of the United States Constitution. Willard stated,

> After the most careful consideration they have decided that as for Indiana, she will recognize and execute the Constitution of the United States as the highest law for the government of her people, as that Constitution is interpreted by the tribunal established and authorized by the instrument itself, to decide between the separate and United States.

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[14] "Indiana State Republican Convention at Indianapolis – Adoption of a Platform," *The New York Times*, July 18, 1855.

[15] The Know-Nothing Party or officially the American Party was a short-lived political party in the 1850s whose platform in 1856 called for an Americans for America and advocated that only native-born citizens should be allowed to hold offices at all levels of government. It was anti-immigration, pro-separation of Church and State, and argued that foreigners were determining the outcome of the slavery question in Kansas and Nebraska. John R. Mulkern, *The Know-Nothing Party in Massachusetts: The Rise and Fall of a People's Movement* (Lebanon: Northeastern University Press, 1990).

> That as for those who regulate the laws and constitutions of other States, we will concede to them the same sovereignty and independence which we claim for ourselves. [16]

Like many northern politicians, Willard argued for a status quo system to prevent further hostilities. However, the power of the Democratic Party was dwindling as Republicans gained control of both houses of the General Assembly, although by narrow margins. While the state officers still were Democrats, the power of the legislature would be used against them.

By the end of 1857, the state legislature was at a standstill. Bills for revenue, appraisement, and temperance could not be passed. Advocates' call for special sessions to the governor went unheeded as Willard determined that the special session would not change anything. The Democrats claimed that the Senate Republicans took the opportunity to "block the wheels of State government" to embarrass the state Democratic administration.[17] These issues continued into the presidential election of 1860.

The Rise of the Republican Party in 1860

By 1859, the Republican Party had created a platform to avoid the appearance of merely an opposition party.[18] The questions before the Republicans were: what should the attitude toward the extension of slavery be? Should Indiana support free labor or slave labor? Republican leaders agreed on the need to oppose further expansion of slavery but disagreed on whether the decision should made by Congress or by the people. Many of the Republicans did not want the party to declare a stance or adopt which method should be used.[19] Indiana newspapers

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[16] "Indiana-Inaugural Address of Gov. Willard," *The New York Times*, February 23, 1857.

[17] Charles Zimmerman, "The Origin and Rise of the Republican Party in Indiana from 1854 to 1860," *Indiana Magazine of History* 13, no. 4 (1917): 351.

[18] The Republican Party formed to oppose the Kansas-Nebraska Act in 1854 as an antislavery party. See Francis Curtis, *The Republican Party: A History of its Fifty Years' Existence and a Record of it Measures and Leaders 1854-1904* (New York: G. P. Putnam's Sons, 1904).

[19] *Indianapolis Daily Journal*, May 16, 1859.

furthermore took sides in the great debate. *The Shelbyville Banner* said, "We favor any legitimate way of excluding slavery from the territories."[20] The *Howard County Tribune* stated, "If Congress is beyond our reach, we would accept an intervention by popular sovereignty."[21] The Terre Haute Express, "While the Republicans were willing to let the people of a territory regulate their domestic institutions, yet they never abandoned the conviction that congress would exclude slavery from the territories."[22]

At that time, the Republican Party was challenged by the fact that not all Americans wanted to become involved in the slavery issue. They had to find a way to unite the antislavery proponents and apathetic voters to rally for their cause.[23] Many Americans felt the Republican Party was too sectional. The Republicans needed to pursue a more liberal policy and platform upon which elements of any opposition would have to take a stand. This would give the apathetic voters something to adhere to.[24]

The best way to solidify the Indiana Republican Party was to get support from the Know Nothing Party of Indiana (a.k.a. Americans or American Party). The Know Nothing Party believed they held the state's balance of power and threatened to put up their own candidate unless the Republicans accepted them and the Whigs at the state convention.[25] The *New Albany Tribune* postulated a series of demands of the Know Nothings:

1. That, an 'Opposition' convention be called in which Republicans, Americans and Whigs shall participate, fully, freely, and fairly.

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[20] Zimmerman, "Origin and Rise," 377.

[21] *Ibid.*

[22] *Ibid.*

[23] *Madison Dollar Weekly Courier*, August 17, 1859.

[24] *New Albany Tribune,* January 25, 1859.

[25] Carl Fremont Brand, *The History of the Know Nothing Party in Indiana* (Bloomington: Indiana University, 1916), 164.

2. That no man entertaining ultra views upon the slavery question shall be nominated for any office.
3. That the platform adopted shall be national, and not sectional — conservative and not radical.
4. That the delegates to the National Convention shall be instructed to vote for Bates, Bell or Corwin for President.[26]

While the Republicans in Indiana did call for a convention and invited both the old Whigs and the Know Nothings, the ultimate result was a merger of the parties into the Republican Party. At the same time, those who still opposed slavery and sectionalism joined the Constitutional Union movement.[27] Eventually, the Know Nothings, who still identified as such, voted for Abraham Lincoln "because he opposed negro equality or interference with slavery in the District of Columbia; opposed the extension of slave territory; and favored the enforcement of the fugitive slave law."[28]

Republicans in the county conventions asserted the desire to preserve the Union and avoid a Civil War. They criticized the doctrine that the Constitution allowed slavery into the territories, which advocates of states' rights, such as Stephen A. Douglas, asserted, arguing for popular sovereignty; that is, the states should decide their own slave policy. The Republicans asserted that Congress could prohibit the extension of slavery and conveyed their intention of not interfering with slavery in the States where it already existed.[29] The statewide convention was held on February 22, 1860.

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[26] *New Albany Tribune*, December 31, 1859.

[27] Brand, *History of the Know Nothings*, 167. The Constitution Union Party advocated for "standing on middle ground between the extremists of each section, rebuking the fanaticism of the North and the ultraism of the South. Its great aim must be to preserve the Union of these States." "The Constitutional Union Party," *Augusta Daily Chronicle and Sentinel*, February 13, 1860.

[28] *Ibid.,* 169.

[29] Zimmerman, *Origins and Rise, 380.*

At the convention, a platform was adopted that denounced the doctrine that the Constitution carried slavery into the territories; it stated "that we believe slavery cannot exist anywhere in this government unless by positive local law, and that we will oppose its extension into the Territories of the Federal Government by all the power known to the Constitution of the United States."[30]

However, slavery should not be interfered with where it already existed, "That we are opposed to any interference with slavery where it exists under the sanction of State law; that the soil of every State should be protected from lawless invasion from every quarter, and that the citizens of every State should be protected from illegal arrests and searches, as well as from mob violence."[31] "That we regard the preservation of the American Union as the highest object and duty of patriotism, and that it must and shall be preserved, and that all who advocate disunion are, and deserve the fate of traitors."[32] This platform stood in significant opposition to the Democratic Resolutions adopted on January 13, 1860.

The Democratic Party stated, "Our Federal government is one of limited power, derived solely from the Constitution; that the grants of power made therein ought to be strictly construed by all departments and agents of the government, and that it is inexpedient and dangerous to exercise doubtful Constitutional powers."[33] The Democrats opposed sectional interference, "we again declare our utter repudiation of all sectional parties and platforms concerning domestic slavery which tend to embroil the State, and incite to treason and armed resistance to law, and

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[30] W. E. Henry, *State Platforms of Indiana, 1850-1900* (Indianapolis: Press of Wm. B. Burford, 1902), 20.

[31] *Ibid.*

[32] *Ibid.*

[33] *Ibid.,* 17.

whose avowed purposes, if consummated, must end in disunion and civil war." Their stated purpose was clear: to avoid civil war.

The platform contained a provision advocating popular sovereignty:

> [It] has been fully demonstrated that by the uniform application of this Democratic principle to the organization of Territories, and to the admission of new States with or without domestic slavery, as they may elect, the equal rights of all the States may be preserved intact; the original compacts of the Constitution maintained inviolate, and the perpetuity and expansion of the Union insured to its utmost capacity; embracing, in peace and harmony, every future American State that may be constituted or annexed with a Republican form of government.[34]

In fact, the platform called for an end to the entire question of slavery; it invoked the advice of George Washington in declaring:

> … that the subject of slavery has been too long mingled with party politics, and as the result has been the creation of sectional parties, contrary to the advice, letter and spirit of the Farewell Address of the father of our common country; that therefore it is the duty of every citizen, North and South, East and West, to discountenance all parties and organizations that thus violate the spirit of the Constitution and the advice of Washington.[35]

Ultimately, that Democratic platform was a general opposition to the Republicans and an attempt to appease the southern states to avoid a civil war. The election favored Lincoln and the Republicans, as the Democratic Party split into northern and southern wings, each running its own presidential candidate. Southern Democrats supported former Vice President John C. Breckenridge of Kentucky. John Bell, a Tennessee slaveholder, became the candidate of the Constitutional Union Party.

In the 1860 presidential election, 272,143 Hoosiers voted. Abraham Lincoln received 139,033 (51.1%) votes, Stephen Douglas got 115,509 (42.4%), John C. Breckinridge, 12,295 (4.5%), and John Bell, 5,306 (1.9%); even without the breakup of the Democrats and the

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[34] Henry, *State Platforms of Indiana,* 17.

[35] *Ibid.*

Constitutional Union Party, Lincoln still would have won.[36] None of the candidates promoted racial equality or emancipation for blacks. The Republicans were able to defeat the Democrats in the late 1850s because they were more effective in galvanizing the antislavery white supremacist, which had been prevalent since the old Northwest. The Democrats, on the other hand, were more successful in garnering support from southern Indiana and the proslavery forces, who were again demanding that slavery be extended into all the federal territories. While the Republicans in the old Northwest were strongly antislavery, they opposed any racial equality or black migration.

Legislative Changes

In 1861, the General Assembly modified the law concerning competent witnesses. Even before statehood, blacks had not been allowed to testify against whites or sit on juries. The purpose was to overhaul the judicial system to create a "uniform mode of pleading and practice, without distinction between law and equity." As part of the overhaul, the section on competent witnesses was modified, and the standard language stated:

> Sec. 2. Every free white person of competent age shall be a competent witness in any civil cause or proceeding, and no person shall be disqualified as a witness by reason of interest in the event of that or any other suit, or because such person is a party in said action or proceeding. Any person a party in the action may testify in his own behalf or in behalf of any other party or parties therein, and any one person or party in a suit may compel any other person or party therein to testify under the same regulations as other witnesses may be compelled, and the interest in the suit of any witness shall be regarded only as to his or her credibility, and shall not affect his or her competency.[37]

And this was readopted under the new code system. Under section three, the change is noted:

> SEC. 3. Persons insane at the time of examination, children under ten years of age and incapable of properly understanding the facts about which they are examined; husband and wife as to matters for or against each other, or as to communications made to each other during the marriage; attorneys at law as to confidential communication from a client or advice given to such clients; physicians as to any matters confided to them in the

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[36] "Statistics 1860," *The American Presidency Project*. https://www.presidency.ucsb.edu/statistics/elections/1860.

[37] *Laws of the State of Indiana, passed at the Forty-First Regular Session of the General Assembly, Begun on the Tenth Day of January, A.D., 1861* (Indianapolis: Berry R. Sulgrove, State Printer, 1861), 52.

> course of the duties of their profession; clergymen concerning any confessions made to them in the course of discipline enjoined by the Church, shall not, in either case, be included in the second section of this act, or be competent witnesses, unless with the consent of the party making such confidential communications: **Provided, That where a negro, Indian, or person excluded on account of mixed blood is a party to a cause, his opponent shall also be excluded**…[emphasis added].[38]

The General Assembly allowed whites to be excluded for the first time from testifying against blacks if the black person was banned as well. The General Assembly did leave all other restrictions in place to include no taxation for schools (since blacks could not attend), and they prohibited blacks from buying and transferring real property.

Supreme Court Decisions

From the adoption of the 1851 Constitution until the Civil War, the Indiana Supreme Court decided cases that applied to the new state constitution on the issue of race. The cases show that the court continued to send mixed messages on the treatment of blacks in the state. Under the new constitution, the previous justices remained on the court until January 3, 1853, when the newly elected judges would take their seats. The incoming court members were Samuel E. Perkins, Andrew Davison, William T. Stuart, and Addison L. Roache. Perkins defeated Blackford for the nomination and election. Perkins was the only member to maintain a seat under the new constitution.[39]

Donnel v. The State

In 1852, the Indiana Supreme Court reviewed the 1843 criminal statute which made it a crime "enticing away and secreting slaves of citizens of other states." The case involved Luther A. Donnell, who was charged and convicted with the crime of inducing the escape of a slave. The alleged slave Caroline, from Kentucky, was claimed by George Ray. The U.S. Supreme

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[38] *Laws of the State of Indiana, Passed at the Forty-First Regular Session*, 52.

[39] W. W. Thornton, "The Supreme Court of Indiana," in *The Green Bag: An Entertaining Magazine for Lawyers* Volume 4, ed., Horace W. Fuller (Boston: The Boston Book Company, 1892), 229.

Court determined that *Prigg v. Pennsylvania* was controlling and found that the law upon which Donnell was convicted was unconstitutional and reversed the conviction. The law, which had appeased states such as Kentucky, was no longer valid in Indiana. The court did not elaborate more than citing *Prigg* as a controlling case that already determined that only the federal government could legislate on fugitive slaves.[40]

Freeman v. Robinson

In 1844, John Freeman, a free black, purchased land in Indianapolis, and by 1853, he owned land worth $6,000 ($236,761 in 2023) and was accused of being a runaway slave.[41] Freeman was a well-respected member of the Indianapolis community, and his case was unique since he was a wealthy black man, had good ties to the community, and yet could be arrested under the Fugitive Slave Act. The case had two unique parts: first, his arrest under the Fugitive Slave Act, which resulted in his release, and second, his civil suit against a U.S. Marshal for assault.

John Freeman was born in 1815 into slavery in Virginia. In 1831, he was emancipated by Langley Jennings and moved to Indianapolis in 1844, where he met and married his wife, Letitia. The two of them set up a small house on North Meridian Street in the heart of Indianapolis.[42] He worked hard and became one of the wealthiest black men in the city. According to census

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[40] *Donnell v. The State,* 3 Ind. 480 (1852). It was the last decision by the Indiana Supreme Court under the authority of the 1816 Constitution in this subject area.

[41] Deed, *John N. Dearinger to John Freeman, September 23, 1844*, Marion County Indiana Deed Records, Book O, p. 533, Indiana State Library, microfilm; *Indianapolis Locomotive*, September 3, 1853. The land purchased by Freeman in 1844 was the West 1/2, Lot 12, Square 14 in the Town of Indianapolis.

[42] Gwendolyn J. Crenshaw, "Brother John Freeman's Homecoming Celebration: The Black Reaction to the Freeman Case and the Fugitive Slave Law of 1850," *Black History News and Notes* 91 (February 2003): 5.

records, Freeman listed himself as the father of three children and his occupation as a laborer, painter, restauranteur, and the owner of the Oyster Saloon.[43]

On June 21, 1853, Pleasant Ellington of Platte County, Missouri, filed an affidavit, which stated that Freeman was his escaped slave "Sam" with the United States Commissioner for the District of Indiana, William Sullivan. Ellington claimed that "Sam" ran away in 1836 while he was living in Greenup County, Kentucky. Under the Fugitive Slave Act of 1850, Sullivan issued a warrant for Freeman's arrest, executed by constable James H. Stapp, a U. S. Deputy Marshal under the commissioner's special appointment, who created a ruse. Stapp had Freeman come to the commissioner's office under a false pretense as a witness to another crime, where he was arrested.[44]

The U.S. Marshal held Freeman and charged Freeman three dollars per day to be guarded. J. Mitchel visited Freeman in jail on June 22, 1853, and published this account:

> From [my] examination [I] became convinced that he never had been a slave. With this conviction we addressed a letter to a citizen of the town in which Freeman claimed to have lived, namely, Monroe, the seat of justice for Walton County — the person addressed was the clerk of that county. The following answer was soon returned by an aged and respected citizen of that place, and does credit to the heart of the writer. We publish the whole letter as it places Freeman's claims in a strong light.[45]

According to Mitchel he wrote a letter the Walton County Clerk of the Court and received a reply from a Leroy Pattillo, a county resident, dated July 6, 1853, which stated:

> The Clerk of our county court, has just handed me your letter of the 22d June with the request that I should answer, as I was better acquainted with John Freeman the person enquired about then he was. I replied to a letter of Mr. John Coburn, of your place, yesterday, on the same subject. I have lived in this place ever since January, 1826, and was well acquainted with John freeman from the time he came here in 1831, till he left in

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[43] Seventh United States Census, 1850, Marion County, Indiana. https://1950census.archives.gov/search/?county=Indianapolis%2C%20Marion&page=1&state=IN.

[44] *Indiana Free Democrat*, June 30, 1853.

[45] "Appeal to the Ministers and Churches of Indiana and Georgia," *The Indiana American*, January 20, 1854, 4.

> 1844. I may be mistaken about the time he came; At any rate it was in 1831 or 32, — but I think it was 1831. He had free papers, which were recognized by the Judges of the inferior Court of this county, and a certificate was granted him. Col. John P Lucas was the clerk at the time, if I recollect. Col. Lucas wrote a bolder and plainer hand than I do. He died of apoplexy or paralysis since then — John Freeman went with him to the Florida war in 1836. John Freeman is of a medium size, well made, and a black negro. There are hundreds of persons in this county who could testify that he came to this place as early as 1831, or '32, and remained her all the while except his trip to Florida in the spring of 1836, and one or two other times when he was absent for a few days on business for Creed M. Jennings and others. Creed M. Jennings lives now in Wetumpka, Ala. — He made his home with Mr. Jennings for several years after he came to this place. His statements that you speak are true, and there can be no doubt that the claim set up by the man from Missouri, is fraudulent, and can be proved to be so by any reasonable number of our most respectable citizens.[46]

Freeman was fortunate enough to afford his attorney, John Ketcham, and get assistance from people like Mitchell. Pattillo went to Indianapolis and identified John Freeman at John Ketcham's request. However, Ellington continued to press his claim, which required other witnesses from Georgia, Alabama, and Kentucky to identify Freeman. What was remarkable was the number of people from the South who traveled to Indiana to assist Freeman.[47] This concerted effort was successful in the discharge of Freeman; however, it came at a considerable cost. The cost of the defense and fees to the U.S. Marshal was approximately $1,200, which did not include attorney fees.[48]

Freeman had mortgaged his home to the bank to help pay his fees. Calvin Fletcher, a prominent banker, and politician in the state, recalls Freeman's arrest in his diaries. In an entry dated Tuesday, June 21, 1853, Fletcher wrote:

> This day a colored man by the name of Freeman who has lived here some 15 years was taken up as a slave by 2 Kentuckians. F. has been Sexton of one of the churches (2 Presbyterian) & has acquired considerable property. He was about to move to Canada. This arrest has produced considerable excitement. I have had a call from his wife. I would turn out at once but counsel are employed. I have already had some unpleasant

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[46] "Appeal to the Ministers and Churches of Indiana and Georgia," 4.

[47] *Ibid.*

[48] *Ibid.*

> words with our officers who have taken secretly a part with the Slaveholders. I wish not to prom[en]ade a disregard of the law & constitution but the owners refuse as I am told they do to take a fair price for him I shall not feel grieved if he escapes.[49]

Fletcher again addressed the issue on Monday, June 27, 1853, and wrote that he went to the office of Rawson Vaile, the editor of the *Indianapolis Free Democrat,* to raise money and bail Freeman out. He stated they had raised $1,500, but the U.S. Marshal refused.[50] Freeman, without a doubt, was a well-respected and loved community member. The arrest had cost more than just money; while in custody, he was assaulted, then stripped naked and exposed to witnesses. Furthermore, the marshal extorted him by forcing him to pay $3 a day for sixty days of his detention. After his release, Freeman filed suit.

The court recounted the facts as follows:

> Freeman brought an action against Robinson, and complained that the defendant, at the county of Marion, on, &c., being marshal of the United States for the district of Indiana, by virtue of his office having the plaintiff in custody upon a charge of being a fugitive from service and labor, did, by virtue of his office, assault the plaintiff, and strip him naked, and expose his naked limbs and body to diverse persons who were witnesses against the plaintiff, and thereby purposely intended to and did expose the plaintiff to be carried into slavery for life by fraud and perjury.
>
> The second paragraph charges the defendant with having … by fraud, threats and duress, extorted from the plaintiff illegally 3 dollars per day for the space of sixty days.
>
> The third paragraph charges the defendant, … with having illegally and wrongfully imprisoned the plaintiff for the term of eighty days, refusing ample security and bail which the plaintiff offered to the defendant, for his temporary enlargement, until a time to which the hearing of the cause was postponed.[51]

The court faced two questions: whether the Marion Circuit Court had jurisdiction over the subject matter of the action and whether that Court had jurisdiction over the defendant's person. The issue of jurisdiction involved a state versus federal authority. Robinson did not deny

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[49] Gayle Thornbrough, Dorothy L. Riker, and Paula Corpuz, eds., *The Diary of Calvin Fletcher*, Vol. 5, 1853–1856 (Indianapolis: Indiana Historical Society, 1977), 80–81.

[50] *Ibid.,* 84-85.

[51] *Freeman v. Robinson*, 7 Ind. 321 (1855), 321.

the facts of the case as they were charged against him; his only defense was that he was an official of the United States government and thus immune. The court analyzed this defense:

> Can the action be maintained in a state Court? We think it can. The acts complained of were done by the defendant while he had the plaintiff in his custody, under the provisions of the fugitive slave law. That act authorized the defendant to arrest the plaintiff, and to hold him in custody, until the claimant's right should be tried before the commissioner who issued the warrant for his arrest. The assault and battery, and the extorting of money were no part of his official duty, under that or any other act, and were unlawful. We perceive no conflict between any provision of the fugitive slave law, and the common law right to maintain an action for a personal injury. It is said that Congress has the exclusive power of legislation over the return of fugitive slaves. That is true.[52]

The court then distinguished this case from *Prigg v. Pennsylvania*; in this area, Congress had not acted, "Congress might, no doubt, have given an action in the federal courts against an officer of the general government, for a personal injury done under color of office; but we are not informed that it has been done."[53] Since there was no federal law, Robinson argued that there was no remedy, "No act of congress giving such a remedy has been pointed out, and if there is none, on the appellee's hypothesis no action at all could be maintained for such an injury."[54]

The court analyzed other cases that involved concurrent authority between a state and the U. S. government. The court found that only when Congress declared that a particular law directly conflicted with the state law did the court yield to the federal government. The court further noted that if Congress had not legislated on the subject, there would be no prohibition between the states adjudicating cases.

The court then was able to determine that Marion County was the proper venue because the general rule was, "must be commenced in the county where the cause or some part thereof arose, among which are the following, to-wit: 'Against a public officer, or person specially

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[52] *Freeman v. Robinson*, 321.

[53] *Ibid.*

[54] *Ibid.*

appointed to execute his duties, for an act done by him in virtue of his office; or against a person who, by his command, or in his aid, shall do anything touching the duties of such officer.'"[55] However, the court decided that "public officer" only applied to state officers and not federal officers and thus ruled that Freeman was not entitled to a judgment.

The story of Freeman shows that even antislavery white supremacists, such as Calvin Fletcher, a member of the Indiana chapter of the American Colonization Society, could come to the aid of a black man being wrongfully detained. However, was it Freeman's wealth that set him apart? Perhaps the fact that Freeman was reputed to be at the point of leaving Indiana for Canada influenced local members since the ultimate goal of the antislavery white supremacists was to expel blacks from Indiana. Nonetheless, the court, which had the opportunity to vindicate and punish a U.S. Marshal who beat and deprived Freeman of his dignity, took time to analyze the case and seemed inclined to help, yet ruled against him in the last paragraph.

Barkshire v. State **and** ***Bowles v. State***

In 1856, the Indiana Supreme Court ruled on the constitutionality of Article 13 and its limits. The facts of the case were that Arthur Barkshire, a black man who resided in Rising Sun, Indiana, for over ten years, married a black woman named Elizabeth Keith. The couple moved to Ohio County, Indiana. The marriage was solemnized before Elizabeth moved from Ohio to the state in 1854. A criminal charge of harboring his wife was brought against him, for which he was convicted and fined ten dollars. The court stated, "the only question presented by the record, is, does this evidence warrant the conviction?" based on Article 13.[56]

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[55] *Freeman v. Robinson*, 321.

[56] *Barkshire v. State*, 7 Ind. 389 (1856), 389.

The court reviewed Article 13, sec 7, which stated, "Any person who shall employ a negro or mulatto who shall have come into the state of Indiana, subsequent to the thirty-first day of October, one thousand eight hundred and fifty-one, or shall hereafter come into the said state, or who shall encourage such negro or mulatto to remain in the state, shall be fined in any sum not less than ten dollars nor more than five hundred dollars."[57] Additionally, the court looked at a law that provided for the colonization of blacks and the intended policy.

"The policy of the state is thus clearly evolved. It is to exclude any further ingress of negroes, and to remove those already among us as speedily as possible. The 13th article of the constitution, inaugurating this policy, was separately submitted to a vote of the people under the title of 'exclusion and colonization of negroes.' It is a matter of history how emphatically it was approved by the popular voice."[58] The court upheld the constitutional amendment and affirmed the conviction.

The court elaborated on this decision in *Bowles v. State* in 1859. In that case, the defendant brought Polin, a black woman, to Orange County, Indiana. The defense argued that the penal part of the statute was unconstitutional and void since it blended civil rights and duties with criminal liabilities in the same statute and violated the fundamental provision that "every act shall embrace but one subject and matters properly connected therewith."[59] The court determined that the vagueness of the charging instrument mandated a reversal on the matter. The court declined to express an opinion on whether a new trial should be made or whether the law itself was unconstitutional. This was the last case of its kind decided before the Civil War.

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[57] *Barkshire v. State*, 390.

[58] *Ibid.*

[59] *Bowles v. State*, 13 Ind. 427 (1859), 428.

Overall, Indiana favored preserving the union in the ten years before the Civil War. As the former Whig Party gave way to the Republicans, the state's position was to maintain the union in its current form. The General Assembly took a positive step when it allowed blacks to be able to testify against whites. Nonetheless, the Indiana Supreme Court continued to uphold Article 13 as constitutional. However, after the Civil War and the passages of the Thirteenth and Fourteenth Amendments to the United States Constitution, the state supreme court reversed its course, as will be discussed in Chapter Eight.

Chapter Eight

Forced Change-Indiana Adapts to the Post-Civil War Era

In the decade before the Civil War, the antislavery white supremacists within the Republican party attempted to preserve the Union by maintaining the status quo on slavery. The General Assembly and the Indiana Supreme Court, furthermore, upheld the status quo and continued to enforce Article 13 in the state constitution to prevent blacks from settling within the state. However, the Civil War would change it all.

The Civil War Period

During the Civil War years, not much occurred or changed for blacks in Indiana, at least around legal racism. However, the Indiana Supreme Court did affirm Article 13 of the Indiana Constitution in May of 1862; it heard *Hatwood v. State*, in which Mabon Hatwood was charged with migrating to the state being a "mulatto." Hatwood, who was biracial, was charged under Article 13 in 1861. At his trial, Hatwood offered evidence proving that he had already been tried and convicted of that offense and, therefore, double jeopardy applied, but the trial court refused the defense. The court stated:

> It is held in some of the States that where a trial has been had and the defendant convicted upon a bad information or indictment, and the Court, on that account, arrests the judgment, the defendant has not been in jeopardy, and may be again tried for the same offence. In others, the rule is the other way.
>
> It is not necessary for us to decide the point here; for it appeared on the trial that the act of coming into and settling in the State, involved in the case at bar, occurred some six years or more prior to the prosecution, and there was no averment in the information, nor was there any proof on the trial, that the act had been concealed, &c., whereby its prosecution might be taken out of the statute.
>
> The statute of limitations may be taken advantage of in criminal cases, under the plea of not guilty; though in civil it must be specially pleaded.[1]

[1] *Hatwood v. State*, 18 Ind. 492 (1862), 492-493.

The issue for the court was whether the statute of limitations was available for this offense and if the statute was constitutional, thereby side stepping the double jeopardy argument.

> We think the statute prohibiting the ingress of negroes constitutional, and all its provisions properly placed under its title; but it seems to be defective in failing to provide for the removal of them upon conviction; and, also, in making the offence a continuing one, so that they may be punished for continuing their settlement in the State after having been convicted of making it.[2]

Because Article 13 was defective in that it did not anticipate or address whether it was an ongoing crime or what remedy applied, the court dismissed the criminal case but found Article 13 constitutional, just not in this instance. The court maintained the status quo but applied the law that concerned the statute of limitations.[3]

Change in Attitudes Toward Blacks?

At the beginning of the war, Indianapolis and state newspapers sounded the alarm that blacks were urged to come into the state. In the towns along the Kentucky border, blacks were immigrating into the state where proslavery and anti-black feelings remained the strongest. With the outbreak of the war, the efforts of these people to capture runaway slaves remained high. There were several examples of runaway slaves being caught under the Fugitive Slave Act.[4]

After the Emancipation Proclamation in September 1862, the number of fugitive slaves that immigrated to Indiana vastly increased. The majority came from Kentucky, although Kentucky had remained loyal to the Union and thus was not subject to the provisions of the proclamation. Union officers provided passes for these Kentucky slaves to enter Indiana. In

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[2] *Hatwood v. State*, 493.

[3] "Matter in avoidance of bar of statute of limitations," *A Digest of the Decisions of the Courts of Indiana* (St. Paul: West Publishing Co., 1911), 742. In this case, it is a law that sets the maximum period that the state can wait before prosecuting a criminal case. The statute of limitations for this offense was six years.

[4] Emma Lou Thornbrough, *The Negro in Indiana Before 1900: A Study of a Minority* (Bloomington: Indiana University, 1985), 184-185.

response, Kentucky officials and New Albany, Indiana, residents set up guard posts at the docks to capture them. These guard posts put much pressure on the Underground Railroad.[5]

As the Civil War dragged on, black men joined the Union Army in segregated units. The black troops, collectively referred to as the "sable element," were under the command of Colonel Thomas Jefferson Morgan. Colonel Morgan had been the first Lieutenant of Company I, 80th Indiana. A journalist from the *Indianapolis Journal* interviewed the Colonel on April 19, 1864. The journalist met the unit at Lookout Valley, Tennessee, and wrote:

> [Colonel Morgan] appears to be greatly delighted in his new field of labor, remarking that he felt as though he was serving his country by training these men to bear arms in defense of the Union and human right, and at the same time elevating the black race beyond the depths of degradation to which it for ages had been cosigned by oppression and inhuman masters. "I feel proud," he said, "to see, each day, these men growing up into manhood, developing with wonderful rapidity their capacity to understand and comprehend their natures as men and their duties as soldiers."[6]

The reporter then described what he had observed while reviewing the camp:

> I witnessed the men on duty and in their beautiful and well-regulated camp, and can testify that I have never seen better conducted soldiers, white or black, anywhere. They rapidly acquire the drills and minutia of soldiers and take great pleasure and pride in executing every detail. The Colonel informs me that none are below mediocrity, while several of his companies drill with extraordinary precision.[7]

By 1864, the capability of blacks was reported to have changed, in both their integrity and intelligence, after four years of war, at least in how newspapers and military leaders judged their conduct. Perhaps what really people changed, however, was the minds of the white people doing the judging, as evidenced by Colonel Morgan.

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[5] Thornbrough, *The Negro in Indiana Before 1900*, 187-188.

[6] *Indianapolis Journal*, April 19, 1864. See also, Dudley Taylor Cornish, *The Sable Arm: Black Troops in the Union Army, 1861-1865* (Lawrence: University Press of Kansas, 1987). The author discusses the changing policy of the Union regarding integrating black troops.

[7] *Ibid.*

Thomas Morgan was a native Hoosier who started as a private in the Indiana 7th Infantry and was promoted to first lieutenant in the 70th in a year. When Lincoln issued the Emancipation Proclamation, it profoundly affected him, "With the strong conviction that the negro was a man worthy of freedom, and possessed of all the essential qualities of a good soldier, I early advocated the organization of colored regiments — not for fatigue or garrison duty, but for field service."[8]

Morgan left the 70th to raise a new regiment that became the Indiana 14th. Morgan was promoted to colonel and commander of the black unit in 1864 and organized two more units, the 42nd and 44th. His units fought bravely in multiple battles, and the now Brigadier General Morgan proved that his regiment of black men could fight. Morgan summed up the legacy faced by men of his background, "My grandfather was a slaveholder. My father was an Abolitionist. While a student in college I learned to believe in the doctrine of brotherhood of man and to hate slavery." Even after the war, he continued to work to better the lives of blacks.[9]

As discussed further in this chapter, the mindset of white supremacist Hoosiers who controlled the state did not change and would remain long after the Civil War. However, it indicates the increased power of the abolitionist movement within the state. It shows the support of abolitionists like Morgan, whose persistence and growing power called for racial acceptance. True legal change in the state only occurred with the Thirteenth, Fourteenth, and Fifteenth Amendments and their application to the Indiana State Constitution.[10]

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[8] Ronald S. Coddington, "Respect for the 14th: The 14th U.S. Colored Infantry Proved Their Mettle at the Battle of Decatur, Similar to the 54th Massachusetts Infantry at Fort Wagner," *Military Images* 38, no. 1 (Winter 2020): 60-61.

[9] *Ibid.,* 61-63.

[10] For more information about black troops in the Civil War, see Richard M. Reid, *Freedom for Themselves: North Carolina's Black Soldiers in the Civil War Era* (Chapel Hill: University of North Carolina Press, 2008); John David Smith, ed., *Black Soldiers in Blue: African American Troops in the Civil War Era* (Chapel

Indiana in the Post-Civil War Years 1865-1870

Like other areas in the North, not all Hoosiers supported the Civil War, as evidenced on August 13, 1864, when an unidentified group met in Fort Wayne to condemn the federal and state government's support for the war and drafting of soldiers.[11] Excerpts from the speech, in which the speaker went unidentified, were printed in the *New York Times* under the headline *Treason in Indiana.* The group called for the cession of hostilities and a convention of the states to settle terms of peace. It condemned Abraham Lincoln for not settling with the South, his efforts at abolitionism, and for elections in Kentucky where Democratic candidates were stricken from the ballots because they supported the South.[12]

On March 6, 1865, the General Assembly repealed "An Act Providing for the Colonization of Free Negroes, making appropriations therefor [*sic*], and establishing a colonization agency," ending the state sponsorship.[13] "Whereas the Colonization Agent, appointed under the provisions of the above-recited act, is drawing an annual salary without rendering any adequate service to the State, it is therefore declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force and take effect from and after its passage."[14] This showed the futility of the program.

Hill: University of North Carolina Press, 2005); and Howard C. Westwood, *Black Troops White Commanders and Freedmen During the Civil War* (Carbondale: Southern Illinois University Press, 1992).

[11] Opposition to the Civil War was common throughout the northern states during the war. New York experienced draft riots. See Colleen Glenney Boggs, "Public Reading and the Civil War Draft Lottery," *American Periodicals* 26, no. 2 (2016): 149–166. The Copperhead opposition was denounced as treason. See. *The Chicago Copperhead Convention: The Treasonable and Revolutionary Utterances of the Men Who Composed It. Extracts from All the Notable Speeches Delivered in and Out of the National Democratic" Convention* (Washington, D. C.: Congressional Union Committee, 1864).

[12] "Treason in Indiana," *The New York Times,* August 22, 1864.

[13] *Laws of the State of Indiana, passed at the Forty-Third Regular Session of the General Assembly, Begun on the Tenth Day of January, A.D., 1865* (Indianapolis: W.R. Holloway, State Printer, 1865), 63.

[14] *Ibid.*

Indiana faced dramatic changes in the post-war Reconstruction period, which left the white supremacist majority with a host of issues to navigate. The colonization movement had failed, and the state passed the Thirteenth Amendment on February 13, 1865, and the Fourteenth on January 23, 1867.[15] However, the General Assembly could not cooperate with its faction to repeal and adopt new legislation that considered the changes after the Civil War. Therefore, the Indiana Supreme Court took the first step to remove racist laws.

Smith v. Moody

In May 1866, the state supreme court ruled in *Smith v. Moody* on the constitutionality of Article 13 considering the Thirteenth Amendment to the United States Constitution. The fact as stated by the court:

> Smith sued Moody and another in the court below upon a promissory note.
>
> The defendants answered: "That the plaintiff is a negro, or person of African descent, and that prior to November 1, 1851, he was a non-resident of the State of Indiana, and came into and settled in and became an inhabitant of said State since that time; that defendants are citizens of the State of Indiana, and were at the time of making the contract sued on, and that said contract was made in said State. Wherefore, the defendants say that the plaintiff cannot maintain this suit, and that said contract is void."
>
> A demurrer to the answer was overruled. The plaintiff then filed the following reply: "For reply to the answer of defendants, plaintiff states that it is true he is a negro, or person of African descent, but he says he was born free, within the jurisdiction and allegiance of the United States, to-wit: in the State of Ohio, and that he was by birth a citizen of said State, and of the United States of America, and that he resided in the State of Ohio from his birth till his removal into the State of Indiana."
>
> A demurrer to the reply was sustained, and final judgment rendered against the plaintiff, who prosecutes this appeal. The ruling of the court below upon the demurrers is assigned for error.[16]

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[15] "Ratification of Constitutional Amendments," *U.S. Constitution*. See Kurt T. Lash, ed., *The Reconstruction Amendments: The Essential Documents, Volume 1* (Chicago: University of Chicago Press, 2021).

[16] *Smith v. Moody*, 26 Ind. 299 (1866), 299-300. A demurrer is an objection that argues the opponent's position is invalid, while still agreeing to the facts. In common legal terms, it would be a motion to dismiss for failure to state a claim. In this case the failure to state a claim is blacks could not contract or sue on contracts by law.

Procedurally, this was a contract dispute case, and the defense argued that the plaintiff could not sue them in Indiana because Article 13 of the state constitution prevented them from being citizens of the State of Indiana. Section two of Article 13 was being asserted, "All contracts made with any negro or mulatto coming into the State contrary to the foregoing section shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars nor more than five hundred dollars."[17]

To enforce this provision, the General Assembly passed "an act to enforce the thirteenth article of the constitution" on June 18, 1852. It reads in the relevant part:

> SEC. 1. Be it enacted by the General Assembly of the State of Indiana, that it shall not be lawful for any negro or mulatto to come into, settle in, or become an inhabitant of the State.
>
> SEC. 6. All contracts made with negroes or mulattoes who shall have come into the State of Indiana subsequent to the 1st day of November, A. D. 1851, are hereby declared null and void.
>
> SEC. 7. Any person who shall employ a negro or mulatto who shall have come into the State of Indiana subsequent to the 31st day of October, in the year one thousand eight hundred and fifty-one, or who shall hereafter come into said State, or who shall encourage such negro or mulatto to remain in the State, shall be fined in any sum not less than ten dollars nor more than five hundred dollars.
>
> SEC. 9. Any negro or mulatto who shall come into or settle in this State contrary to, and in violation of, the provisions of the constitution, and of the first section of this act, shall be fined in any sum not less than ten nor more than five hundred dollars.[18]

The court started with Article 4, sec.2 of the Constitution of the United States, "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

> It is plain and simple in its language; and its object is not easily to be mistaken. Connected with the exclusive power of naturalization in the national government, it puts at rest many of the difficulties which affected the construction of the article of the confederation. It is obvious, that if the citizens of each state were to be deemed aliens from each other, they could not take or hold real estate, or other privileges, except as other aliens. The intention of this clause was to confer on them, if one may so say, a

[17] *Smith v. Moody*, 300.

[18] *Ibid.,* 300-301.

> general citizenship; and to communicate all the privileges and immunities which the citizens of the same state would be entitled to under the like circumstances.[19]

This issue was first decided in *Gassies v. Ballo* by Chief Justice John Marshall of the U.S. Supreme Court: "The defendant in error is alleged in the proceedings to be a citizen of the United States, naturalized in Louisiana, and residing there. This is equivalent to an averment that he is a citizen of that state. A citizen of the United States residing in any state of the Union, is a citizen of that state," as cited by Indiana Supreme Court in *Smith v. Moody*.[20] But Article 13 of the state constitution denied this to blacks, which the court addressed:

> The thirteenth article of the constitution of Indiana, and the law made to enforce the same, deprive all persons of African descent, not living in the State at the time of the adoption of the constitution, 1. Of the protection of the government; 2. Of the enjoyment of life and liberty. And not only do they deprive them of all the privileges and immunities secured to every citizen by the constitution, but they denounce severe punishment upon all such persons who may come into the State, regardless of their mechanical skill, intellectual ability, or moral worth, or the services they may have rendered to the country. If persons of African descent are citizens of the United States, the legislation which denies to them every right of a citizen is void.[21]

However, Chief Justice Taney, in *Scott v. Sandford,* 60 U.S. 393 (1856), had decided that blacks were not citizens of the United States, even if they were born in the country.[22] So, was this still the law? The court stated:

> That case was determined in 1856, and although never formally overruled, it is now disregarded by every department of the government. Passports are granted to free men of color, of African descent, by the executive department. Congress, by its legislation, declares such persons citizens of the United States, and passes laws for their protection as such. The Supreme Court, in the face of its own decision, admits to its bar, as attorneys and counsellors at law, persons of African descent.[23]

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[19] *Smith v. Moody*, 301.

[20] *Ibid.*

[21] *Ibid.*, 302.

[22] *Scott v. Sandford* ruled that blacks, free or slave, were not citizens of the United States and therefore had no standing to sue. It is considered one of most controversial and despised opinions of the U.S. Supreme Court. *See* Paul Finkelman, "*Scott v. Sandford*: The Court's Most Dreadful Case and How It Changed History," *Chicago Kent Law Review*, 82 no. 3 (2007).

[23] *Smith v. Moody*, 304.

The court discussed the long history of black citizenship in the states, even during the Articles of Confederation, and found that even if the Taney Court was accurate:

> By the act of congress of April 9, 1866, it is provided "that all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall have the same right in every State and territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to the full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding."[24]

The court asserted that even if there was doubt that Congress had the power to confer citizenship since it controls the naturalization process, "Article thirteen of the constitution of the United States, abolishing slavery, confers express power on congress *to enforce this article by appropriate legislation.*"[25] The court effectively found Article 13 of The Indiana State Constitution unconstitutional based on the Thirteenth Amendment to the United States Constitution, thereby abolishing the prohibition of blacks relocating into the state.

The response from the black community after *Smith v. Moody* was revealed by the State Convention of Colored People and the resolution they drafted on November 7, 1866. At the state convention, the following resolution was adopted:

1. That we must positively condemn the policy of the Administration.
2. That we tender our thanks to the Supreme Court of the State of Indiana for the able and just decision recently rendered in regard to citizenship, in the case of *Smith vs. Moody*, but that we will not rest contended until equal political rights are conferred upon us.
3. That we tender our gratitude and thanks to the Union soldiers of the United States for the heroic bravery they have exhibited, and the great sacrifices they have made for the maintenance of the Government and the liberation of our race.

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[24] *Smith v. Moody*, 306-307.

[25] *Ibid*., 307.

4. That we are determined, by industry education, perseverance and morality, to vindicate our claim for equal political rights with our white fellow-citizens of Indiana.
5. That we recognize a wide distinction between political equality and social equality; we regard political equality as a right and social equality as a privilege, and we denounce the attempts of certain political leaders to identify them with each other, and thus prejudice and mislead the people.
6. That inasmuch as the colored citizens of the State of Indiana are deprived of the benefit of the public school-fund, and are tax payers, though not for school purposes, we petition the Legislature to tax us the same as other citizens for that purpose, that we may educate our children the same with others.
7. That as our fathers, brothers and sons, fought to maintain the Constitution of the United States, in common with other citizens, it is justice to us, and an honor as well as an obligation to the State, to grant us the great privilege of educating ourselves.
8. That loving this, our native land, with all the ardor and devotion of tried patrons, and proud of the high position our land occupies among the nations of the earth, we do hereby most solemnly agree that we demand that all disabling laws, words and causes, which mark distinction between men on account of race or color, be stricken out of the statute books, and we pledge our property, our lives, and our sacred honor to the maintenance and perpetuity of the free institutions of the country when this is done.[26]

This resolution cried for all citizens to be treated equally, at least politically, as outlined by the Indiana Supreme Court, and challenged the political rhetoric of the white supremacists.

Turner v. Parry

In *Turner v. Parry,* Article 13 was addressed again when Parry sued to enforce a specific performance contract, that is, to gain title to land in Richmond. The facts before the court:

> The contract was one by which Parry had the privilege of purchasing the lot at $1,500, within a year from October 1, 1864. By the same contract, Parry became the lessee of the lot for one year.
>
> It was alleged in the complaint, that in August, 1865, the plaintiff notified the defendant of his election to make the purchase; that on the 15th of September, of the same year, he made a tender of the purchase money and demanded a conveyance, which was refused, and that a tender was again made in December following, and a conveyance again demanded, which was refused; that the plaintiff has ever since been ready, &c.; that relying upon the performance, by the defendant, of his contract, the plaintiff made improvements on the lot of the value of $1,500. The general denial was filed. The issue

[26] "Indiana, State Convention of Colored People – Resolution Adopted," *The New York Times*, November 11, 1866.

> was tried by the court and found for the plaintiff, and a decree thereupon rendered for the plaintiff.[27]

The court denied a motion for a new trial, and the Indiana Supreme Court needed to clarify some legal issues. The court quickly set up the legal precedent and procedure to follow:

> By the act of December 20, 1865, color as a test of the competency of a witness was removed, "provided that no negro or mulatto who has come, or who shall hereafter come, into this State, in violation of the thirteenth article of the constitution of the State shall, while said article continues in force, be competent to testify as a witness in any case in which a white person shall be a party in interest."[28]

The court went on to look at the language of the Thirteenth Amendment specifically, that every citizen "shall have the same right in every state and territory in the United States to make and enforce contracts, to sue, be parties, and give evidence." Regardless of "any law, statute, ordinance, regulation or custom to the contrary notwithstanding." The court determined that the trial court correctly applied the law on the rights of blacks in the state and affirmed the verdict. This reinforced the voiding of Article 13 expressly since it was merely implied in *Turner v. Perry*. It would be the legislature's job to comply with and modify all state laws.

The State Legislature

Despite a long Civil War and the passage of the Thirteenth and Fourteenth Amendments to the United States Constitution, the Indiana General Assembly had a challenge in removing Article 13 of the state constitution. The prohibition against the migration of blacks remained enshrined in the constitution even after the state supreme court ruled it unconstitutional. The General Assembly tried to remove the discriminatory article thrice: 1877, 1879, and 1880. It was not until 1881 that it was finally submitted to the voters and passed 126,221 to 36,435.[29]

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[27] *Turner v. Parry*, 27 Ind. 163 (1866), 163.

[28] *Ibid.*, 164.

[29] Charles Kettleborough, *Constitution Making in Indiana, Volume II 1851-1916* (Indianapolis: Indiana Historical Bureau, 1975), 182, 204.

By the end of the war, very few politicians were eager to endorse equality for black and biracial persons. Very few politicians spoke out for equality; however, as discussed previously, one of those persons was Congressman George W. Julian. Both the Democratic and Republican parties resisted the move since the number of black and biracial individuals in the state was not significant enough to offset the fear of alienating white voters.

In 1866 and 1868, Republicans kept the question of black suffrage out of political campaigns. It only became an issue upon the proposition of the Fifteenth Amendment to the U.S. Constitution, which prohibited any state from denying the right to vote because of race. The state ratified the amendment on May 14, 1869, which brought the issue before the white supremacist General Assembly.

The road to legal equality began in 1865 when the state legislature repealed the law that banned blacks from being able to testify in court. As discussed previously, *Smith v. Moody* had declared Article 13 of the state constitution invalid, based principally upon the 1866 Civil Rights Act (passed by the United States Congress) and the Fourteenth Amendment.[30] One of the few distinctions to remain after 1870 was the ban on mixed-race marriages; it remained until 1965.[31]

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[30] *An Act to protect all persons in the United States in their civil rights and furnish the means of their vindication* (Civil Rights Act of 1866), March 13, 1866. After the Thirteenth Amendment was ratified in December 1865, Lyman Trumbull, the Senator from Illinois, introduced the first federal civil rights bill in the nation's history on January 5, 1866. In opposition to African American equality claims, President Andrew Johnson vetoed the bill, believing that market forces would eventually resolve the problem. Congress overrode Johnson's veto on April 9, 1866, and elements of the Civil Rights Act of 1866 eventually became the template for the Fourteenth Amendment. See Christian G. Samito, ed., *The Greatest and the Grandest Act: The Civil Rights Act of 1866 from Reconstruction to Today* (Carbondale: Southern Illinois University Press, 2018).

[31] Emma Lou Thornbrough, *Since Emancipation: A Short History of Indiana Negroes, 1863-1963* (Indianapolis: Indiana Division American Negro Emancipation Centennial Authority, 1964), 5-6. Indiana repealed its interracial marriage ban in 1965 two years before the U.S. Supreme Court ruling in *Loving v. Virginia* (388 U.S. 1, 1967). See Thomas P. Monahan, "Marriage across Racial Lines in Indiana." *Journal of Marriage and Family* 35, no. 4 (1973): 632–640.

Evidence suggests that despite legal and constitutional guarantees, a double standard formed where white criminals were treated more leniently than black criminals. Furthermore, there is evidence that police brutality started in the 1870s. Even more alarming, at least twenty black men were lynched between 1865 and 1903.[32] Thus, the former antislavery but now just white supremacist continued their efforts to drive blacks out of the state through new means: new racial codes, intimidation, and maintaining separation of the races. These efforts continued well into the twentieth century.

Black Men Vote

Whether to allow blacks to vote had loomed before and during the Civil War; on November 14, 1866, the issue was published in *The New York Times*. The subject was again raised after the Indiana Supreme Court ruling in *Smith v. Moody*.

> The question of an enfranchising our colored population has assumed formidable proportions, since the Supreme Court, two weeks ago, suddenly declared the disgraceful Black Laws that had disfigured the Constitution of Indiana for sixteen years, null and void. A few days after this remarkable decision that had been promulgated the negroes held a State Convention at Indianapolis, for purposes of concerting measures in order to induce the legislature to confer the right of suffrage upon them.[33]

The writer asserted that most conventions left an "unfavorable impression" on white people. The problem, according to the writer, was a verbal assault on President Andrew Johnson. The writer predicted the issue would be voted upon at the next General Assembly but would not pass because of prejudice still existing in southern Indiana.

However, with the passage of the Fifteenth Amendment, the opposition ceased. Evidence suggests that, unlike Southerners, Hoosiers did not attempt to prevent black and biracial men from exercising the vote. Nonetheless, a few incidents of violence occurred. Records indicate

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[32] Thornbrough, *Since Emancipation*, 7.

[33] "Northern Indiana: Political Complexion of the State — The Negro Suffrage Question," *The New York Times*, November 20, 1866, 2.

that the black and biracial men were loyal Republicans until well into the turn of the century.[34] It would take the General Assembly until 1881 to remove racial discrimination from the Indiana State Constitution.

Once again, the Civil War years failed to yield any notable change within the state regarding the treatment of blacks, with one exception: Thomas Morgan raised a regiment of black soldiers to fight for the Union. Morgan and his unit's accomplishments did positively change the mindset of some white supremacists in the state. However, it was not until the passage of the Civil War amendments as applied to the Indiana State Constitution that real change occurred.

Shortly after the Civil War, the Indiana Supreme Court found Article 13 of the state constitution to violate the Thirteenth Amendment of the United States Constitution. It ended the prohibition of blacks from settling within the state. Even though the Indiana Supreme Court was able to strike Article 13 from the state constitution, the General Assembly struggled to amend state laws to comply with the Civil War amendments. Nonetheless, when black men were able to vote, they did not face the same struggles as blacks in the South. There is little indication that Indiana attempted to adopt any Jim Crow-era laws, nor is there any reliable evidence that blacks, as a group, were prevented from exercising their right to vote.

[34] Thornbrough, *Since Emancipation*, 6-7.

Chapter Nine
Conclusion

This chapter concludes the dissertation by summarizing the key research findings concerning the study's aims and its contribution to historiography. It will also review the study's limitations and propose opportunities for future research.

Even before the passage of the Northwest Ordinance of 1787, the French controlled the Indiana Territory and endorsed slavery under 55 Articles that determined how blacks would be treated as slaves within the French dominion. This legal code was like those adopted by the southern states. Even after the British defeated the French and assumed control over the territory in 1763, the plight of black slaves remained. While the British did not occupy this vast territory captured during the French and Indian War until the Pontiac's Rebellion, they allowed French inhabitants to maintain the status quo of slavery within the region.

Even upon the arrival of the English at the former French forts, such as Vincennes, the British did little to change the customs or systems. There is no evidence that the British asserted dominion over the slave trade within the territory; likely, this occurred because the British who secured the forts, such as Vincennes, were Tories from England and not from the colonies. Great Britain had already banned slavery from its island, and it is likely that the commanders in the area had no use for the system or desire to perpetuate it.

At the end of the American Revolution, the new Continental Congress set up a system to expand into the West under the Northwest Ordinance of 1787. This ordinance created a vision for the vast territory, which included the admission of multiple states within the new Union. Still, the ordinance contained Article VI, which prohibited the introduction of slavery or involuntary servitude within the new territories. This provision was a clear indication from Congress that it

would not perpetuate the practice of slavery that had been prevalent since French and British rule. However, Congress's intentions were often questioned or ignored, leading two separate factions to form within the Indiana Territory.

Before the state of Indiana was created, the Indiana Territory was dominated by two factions that fought for control over the slavery issue. After the state was formed, these two factions continued to fight for control until the end of the Civil War. The first group was the proslavery faction that attempted to remove Article VI of the ordinance by petitioning Congress on multiple occasions. Having been unsuccessful in removing Article VI, this faction created a quasi-slavery system using indentured servant contracts. These contracts forced former slaves to be indentured to their former masters as a means of circumventing the law. This quasi-slavery system allowed for the subjugation of blacks within the territory, and it was slavery in every way but in name. To enforce these indentured servitude contracts, the legislators created laws that made the indentured servants subservient to their white masters and separated them as a class within the territory; these laws mirrored those within the South, which preserved the system of slavery.

Like slaves, these indentured servants were denied freedom of movement, the right to choose whom to marry, and the right to have their children born free. They could be sold and sent back to the South and returned to slavery; they could be inherited or even used as collateral for a loan. If the indentured servant displeased his white master, he could be punished by whippings and, in some cases, even mutilated. Prominent members of the territorial society belonged to this proslavery faction, including governors, legislators, and judicial officers, who perpetuated and protected their quasi-slavery system.

The second was the antislavery white supremacist faction that, while opposing the continuation and practice of slavery, not only within the territory but within the entire nation, still advocated that blacks were second class and inferior to the white race. They endorsed the idea that the races should be separated and thus promoted the colonization movement. This faction ultimately came to control Indiana's destiny.

While the antislavery faction was able to protect Article VI of the Ordinance from being removed from the territories, it truly gained power after statehood. This faction, led by the first governor, Jonathan Jennings, dominated the statehood convention and controlled crucial legislative bodies during the formative years. While the new state government was antislavery, it did not take active steps to eliminate the quasi-state of slavery. The proslavery faction continued to influence legislation, and it remained protected by judicial officers who ignored the letter of the law for personal and political gains. Nonetheless, the proslavery faction, which wanted the blacks to enter the state in any subjugated capacity but especially as chattel slaves, was totally defeated by the antislavery white supremacists by the 1830s.

Shortly after statehood in 1816, the state’s governor appointed a supreme court whose justices were antislavery but still white supremacists. These justices, in the 1820s, finally reviewed the practice of slavery that existed in parts of Indiana. *In Re Lasselle*, the high court struck down the last vestiges of slavery within the state by declaring that the state constitution was independent and separate from the United States Constitution and the Ordinance of 1787, thus making it the highest law. Next, in 1821, the high court tackled the quasi-slavery system of involuntary servitude within the indentured servant system with *In Re Mary Clark*. The high court determined that indentured servitude is akin to involuntary servitude once the servant requested freedom.

Despite some progress by the high court in the 1820s, the proslavery faction joined the antislavery faction in the 1830s to try to prevent blacks from migrating to the state. The law required a bond of an extraordinarily high amount for blacks to relocate to Indiana. The high court, which had previously struck down slavery and ended indentured servitude, upheld these racial laws because of their white supremacist ideology. The separatist ideology of the white supremacists both in the legislature and on the high court was enshrined into Indiana's second constitution in 1851 as a response to the formation of the antislavery equality faction that grew with the Underground Railroad and Quakers in the 1830s.

The Indiana State Constitution of 1851, adopted in the period leading up to the Civil War, included Article 13, which forbade the migration of blacks into the state without exception. The challenges to the restriction of black migration were brought before the state supreme court several times before the Civil War, and each time, the court upheld Article 13 as constitutional. The Article was found unconstitutional only after the passage of the Thirteenth and Fourteenth Amendments to the United States Constitution after the war. These Civil War Amendments forced the state supreme court to invalidate the blatant racial clause, Article 13, of the Indiana State Constitution.

The period after the Civil War until 1870 continued to show the power of the white supremacists, and with the war over, the proslavery and antislavery factions could finally unite as one to resume passing laws that would continue to relegate blacks to second-class citizenship. While Indiana did not succumb to the temptation to pass Jim Crow laws like the southern states, it did take until 1881 to remove racist language from the state constitution.

This study chronicled the antislavery white supremacists and their struggle to gain and maintain control of Indiana. These antislavery white supremacists are a neglected and

inadequately understood part of American legal and racial historiography despite having been prevalent and influential throughout the United States, especially in the old Northwest. The dissertation has contributed to the historiography by focusing on one of the white supremacists' principal strongholds, Indiana. It shows that their opposition to slavery stemmed from a desire to have the region be entirely white by defeating the proslavery element early in Indiana's history and the antislavery equality element that emerged in the 1830s, avoiding racially neutral laws until the federal government forced change after the Civil War.

This study focused on the legal facets of the antislavery white supremacists, with only a minor look at the political and social aspects. More research is needed in the areas of the individuals who made up the faction and the social aspects of the movement to provide a more accurate account and to expand the historiography.

Bibliography

Primary: Archival Resource Locations

Indiana History Society Archives. “Black History Materials.”

Indiana State Archives and Records Administration.

Indiana State Library Collections. “Indiana State Agency Documents.”

Indiana University Archives. “Government Information, Maps, & Microform Services.”

Indiana University-Purdue University at Indianapolis Archives. “Indiana Territory Court Orders Archives.”

Saint Joseph County Public Library. “Michiana Memory – Civil Rights and Black History.”

Primary Unpublished

Cabin Creek Society of Antislavery Friends, 1843-1856. Indiana Historical Society Library.

Certificate of Sale of a Negro Boy. December 20, 1824. Indiana Historical Society Library.

Deed of Sale of Three Slaves, Hannah, Jefferson, and Jackson by Gulielmus Wigging to Adam Young and Daniel Atkins, 1816. Indiana Historical Society Library.

Donald F. Carmony Papers, 1949. Indiana University Library – Bloomington.

Deer Creek Monthly Meeting of Antislavery Friend (Women’s Minute Book) 1843-1846. Indiana Historical Society Library.

Elk Monthly Meeting of Antislavery Friends 1843-1852. Indiana State Library.

Emancipation Record of Mathew Becks, 1851. Indiana Historical Society Library.

Fussell, Solomon. *Letter to Unidentified Nephew, 1843.* Indiana Historical Society Library.

Kentucky, State of. *Kentucky Resolution to the Adjacent Non-Slaveholding States.* 1822. Indiana Historical Society Library.

Minute Book of Neel’s Creek Antislavery Society, 1839-1845: Jefferson County, Indiana. Indiana State Library.

Slavery Collection. Indiana State Library.

The Isaac Shelby Court Papers. Indiana State Library.

The Luther A. Donnell Court Record. Indiana State Library.

The Oral History of Curtis G. Shake, 1968 and 1972. Indiana State Library.

The Papers of Allen Hamilton. Indiana State Library.

The Papers of Arch N. Bobbitt, 1923-1972. Indiana Historical Society.

The Papers of Charles Test. Indiana State Library.

The Papers of Donald M. Ream, 1955. Indiana State Library.

The Papers of Elijah Roberts, 1832-1972. Indiana Historical Society Library.

The Papers of Elisha Embree. Indiana State Library.

The Papers of Fanny Hudelson. Indiana State Library.

The Papers of George Julian. Indiana State Library.

The Papers of Hazen Merrill. Indiana State Historical Society Library.

The Papers of Herbert L. Heller, 1816-1970. Indiana Historical Society Library.

The Papers of Henry Charles. Indiana State Library.

The Papers of Henry S. Lane. Indiana State Historical Society Library.

The Papers of Henry Vanderburgh. Indiana State Library.

The Papers of Hyacinth Lasselle Family Collection, 1713-1904. Indiana State Library.

The Papers of Isaac Newton Blackford, 1817-1882. Library of Congress.

The Papers of James Eastman. Indiana State Historical Society Library.

The Papers of Jeremiah Sullivan, 1873-1870. Library of Congress.

The Papers of John Dillingham. Indiana State Library.

The Papers of Joseph A. Wright. Indiana State Library.

The Papers of Lewis Robards. Indiana State Library.

The Papers of Meg W. Moore. Indiana State Library.

The Papers of Ovid Butler. Indiana State Library.

The Papers of Richard Millburn. Indiana State Library.

The Papers of Sarah Pratt. Indiana State Library.

The Papers William H. English. Indiana State Historical Society Library.

The Papers of William F. Jones. Indiana State Library.

The Papers of William Henry Smith. Indiana State Historical Society Library.

The Papers of William Wheeler Thornton, 1877-1931. Indiana State Library.

The Papers of William A. White. Indiana State Library.

Primary: Published Sources, Government Documents, and Periodicals

1 Stat. 51, 2 *Territorial Papers of The United States*. n.p., 1934.

Abajian, James de T., ed. *Blacks in Selected Newspapers, Censuses, and Other Sources, and Index to Names and Subjects.* Boston: G. K. Hall & Co., 1977.

Abdy, Edward S. *Journal of a Residence and Tour in the United States of North America from April 1833 to October 1834.* 3 vols. London: Murray, 1835.

"A Bill Concerning the Powers of Territorial Governors." *Vincennes Western Sun,* December 17, 1808, 3.

"A Bill to Establish the Mode of Laying Off the Territory of Indiana into Districts, For the Election of its Members of the Legislative Council." *Journals of the Continental Congress*, XXXII, (February 11, 1814): 334-343.

A Biographical History of Eminent and Self-made Men of the State of Indiana Volume I and II. Cincinnati: Western Biographical Publishing Company, 1880.

"An Act," *Indianapolis Indiana Journal*, March 21, 1840.

An Act to protect all persons in the United States in their civil rights, and furnish the means of their vindication (Civil Rights Act of 1866). March 13, 1866.

"Act Creating the Indiana Territory." *Acts Passed at the First Session of the Sixth Congress of the United States* (Philadelphia, n.d.), 139-141; *United States Statutes at Large* (Boston, 1850-), II, 58-60; *Annals of Congress*, 6 Cong., I Sess., 645, 649, 1498-1500; Carter (ed.), Territorial Papers, VII, 7-10; Kettleborough (ed.).

"Act Dividing Indiana Territory 1805," *Acts Passed at the Second Session of the Eighth Congress of the United States* (Washington, 1805), 241-43; *U.S. Statutes at Large,* II, 309-310; Kettleborough (ed.).

"Act Dividing Indiana Territory 1809." *Annals of Congress, 10 Cong., 2 Sess., 1808-1810*; *Acts Passed at the Second Session of the Tenth Congress of the United States*, 208-211; *United States Statutes at Large, II*, 514-516; Carter (ed.), Territorial Papers, XVI, 6-8; Kettleborough (ed.).

"Act of April 30, 1802." *Chapter 40, 2 Statutes 173.*

"Actions - H.R. 52 - 13th Congress (1813-1815): A Bill to Establish the Mode of Laying Off the Territory of Indiana into Districts, For the Election of Its Members of The Legislative Council." February 11, 1814. https://www.congress.gov/bill/13th-congress/house-bill/52/1814/02/11/actions.

Acts of Assembly Passed at the Second Session of the Second General Assembly of the Indiana Territory. Vincennes: Elihu Stout, 1808.

"Acts of the Indiana General Assembly." *House Journal* (1816-1817).

Anderson v. Millkin. 9 Ohio St. 568 (1859).

Annals of Congress, Senate, 6th Congress, 2nd Session.

"Appeal to the Ministers and Churches of Indiana and Georgia." *The Indiana American*, January 20, 1854.

Baird, Lewis C. *Baird's History of Clark County, Indiana*. Indianapolis: B.F. Bowen and Company, Publishers, 1909.

Baptiste v. State. 5 Blackf. 283 (1840).

Barkey v. Stowell. 70 N.E. 2d 430 (Ind. 1947).

Barkshire v. State. 7 Ind. 379 (1856).

Blackford, Isaac Newton. *Reports of Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana: With Tables of the Cases and Principal Matters*. Indianapolis: Douglass and Maguire, 1830.
- "Judge Blackford's Address," *The Papers of Isaac Newton Blackford, 1817-1882*, Indiana State Library, Article 128, 129.

Blackstone, William. *Commentaries on the Laws of England,* Vol. I. Birmingham: The Legal Classics Library, 1983.

Bonahoon v. State. 178 N.E. 570 (Ind. 1934).

Bowles v. State. 13 Ind. 427 (1859).

Brookville Indiana American, February 14, 1840.

Brown, Charles R. *Brown's Primary Government of Ohio: Including the History, Resources, and Jurisprudence of the State: Designed for Use in Common Schools.* Kalamazoo: Moore & Quale, 1875.

Brown, John B. *A History of Indiana, From Its Earliest Exploration by Europeans to the Close of the Territorial Government, in 1816*. Indianapolis: Bingham & Doughty, 1859.

Burks, George H. Future. *Containing Great Lecturers on the Future of the Colored Race, Nat Turner's Insur[r]ection, the New Insur[r]ection*. New Albany: Will. A. Dudley, 1890.

Burnet, Jacob. *Notes on the Early Settlement of the North-Western Territory*. Cincinnati: D. Appleton & Company, 1847.

Campbell, Alexander, ed. *The Millennial Harbinger, Series IV, Vol. 1.* Bethany, VA: A. Campbell, 1851.

Carmony, Donald F. "Journal of the Convention of the Indiana Territory, 1816." *Indiana Magazine of History* 61, no. 2 (1965): 77-87, 89-156.

Carter, Clarence E., ed. *The Territorial Papers of the United States*. Washington D.C.: National Archives, and Records Service, 1934.

Catterall, Helen, ed. *Judicial Cases Concerning American Slavery and the Negro.* 5 Vol. Washington, D.C.: Carnegie Institution, 1936.

"Circular." *Vincennes Western Sun*, November 12, 1808.

Chalmers v. Stewart 11 Ohio R. 386.

Chase, Salmon P., Henry Clay, and Henry George. "Letters of Salmon P. Chase, Henry Clay, Henry George: Original Documents." *Indiana Magazine of History* (1911).

Clark County Clerk Records of Writ for Lucy, a Woman of Color. March 13, 1817.

Clark County, Register of Negroes, 1805-10.

Clerk of the Indiana Supreme Court. *Hyacinthe Lasselle Writ of Error in Polly v. Lasselle.* July 27, 1820.
- *U.S. Supreme Court Assignment of Errors in Polly v. Lasselle*. 1820
- *Written Citation to Polly, a Woman of Color*. July 1820.

Clerk of Orange County. *Orange County Register of Negroes and Mullattoes, 1850.* Indiana Historical Society Library.

Coffin, Levi. *Reminiscences of Levi Coffin, The Reputed President of the Underground Railroad*. Cincinnati: Robert Clarke & Co., 1880.

Congress. *Fugitive Slave Act 1850.* n.d. https://avalon.law.yale.edu/19th_century/fugitive.asp.

Constitution, Government and Digest of the Law of Liberia: Confirmed and Established by the Board of Managers of the American Colonization Society. Washington City: Way & Gideon, 1825.

Constitution, State of Indiana, 1816.

Constitution, State of Indiana, 1850.

Constitution, United States, 1788.

Cory Et Al. v. Carter. 48 Ind. 327 (1874).

Corydon Indiana Gazette, January 20, 1820., transcription, in "Extract from *Corydon Newspaper*, 1820-1838." Indiana State Library.

Cumming v. Richmond County Board of Education, 175 U.S. 528 (1899).

Debates and Proceedings, Journal of the Convention of the People of the State of Indiana to Amend the Constitution, Assembled at Indianapolis, October 1850. Indianapolis: Indiana Historical Bureau, 1936.

De Bow, James Dunwoody Brownson. *The Seventh Census of the United States, 1850: Embracing a Statistical View of Each of the States and Territories ....* Washington: Robert Armstrong Public Printer, 1853.

Deed. *John N. Dearinger to John Freeman, September 23, 1844*. Marion County Indiana Deed Records, Book O, p. 533, Indiana State Library, microfilm; Indianapolis Locomotive, September 3, 1853.

Degant v. Michael. 2 Ind. 396 (1850).

Dillon, John B. *A History of Indiana, From Its Earliest Exploration by Europeans to the Close of the Territorial Government, in 1816; Comprehending A History of the Discovery, Settlement, and Civil and Military Affairs of the Territory of the U.S. Northwest of the River Ohio and General View of the Progress of Public Affairs in Indiana from 1816-1856.* Indianapolis: Bingham & Doughty, 1859.

Donnell v. State. 3 Ind. 480 (1852).

Draper v. Cambridge. 20 Ind. 268 (1863).

Dred Scott v. Sandford. 60 U.S. 393 (1856).

Dunn, Jacob Piatt. *Slavery Petitions and Papers.* Indianapolis: The Bowen Merrill Company, 1894.

- *Indiana - A Redemption from Slavery.* Boston: Houghton, Mifflin, and Company, 1888.
- *The Mission to the Quabache*. Indianapolis: Indiana Historical Society Publications, 1902.

Dunn v. State. 67 N.E. 940 (Ind. 1903).

Early Western Travels. Cleveland: Arthur H. Clark Company, 1905.

"Editorial," *Palladium*, November 21, 1849.

"Election Results and Appointments." *Vincennes Western Sun,* April 15, 1809, 5.

Esarey, Logan, ed. *Governors Messages and Letter: Messages and Letters of William Henry Harrison*, Vol. 1 1800-1811. Indianapolis: Indiana Historical Commission, 1922.

Ewbank, Louis B. "Judges of the Federal District Court of Indiana." *Indiana Magazine of History* 35, no. 4 (1939): 371–87.

- *The Laws of Indiana Territory, 1809-1816*. Vol. 20. Indianapolis: Indiana Historical Bureau, 1934.

Ewbank, Louis B. and Dorothy Ricker, eds. *The Laws of Indiana Territory, 1809-1816*. Indianapolis: Indiana Historical Bureau, 1934.

"Fifty Dollars Reward: Bob and Moses." *Vincennes Western Sun,* December 9, 1807, 1.

"Fifty Dollars Reward: Brooks." *Vincennes Western Sun, January 8, 1808, 3.*

"Fifty Dollars Reward: Sam and Rebecca." *Vincennes Indiana Gazette*, September 18, 1804, 3.

"For the Western Sun." *Vincennes Wester Sun*, March 4, 1809, 2.

- April 15, 1809, 2.

Franklin, County Clerk. *Register of Negroes and Mulattoes in Franklin County, Indiana*. 1852.

Freeman v. Robinson. 7 Ind. 321 (1855).

Goodspeed, Weston A. *Counties of Warren, Benton, Jasper, and Newton, Indiana*. Chicago: F. A. Battey and Company, 1883.

Gray v. State of Ohio. 4 Ohio 353 (1831).

Graves v. State, 1 Ind. 368 (1849).

"G. R. C. Sullivan, and James B. McCall: Estate Sale." *Vincennes Western Sun*, February 15, 1817, 4.

Hall, Charles S. *Life and Letters of Samuel Holden Parsons: Major-general in the Continental Army and Chief Judge of the Northwestern Territory, 1737-1789.* Binghamton, N.Y.: Otseningo Publishing Co., 1905.

Hargrave, Francis. *An Argument in the Case of James Sommersett a Negro: Lately Determined by the Court of King's Bench: Wherein it is Attempted to Demonstrate the Present Unlawfulness of Domestic Slavery in England. To which is Prefixed a State of the Case. By Mr. Hargrave, One of the Counsel for the Negro*. London: Hargrove, 1772.

Harrison, William Henry. *An Act concerning the introduction of Negroes & Mulattoes into this Territory*. William Harrison Papers, Indiana State Library.

Harry v. Decker & Hopkins, 1 Miss. 36 (1818).

Hasted, Frederick. *Letter to President Franklin Pierce, President of the United States of North America.* September 19, 1859.

Hatwood v. State. 18 Ind. 492 (1862).

Heitman v. Schnek. 40 Ind. 93 (1872).

Henry, W. E. *State Platforms of Indiana, 1850-1900.* Indianapolis: Press of Wm. B. Burford, 1902.

Hickland v. State. 8 Blackf. 365 (1847).

Hicks, J. H. "He Saw It." *The Muncie Morning Star*, January 16, 1911.

History of Gibson County, Indiana: With Illustrations Descriptive of Its Scenery, and Biographical Sketches of Some of Its Prominent Men and Pioneers. Edwardsville, IL: Jas. T. Tartt & Company, 1884.

Holmes, Maurice. "Negro Register, Bartholomew County, 1853-1855." *The Hoosier Genealogist,* 17, no. 2 (June 1977).

Howe, Daniel Wait. *The Laws and Courts of the Northwest and Indiana Territories*. Indianapolis: Bowen-Merrill Company, 1895.

Illinois State Historical Society. *Papers in Illinois State History and Transactions.* Springfield: Illinois State Historical Society, 1907.

Indiana Free Democrat, June 30, 1853.

Indiana General Assembly, *Resolution of January 29, 1839*.

"Indiana-Inaugural Address of Gov. Willard," *The New York Times*, February 23, 1857.

Indianapolis Daily Journal, May 16, 1859.

Indianapolis Indiana Democrat, February 25, 1840.

Indianapolis Journal, April 19, 1864.

"Indiana Legislature." *Indianapolis Indiana Journal*, January 18, 1840.

"Indiana, State Convention of Colored People – Resolution Adopted," *The New York Times*, November 11, 1866.

Indiana, State of. *Journal of the House of Representatives of the State of Indiana, 1816, 1823, 1829, 1849, 1850, 1851, 1852, 1853.* Title and imprint vary.

- *Journal of the Senate of the State of Indiana, 1816, 1849, 1850, 1852, 1853, 1858.* Title and imprint vary.
- *Laws of the State of Indiana, 1817-18, 1825, 1828, 1831, 1847-48, 1852, 1853, 1855.* Title and imprint vary.
- *Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana*. 2 vols. Indianapolis: A. H. Brown, 1850.
- *Report of the Agents of the State Board of Colonization of the State of Indiana for the Years 1853, 1855, 1857, and 1859.* Title and imprint vary.

Indiana State Journal, August 6, 1851.

In Re Clark. 1 Blackf. 122 (1821).

James, James A., ed. *George Rogers Clark Papers, 1781-1784*. Springfield: Illinois Historical Collections, 1926.

Jerry v. State, 1 Blackford 395 (1825).

"John W. Osborne, Esq." *Indianapolis Daily Journal*, November 15, 1866, 4.

Johnson, John. *Opinion Letter of John Johnson of Polly, Negress.* Circa 1816.

Jones, Luman. "Letter from Luman Jones to Elizabeth Jones, November 12, 1863." *Luman Jones Collection*, Indiana Historical Society Library.

"Journals of the House of Representatives of the Indiana Territory." *Vincennes Western Sun*, December 17, 1808, 1.

Journal of the House of Representatives of the United States 1789-1875 Vol. 2. Washington: U.S. G.P.O.,1979.
-1801-1804 Vol. 4 and Vol. 5

Journal of the Senate of the State of Ohio, vol. 6. Columbus: Ohio State, 1808.

Journal of the Senate of the United States of America, 1789-1873, Friday, November 13, 1807.

Julian, George W. *Speech of Hon. George W. Julian, of Indiana, on The Slavery Question, May 14, 1850.* Washington, D.C.: Congressional Globe Office, 1850.

- *Speech of Hon. George W. Julian, of Indiana, on Cause and Cure of Our Nation Troubles, January 14, 1862.* Washington, D.C.: Congressional Globe Office, 1862.
- *Speech of Hon. George W. Julian, of Indiana, on Confiscation and Liberation, May 23, 1862.* Washington, D.C.: Congressional Globe Office, 1862
- *Speech of Hon. George W. Julian, of Indiana, on Dangers and Duty, November 17, 1865.* Cincinnati: Gazette Steam Print, 1865.

Kettleborough, Charles. *Constitution Making in Indiana Vol. I, 1780-1850*. Indianapolis: Indiana Historical Bureau, 1971.

- *Constitution Making in Indiana Vol. II, 1851-1916*. Indianapolis: Indiana Historical Bureau, 1975.
- *Constitution Making in Indiana Vol. III, 1916-1930*. Indianapolis: Indiana Historical Bureau, 1977.

Knox County Clerk. *Register of Negro Slaves and Masters for 1805-1807 Knox County: Indiana Territory Court House at Vincennes.*

Lafontaine v. Avaline. 8 Ind. 6 (1856).

Lash, Kurt T. ed. *The Reconstruction Amendments: The Essential Documents.* Vol.1. Chicago: University of Chicago Press, 2021.

Laws of the First General Assembly of the Territory of Indiana, *1805*. *Laws of the State of Indiana, Passed and Published, at the Second Session of the General Assembly, Held at Corydon, on the First Monday in December, in the Year One Thousand Eight Hundred and Seventeen*. Corydon: A. and J. Brandon, 1818.

Laws of the State of Indiana, Passed at the Forty-First Regular Session of the General Assembly, Begun on the Tenth Day of January, A.D., 1861. Indianapolis: Berry R. Sulgrove, State Printer, 1861.

Laws of the State of Indiana, Passed at the Forty-Third Regular Session of the General Assembly, Begun on the Tenth Day of January, A.D., 1865. Indianapolis: W.R. Holloway, State Printer, 1865.

"Legal Notice: Writ of Foreign Attachment." *Vincennes Western Sun*, November 25, 1807, 1.

"Legislation in the Northwest Territory," *Ohio Archaeological and Historical Quarterly.* (March 1888): 304.

"Letter to the Indiana Gazette." *Vincennes Indiana Gazette*, April 10, 1805, 3.

Lewis v. Henley and Others. 2 Ind. 332 (1850).

Lindley, Harlow, ed. *Indiana as Seen by Early Travelers: A Collection of Reprints from Books of Travel, Letters, and Diaries Prior to 1830.* Indianapolis: Indiana Historical Society, 1916.

Madison Dollar Weekly Courier, August 17, 1859.

Malloy, William M., ed. *Treaties, conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, 1776-1909*, Vol. 1. Washington, D. C.: United States Government Press, 1910.

Marbury v. Madison. 5 U.S. 137 (1803).

Martin County Historical Society. *Negro Register, 1853, and Enumeration of White & Colored Males Over Age Twenty-one in Halbert Townish, Martin County, 1895.* Reel 3: 9 and 11.

Mary Clark v. G.W. Johnston, Indiana State Archives File

McCormick v. Humphrey. 27 Ind. 144 (1866).

McIntire v. State. 83 N.E. 1005 (Ind. 1908).

Meites, Jerome B. "The 1847 Illinois Constitutional Convention and People of Color." *Journal of Illinois State Historical Society* 108 (Fall/Winter 2015): 266-267.

Menifee v. Clark. 35 Ind. 304 (1871).

Mitchell, James. *Answers of the Agent of the Indiana Colonization Society to the Resolution of Inquiry on the Subject of African Colonization.* Indianapolis: J. P. Chapman, State Printer, 1852.

- *Letters on the Relation of the White and African Races in the United States, Showing the Necessity for the Colonization of the Letter Addressed to Lincoln, Douglas, Bell, and Breckenridge.* U.S. Government Printing Office, 1862.

New Albany Argus on January 15, 1840.

New Albany Tribune, January 25, 1859.
- December 31, 1859.

Norris v. Newton, 5 McLean 92 (1850); 18 F. Cas. 322.

"Northern Indiana: Political Complexion of the State — The Negro Suffrage Question." *The New York Times*, November 20, 1866.

"Northwest Ordinance of 1787." *1 U.S.C. at LVII-LIX.* 2012.

"Notice of Sale." *Madison Western Eagle*, October 8, 1813, 2.

Pease, Theodore Calvin, ed. *The Laws of Indiana Territory 1801-1809.* Springfield: Illinois State Historical Library, 1930.

People v. Dean. 14 Mich. 406 (1866).

Philbrick, Francis S., ed. *The Laws of Indiana Territory, 1801-1809*. Springfield: Trustees of the Illinois State Historical Library, 1930.

Planter, Anonymous. "A Planter's Letter." *The Gentleman's Magazine*, April 1789.

"Preamble [and] Resolution by General Samuel Milroy offered in the Indiana Legislature, 1817 on the Subject of Colonizing Negroes." photo static copy, *Robert Milroy Papers*, Box 2, Folder 1: *Samuel Milroy Papers*, Indiana Historical Society Library.

Price, Robert J. *"Letter from Robert J. Price to D. Price, June 6, 1863."* Robert J. Price Collection, Indiana Historical Society Library.

Prigg v. Pennsylvania, 41 U.S. 539 (1842).

Proceedings of the Democratic State Convention: Held in Columbus, Ohio, on the Seventh and Eighth Days of January, 1842; Including an Address to the People of Ohio. Columbus: S. & M. H. Medary, 1842.

"Proclamation Creating New Boundaries for St. Clair and Randolph Counties" (1801).

Public Leger, May 15, 1824.

"Registers of Negro Slaves, Indiana Territory: Clark County, 1805-1810 and Knox County, 1805-1807." *The Hoosier Genealogist* 17, no. 3 (September 1977): 58-60.

Report of Blacks and Mulattos as Enumerated in the 1860 Federal Population Census of Indiana. Indianapolis: Indiana State Library, 1980-81.

Reports of Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana. Vol. III. Indianapolis: Chapman Spann, Printer, 1836.

Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana, 1850 Vol. I and II. Indianapolis: A. H. Brown, 1850.

Riker, Dorothy and Gayle Thornbrough, ed. *Indiana Election Returns: 1816-1851*. Indianapolis: Indiana History Bureau, 1960.

Rutherford v. M'Faddon. Supreme Court of Ohio, November 3 and 10, 1807.

Senate, State of Ohio Journal. *Record of the Proceedings in the Case of George Tod December 24, 1808*. Chillicothe: Nashee & Denny for J. S. Collins & Co., 1809.

Siebert, Wilbur Henry. *The Underground Railroad from Slavery to Freedom*. New York: The Macmillan Company, 1898).

"Slave Trade Prohibited." *Madison Indiana Republican*, February 6, 1817, 7.

Smith v. Moody. 26 Ind. 299 (1866).

Smith, Oliver Hampton. *Early Indiana Trials and Sketches: Reminiscences*. Cincinnati: Moore, Wilstach, Keys & Co., Printers, 1858.

Smith, William H., ed. *The St. Clair Papers. The Life and Public Services of Arthur St. Clair: Soldier of the Revolutionary War, President of the Continental Congress; and Governor of the North-western Territory: with His Correspondence and Other Papers*. Cincinnati: Robert Clarke & Co., 1882.

Snoddy v. Howard. 51 Ind. 411 (1875).

Spears, Jean E., and Dorothy Paul, eds. *Admission Record Indianapolis Asylum for Friendless Colored Children- 1871-1900*. Indianapolis: Indiana Historical Society, 1978.

Spencer v. State. 5 Ind. 41 (1854).

Spurgeon v. Rhodes. 78 N.E. 228 (Ind. 1906).

State v. Cooper. 5 Blackf. 258 (1839).

State v. Curzy. 19 Ind. 430 (1862).

State. Ex Rel. Mitchell v. Gray Et. Al. School Trustees. 93 Ind. 303 (1883).

State, Ex. Rel. Oliver Et. Al. v. Grubb, Trustee. 85 Ind. 213 (1882).

State v. Lasselle. 1 Blackf. 60 (1820).

State v. Moore. 6 Ind. 436 (1855).

State v. Portsmouth Savings Bank. 105 Ind. 435 (1886).

St. Clair Arthur, and William Henry Smith. *The St. Clair Papers: The Life and Public Services of Arthur St. Clair: Soldier of the Revolutionary War, President of the Continental Congress; and Governor of the North-western Territory: with His Correspondence and Other Papers,* Vol. III. Cincinnati: Robert Clarke & Co, 1882.

"Supreme Court." *Vincennes Indiana Centinel* (sic), August 5, 1820, 3.

Tappan, Lewis, ed. *Fugitive Slave Bill: Its History and Unconstitutionality: With an Account of the Seizure and Enslavement of James Hamlet and His Subsequent Restoration to Liberty.* New York: William Harned, 1850.

The Chicago Copperhead Convention: The Treasonable and Revolutionary Utterances of the Men Who Composed It. Extracts from All the Notable Speeches Delivered in and Out of the National Democratic" Convention. Washington, D. C.: Congressional Union Committee, 1864.

"The Constitution of The State of Indiana." *Madison Indiana Republican*, February 6, 1817, 2.

"The Constitutional Union Party." *Augusta Daily Chronicle and Sentinel*, February 13, 1860.

The Fugitive Slave Bill. Enacted by the United States Congress and Approved by the President Millard Fillmore September 18, 1850. Boston: n.p. 1854).

The Ohio and Mississippi Railroad Company v. Fitch. 20 Ind. 498 (1863).

The President and Directors of the Peru and Indianapolis Railroad Company v. Bradshaw. 6 Ind. 145 (1855).

The Revised Laws of Indiana: In which are Comprised All Such Acts of a General Nature as are in Force in Said State; Adopted and Enacted by the General Assembly at Their Fifteenth Session. To which are Prefixed the Declaration of Independence, the Constitution of the U.S., the Constitution of the State of Indiana, and Sundry Other Documents, Connected with the Political History of the Territory and State of Indiana. Indianapolis: Douglass and Maguire, 1831.

The South Bend Fugitive Slave Case, Involving the Right to a Writ of Habeas corpus. New York: n.p, 1851.

"The Statutes of Ohio and of the Northwestern Territory, Adopted or Enacted from 1788 to 1833 Inclusive: Together with the Ordinance of 1787; the Constitutions of Ohio and

of the United States, and Various Public Instruments and Acts of Congress: Illustrated by a Preliminary Sketch of the History of Ohio; Numerous References and Notes and Copious Indexes." Cincinnati: Corey & Fairbank, 1833.

The Western Sun, June 14, 1817.

"Thirty Dollars Reward." *Vincennes Western Sun*, November 25, 1807, 2.

Thomas, John L. "Early History of Pendleton" *The Pendleton Times*, July 22, 1915.

Thornbrough, Emma Lou. *The Diary of Calvin Fletcher, Vol I-IX: 1817-1866*. Indianapolis: Indiana Historical Society, 1972.

Thornbrough, Gayle and Dorothy Riker, eds. *Readings in Indiana History*. Indianapolis: Indiana Historical Bureau, 1956.

- *Indiana Election Returns: 1816-1851*. Indianapolis: Indiana History Bureau, 1960.

Thorpe, Francis N., ed. *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the State, Territories, and Colonies Now or Heretofore Forming the United States of America.* Washington, D.C.: U.S. Government Printing Office, 1909.

"To the People of Indiana." *Vincennes Western Sun*, June 24, 1809.

Treaties & Agreements and the Proceedings of the Treaties and Agreements of the Tribes and Bands of the Sioux Nation. Washington: Institute for the Development of Indian Law, 1974.

Tucker, George. *Progress of the United States in Population and Wealth in Fifty Years: As Exhibited by the Decennial Census from 1790 to 1840, with an Appendix, Containing an Abstract of the Census of 1850*. New York: Press of Hunt's Merchants' Magazine, 1855.

Turczi v. State, 301 N.E. 2d 752 (Ind. 1973).

Turner v. Parry, 27 Ind. 163 (1866).

"Twenty Dollars Reward." *Vincennes Indiana Gazette*, September 18, 1804, 3.

"Two Indentures of Negroes: Original Documents." *The Indiana Quarterly Magazine of History* 7, no. 3 (1911): 133–35.

United States Census Bureau: 1820-1870.

United States Fugitive Slave Law. *The Fugitive Slave Law.* Hartford, 1850.

Varnum, James Mitchell. *A sketch of the life and public services of James Mitchell Varnum of Rhode Island ... by James Mitchell Varnum of New York City*. New York: D. Clapp and Son, Printers, 1896.

Vanderstel, David G. "The 1851 Indiana Constitution." *Indiana Historical Bureau.*

Vincennes Indiana Centinel [*sic*], August 5, 1820.

Vincennes Western Sun, January 11, 1817.

Walsh, Justin E. *The Centennial History of the Indiana General Assembly, 1916-1978*. Indianapolis: The Select Committee on the Centennial History of the Indiana General Assembly, 1987.

Western Sun and General Advertiser, October 25, 1828.
- December 27, 1828

White, William A. "Letter from William A. White." *The Liberator*, October 13, 1843.

Williams, Oscar H., ed. *Readings in Indiana History*. Bloomington: Indiana University Press, 1914.

Wilson, Henry. "Coalition in Massachusetts. Election of Sumner," *History of the Rise and Fall of the Slave Power in America*. Boston: Houghton, Mifflin, and Company, 1872.

Woollen, William Wesley, Daniel Wait Howe, and Jacob Platt Dunn, ed. *Executive Journal of Indiana Territory: 1800-1816*. Indianapolis: Indiana Historical Society Publications, 1900.

Wright, Joseph A. *An Address Delivered at the Installation of Rev. L. W. Berry, D.D., as President of Indiana Asbury College University, July 16, 1850.* Indianapolis: John D. Defrees, 1850.

Secondary Books

Aptheker, Herbert. *Early years of the Republic: from the end of the Revolution to the first administration of Washington (1783-1793)*. New York: International Publishers, 1976.

Barnhart, John D and Dorothy L. Riker. *Indiana to 1816: The Colonial Period*. Indianapolis: Indiana Historical Bureau, 1970.
- *Indiana's Century Old Constitution*. Indianapolis: State Constitution Centennial Commission, 1951.

Berry, Mary Francis. *Black Resistance/White Law: A History of Constitutional Racism in America*. New York: Penguin Publishing Group, 1995.

Bigham, Darrel E. *Indiana Territory: A Bicentennial Perspective*. Indianapolis: Indiana Historical Society, 2001.
- *Towns and Villages of the Lower Ohio*. Lexington: The University Press of Kentucky, 1998.

Binney, Horace. *Bushrod Washington*. Philadelphia: C. Sherman & Son, 1858.

Blake, Israel George. *Jesse Lynch Holman, Pioneer Hoosier*. Indianapolis: Indiana Supreme Court, 2009.

Bodenhamer, David J., and Randall T. Shepard. *The History of Indiana Law*. Athens: Ohio University Press, 2006.

Bodley, Temple. *George Rogers Clark: His Life and Public Services*. Boston: Houghton Mifflin Company, 1926.

Boomhower, Ray E. "James Scott: December 28, 1816 – December 28, 1830," in *Justices of the Indiana Supreme Court*, eds, Linda G. Gugin and James E. St. Clair. Indianapolis: Indiana Historical Society Press, 2010.

Brand, Carl Fremont. *The History of the Know Nothing Party in Indiana*. Bloomington: Indiana University, 1916.

Breisach, Ernst. *Historiography: Ancient, Medieval, and Modern*. Chicago: University of Chicago Press, 2007.

Bremer, John A. *Constitution Making in Indiana Vol. IV, 1930-1960.* Indianapolis: Indiana Historical Bureau, 1978.

Brewer-Trotter, Eunice. *Black in Indiana*. Indonesia: Eunice Brewer-Trotter, 2020.

Campney, Brent M. *Hostile Heartland: Racism, Repression, and Resistance in the Midwest*. Urbana: University of Illinois Press, 2019.

Carmony, Donald F. *Indiana, 1816-1850: The Pioneer Era: The History of Indiana Vol. II*. Indianapolis: Indiana Historical Bureau & Indiana Historical Society, 1998.
- *Indiana. A Self-appraisal*. Bloomington: Indiana University Press, 1966.
- *Handbook on Indiana History*. Indianapolis: Indiana Sesquicentennial Commission, 1966.

Carmony, Donald Francis., and Howard Henry Peckham. *A Brief History of Indiana*. Indianapolis: Indiana Historical Bureau, 1946.

Carmony, Donald Francis, and John Donald Barnhart. *Indiana's Century Old Constitution.* Bloomington: State Constitution Centennial Commission (Indiana University Press), 1951.

Cavinder, Fred D. *Forgotten Hoosiers: Profiles from Indiana's Hidden History*. Charleston: The History Press, 2013.

Cockrum, William M. *Pioneer History of Indiana: Including Stories, Incidents and Customs of the Early Settlers*. Oakland City, IN: Press of Oakland City Journal, 1907.

Cole, Arthur Charles. *The Era of the Civil War, 1848-1870*, *Vol. 3.* Springfield: Illinois Centennial Commission, 1919.

Committee of History Section of the Indiana State Teachers' Association, ed. *Readings in Indiana History*. Bloomington: Indiana University Press, 1914.

Cornish, Dudley Taylor. *The Sable Arm: Black Troops in the Union Army, 1861-1865*. Lawrence: University Press of Kansas, 1987.

Curtis, Francis. *The Republican Party: A History of its Fifty Years' Existence and a Record of it Measures and Leaders 1854-1904*. New York: G. P. Putnam's Sons, 190).

Du Bois, W. E. B. *Black Reconstruction in America: Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880*. 1935. Reprint, New York: Routledge, 2017.

- *The Negro*. New York: Holt, 1915.

Durfee, David A., ed. *William Henry Harrison: 1773-1841 and John Tyler 1790-1862*. New York: Oceana Publications, Inc., 1970.

"Early Black Settlements by County: Randolph County." *Indiana Historical Society*.

Elkins, Stanley M. Slavery: *A Problem in American Institutional and Intellectual Life.* Chicago: University of Chicago Press, 1959.

Estes, Steve. *I Am a Man! Race, Manhood, and the Civil Rights Movement.* Chapel Hill: The University of North Carolina Press, 2005.

Fanning, Melissa A., and Elizabeth R. Osborn, eds., *Jesse Lynch Holman, Pioneer Hoosier.* Indianapolis: Indiana Supreme Court Legal History Series, n.d.

Fenge, Terry, and Jim Aldridge. *Keeping Promises: The Royal Proclamation of 1763, Aboriginal Rights, and Treaties in Canada*. Montreal: McGill-Queen's University Press, 2015.

Finkelman, Paul. "The Law, and Not Conscience, Constitutes the Rule of Action': The South Bend Fugitive Slave Case and the Value of 'Justice Delayed'" in *The Constitution,*

Law and American Life: Critical Aspects of The Nineteenth Century Experience, ed., Donald G. Nieman. Athens: University of Georgia Press, 1992.

Fino, Susan P. *The Michigan State Constitution*. New York: Oxford University Press, 2011.

Fogel, R. W. and S. L. Engerman. *Time on the Cross: The Economics of American Negro Slavery*, 2nd ed. Boston: Little, Brown, 1989.

Foley, Barbara. *Specters of 1919: Class & Nation in the Making of the New Negro*. Urbana: University of Illinois Press, 2003.

Foner, Eric. *Reconstruction: America's Unfinished Revolution*. New York: Harper Perennial Classics, 2014.

Franklin, John Hope. *Reconstruction: After the Civil War.* 1961
- *The Free Negro in North Carolina, 1790-1860.* Chapel Hill: University of North Carolina Press, 1943.

Furlong, Patrick J., Alan T. Nolan, Kenneth R. Stevens, Emma Lou Thornbrough, Irving L. Fink, and David Ray Papke. *We the People, Indiana, and the United States Constitution: Lectures in Observance of the Bicentennial of the Constitution*. Indianapolis: Indiana Historical Society, 1987.

Gaines, William H. *Thomas Mann Randolph: Jefferson's son-in-law.* Baton Rouge: Louisiana State University Press, 1966.

Genovese, Eugene D. *Roll, Jordan, Roll; the World the Slaves Made.* New York: Pantheon Books, 1974.

Gibbs, Wilma L. *Indiana's Black Heritage: Essays from Black History News & Notes*. Indianapolis: Indiana Historical Society, 1993.
- *Indiana's Black Heritage: More Essays from Black History News & Notes, 2007 to 2017*. Indianapolis: Indiana Historical Society Press, 2022.

Goodall, Hurly, and J. Paul Mitchell. *A History of Negroes in Muncie*. Muncie: Ball State University, 1996.

Goodspeed, Weston A. *Counties of Warren, Benton, Jasper, and Newton, Indiana*. Chicago: F. A. Battey and Company, 1883.

Gordon-Reed, Annette, ed. *Race on Trial: Law and Justice in American History*. New York: Oxford University Press, 2002.

Gray, Ralph D., ed. *Indiana History: A Book of Readings*. Bloomington: Indiana University Press, 1994.

- *Gentleman from Indiana National Party Candidates 1836-1940*. Indianapolis: Indiana Historical Bureau, 1977.

Greene, George E. *History of Old Vincennes and Knox County, Vol. I and II.* Chicago: S.J. Clarke Publishing Company, 1911.

Grob, Gerald N., and George Athan Billias. *Interpretations of American History: Patterns and Perspectives*, 6th ed. New York: The Free Press, 1992.

Gugin, Linda C., and James E. St. Clair, ed. *Justices of the Indiana Supreme Court*. Indianapolis: Indiana Historical Society Press, 2010.

Herron, Paul E. *Framing the Solid South: The State Constitutional Conventions of Secession, Reconstruction, and Redemption, 1860-1902*. University Press of Kansas, 2017.

Hicks, Luther. *Great Black Hoosier Americans.* Bloomington: Indiana University, 1977.

Higginbotham, A. Leon Jr. *In the Matter of Color-Race & The American Legal Process: The Colonial Period.* New York: Oxford University Press, 1978.

Higginbotham, F. Michael. *Ghosts of Jim Crow: Ending Racism in Post-Radical America.* New York: New York University Press, 2013.

Hine, Darlene Clark. *When the Truth is Told: A History of Black Women's Culture and Community in Indiana, 1875-1950*. Indianapolis: The Nation Council of Negro Women, 1981.

Hurt, R. Douglas. *The Ohio Frontier: Crucible of the Old Northwest, 1720–1830.* Bloomington: Indiana University Press, 1998.

Isserman, Maurice, and Michael Kazin. *America Divided: The Civil War of the 1960s*. New York: Oxford University Press, 2004.

Johnson, Lulu Merle. "The problem of slavery in the Old Northwest, 1787-1858." Ph.D. diss., State University of Iowa, 1941.

Kennedy, David M. *Freedom from Fear: The American People in Depression and War, 1929-1945*. New York: Oxford University Press, 2005.

Kelley, Blair L. M. *Right to Ride: Streetcar Boycotts and Black Citizenship in Plessy V. Ferguson*. Chapel Hill: the University of North Carolina Press, 2010.

Kelly, William. "Slavery and Strategy in Decatur House: Charlotte Dupee's Suit for Freedom in Early Washington, D.C." *The White House Historical Association*.

Klarman, Michael J. *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality*. New York: Oxford University Press, 2004.

Kluger, Richard. *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality*. New York: First Vintage Books, 2004.

Lauck, Jon K. *The Lost Region: Toward a Revival of Midwestern History*. Iowa City: The University of Iowa Press, 2013.

Litwach, Leon F. *North of Slavery: The Negro in the Free States 1790-1860.* Chicago: University of Chicago Press, 1961.

Lousin, Ann M. *The Illinois State Constitution: A Reference Guide*. Santa Barbara: ABC CLIO, LLC.

Lyda, John W. *The Negro in the History of Indiana*. Terre Haute, IN: Indiana Negro History Society, 1953.

Madison, James H. *The Indiana Way: A State History*. Bloomington: Indiana University Press, 1986.

Madison, James H., and Lee Ann Sandweiss. *Hoosiers and the American Story.* Indianapolis, Indiana Historical Society Press, 2014.

Maltz, Earl M. *Slavery and the Supreme Court, 1825-1861*. Lawrence: University of Kansas Press, 2009.

Manis, Andrew Michael, ed. *Southern Civil Religions in Conflict: Civil Rights and the Culture Wars*. Macon: Mercer University Press, 2002.

"Matter in avoidance of bar of statute of limitations." *A Digest of the Decisions of the Courts of Indiana*. St. Paul: West Publishing Co., 1911.

McCormick, Richard P. *The Second American Party System: Party Formation in the Jacksonian Era*. Chapel Hill: University of North Carolina, 1966.

Miller, Christopher L. *The French Atlantic Triangle: Literature and Culture of the Slave Trade.* Durham: Duke University Press, 2008.

"Millie Wilkerson." *The Indiana Department of Commerce, Tourism & Film Development Division*. 1994.

Monks, Lender J. ed. *Courts and Lawyers of Indiana Vol I, II and III*. Indianapolis: Federal Publishing, Co., Inc., 1916.

Mulkern, John R. *The Know-Nothing Party in Massachusetts: The Rise and Fall of a People's Movement.* Lebanon: Northeastern University Press, 1990.

Onuf, Peter S. *Statehood and Union: A History of the Northwest Ordinance.* Bloomington: Indiana University Press, 1987.

Ovesey, Lionel and Abram Kardiner. *The Mark of Oppression: Explorations in the Personality of the American Negro.* Cleveland: World Publishing Company, 1962.

Parton, James. *The Life and Times of Aaron Burr*. Boston: Houghton Mifflin Company, 1892.

Peckham, Howard H. *Indiana: A Bicentennial History*. New York: W. W. Norton & Company, Inc., 1978.

Pfeifer, Michael J. *The Roots of Rough Justice: Origins of American Lynching*. Urbana: University of Illinois Press, 2011.

Phillips, Ulrich Bonnell. *American Negro Slavery: A Survey of the Supply, Employment and Control of Negro Labor as Determined by the Plantation Régime*. New York: D. Appleton and Company, 1918.

Posey, John T. *General Thomas Posey: Son of the American Revolution*. East Lansing: Michigan State University Press, 1992.

Potter, Donald M., and Donald E. Fehrenbacher. *The Impending Crisis, 1848-1851*. New York: Harper & Row, 2008.

Ransaw, Theordore S., C. P. Guase, and Richard Majors. *The Handbook of Research on Black Males: Quantitative, Qualitative, and Multidisciplinary*. East Lansing: Michigan State University Press, 2018.

Reid, Richard M. *Freedom for Themselves: North Carolina's Black Soldiers in the Civil War Era.* Chapel Hill: University of North Carolina Press, 2008.

Rhodes, James Ford. *History of the United States from the Compromise of 1850 to the Final Restoration of Home Rule in the South in 1877*. 7 volumes. New York: The Macmillan Company, 1893-1906.

Robbins, Coy D. *Source Book: Black Genealogy in Indiana*. Indianapolis: Indiana Black Historical and Genealogical Society, 1989.

Samito, Christian G., ed. *The Greatest and the Grandest Act: The Civil Rights Act of 1866 from Reconstruction to Today*. Carbondale: Southern Illinois University Press, 2018.

Shepard, Rebecca A., Charles W. Calhous, Elizabeth Shanahan-Shoemaker, and Alan F. January, eds. *A Biographical Directory of the Indiana General Assembly, Vol. 1: 1816-*

1899. Indianapolis: The Select Committee on the Centennial History of the Indiana General Assembly, 1980.

Siddali, Silvana R. *Frontier Democracy: Constitutional Conventions in the Old Northwest*. Cambridge: Cambridge University Press, 2016.

Smith, John David, ed. *Black Soldiers in Blue: African American Troops in the Civil War Era*. Chapel Hill: University of North Carolina Press, 2005.

Stampp, Kenneth Milton. *The Peculiar Institution: Slavery in the Ante-Bellum South*. New York: Knopf, 1961.

Stark, Jack. *The Wisconsin State Constitution*. New York: Oxford University Press 2011.

Society of Indiana Pioneers. *Pioneer Founders of Indiana.* Indianapolis: Society of Indiana Pioneers, 2016.

Steinglass, Steven H., and Gino J. Scarsell. *The Ohio State Constitution: A Reference Guide*. Westport: Praeger Publishers, 2004.

Stevens, Kenneth. *William Henry Harrison: A Bibliography*. Westport, CT: Greenwood Press, 1998.

Stoll, John B. *History of the Indiana Democracy, 1816-1916*. U.K.: Wentworth Press, 2016.

Sugrue, Thomas J. *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North.* New York: Random House, 2008.

Tarr, Alan G. *Understanding State Constitutions.* Princeton: Princeton University Press, 1998.

Taylor, Alrutheus A. *The Negro in South Carolina During Reconstruction.* 1924.
- *The Negro in the Reconstruction of Virginia.* 1926.
- *The Negro in Tennessee, 1865-1880.* 1941.

Taylor, Robert M., Jr., ed. *The State of Indiana History 2000: Papers Presented at the Indiana Historical Society's Grand Opening*. Indianapolis: Indiana Historical Society, 2001.

Theoharis, Jeanne F. and Komozi Woodward, ed. *Freedom North: Black Freedom Struggles Outside the South, 1940-1980*. New York: Palgrave Macmillan, 2003.

Thornbrough, Emma Lou. *Indiana in the Civil War Era, 1850-1880*. Indianapolis: Indiana Historical Society Press, 1965.
- *The Negro in Indiana before 1900: A Study of a Minority.* Bloomington: Indiana University Press, 1993.

- *Indiana Blacks in the Twentieth Century*. Bloomington: Indiana University Press, 2000.
- *Since Emancipation*: *A Short History of Indiana Negroes, 1863-1963*. Indianapolis: Indiana Division American Negro Emancipation Centennial Authority, 1964.

Thornbrough. Gayle, and Dorothy Riker, eds. *Readings in Indiana History*. Indianapolis: Indiana Historical Bureau, 1956.

Thornton, W. W. "The Supreme Court of Indiana," in *The Green Bag: An Entertaining Magazine for Lawyers* Volume 4, ed., Horace W. Fuller. Boston: The Boston Book Company, 1892.

Uya, Okon E. *African History: Some Problems in Methodology and Perspectives.* Ithaca: New York, 1974.

Weiner, Dana Elizabeth. *Race and Rights: Fighting Slavery and Prejudice in the Old Northwest, 1830–1870*. Ithaca: Cornell University Press, 2013.

Westwood, Howard C. *Black Troops White Commanders and Freedmen During the Civil War.* Carbondale: Southern Illinois University Press, 1992.

Williams, David L. *Blacks in Indianapolis: The Story of a People Determined to Be Free*. Bloomington: Indiana University Press, 2022.

Wilson, William Edward. *Handbook on Indiana History*. Bloomington: Indiana University Press, 1961.

Wonning, Paul R. *The Story of Indiana's Constitution - A History*. Batesville, IN: Mossy Feet Books, 2021.
- *A Timeline of Indiana History: 1795-1800*. Batesville, IN: Mossy Feet Books, 2020.
- *The Stories of Indiana's Counties*. Batesville, IN: Mossy Feet Books, 2020.

Wright, Richard. *The Encyclopedia of the African Methodist Episcopal Church*. 2nd ed. Philadelphia: The Book Concern of the AME Church, 1947.

Zimmerman, Charles Leroy. *The Origin and Rise of the Republican Party in Indiana, from 1854 to 1860.* Blooming: Department of History of Indiana Univ., 1917.

Secondary Articles

Asher, Gena. "Early Blacks Played a Varied, Vital Role.: *The Herald Times* (February 2, 1992): F1, F4.

Barnhart, John D. "The Democratization of Indiana Territory." *The Indiana Magazine of History* (1947): 1-22.

- "The Southern Influence in the Formation of Indiana." *The Indiana Magazine of History* (1937): 261-276.

Baude, Patrick. "Indiana's Constitution in a Nation of Constitutions." *Legal Studies Research Paper Series* (2006): 39-58.

Bigelow, Bruce. "The Cultural Geography of Blacks in Antebellum Indiana." *Black History News and Notes* (May 2002): 1-7.

Bodenhamer, David J. "Criminal Justice and Democratic Theory in Antebellum America: The Grand Jury Debate in Indiana." *Journal of the Early Republic* 5, no. 4 (Winter 1985): 481-502.
- "Law and Disorder on the Early Frontier: Marion County, Indiana, 1823-1850." *Western Historical Quarterly* 10, no. 3 (July 1979): 323-336.

Boggs, Colleen Glenney. "Public Reading and the Civil War Draft Lottery." *American Periodicals* 26, no. 2 (2016): 149–166.

Boomhower, Ray. "Devoted to the Past for the Sake of the Present." *Indiana Magazine of History* 93, no. 1 (March 1997): 1-17.

Brewer-Trotter, Eunice. "Mary Bateman Clark: A Woman of Color and Courage." *Traces of Indiana & Midwestern History* 27, no. 4 (Fall 2015): 38-46.

Bryant-Wills, Wanda. "When Slaves Fled North to Freedom." *The Indianapolis News* (February 7, 1986): F1, F4.

Brown, Elizabeth Gaspar. "The Bar on a Frontier: Wayne County, 1796-1836." *The American Journal of Legal History* 14, no. 2 (April 1970): 136-156.

Byrd, Cecil K. "Manuscript Copies and Printed Editions of the Indiana Constitution, 1816." *The Papers of the Bibliographical Society of America* 48 (1954): 390-402.

Cadou, Bettie. "Slave Owners Found Ways to Dodge Law." *The Indianapolis Star* (July 2, 1973).

Carpenter, Gregory. S. "John Brown Dillon: The Father of Indiana History." *The Indiana Quarterly Magazine of History* 1, no. 1 (1905): 4–8.

Carroll, Joseph Cephas. "The Beginnings of Public Education for Negroes in Indiana." *The Journal of Negro Education* 8, no. 4 (October 1939): 649-658.

Coddington, Ronald S. "Respect for the 14th: The 14th U.S. Colored Infantry Proved Their Mettle at the Battle of Decatur, Similar to the 54th Massachusetts Infantry at Fort Wagner." *Military Images* 38, no. 1 (Winter 2020): 60-61.

Conaity-Webber, Bob. “A First Family of Daviess County.” *Tri-County News* (September 22, 1988): 1.

Cord, Xenia E. “Black Rural Settlements in Indiana before 1860.” *Indiana’s Black Heritage: Essays from Black History News and Notes. Ed. Wilma L. Gibbs. Indianapolis: Indiana Historical Society* (1993): 99-110.

Crenshaw, Gwendolyn J. “Brother John Freeman’s Homecoming Celebration: The Black Reaction to the Freeman Case and the Fugitive Slave Law of 1850.” *Black History News and Notes* 91 (February 2003): 5.

Davis, David Brion. “The Significance of Excluding Slavery from the Old Northwest in 1787.” *The Indiana Magazine of History* (1988): 75-89.

DeBoer, Michael John. “Equality as Fundamental Value in the Indiana Constitution.” *Valparaiso University Law Review* 38, no. 2 (Spring 2004): 489-576.

Egerton, Douglas R. “Its Origin Is Not a Little Curious: A New Look at the American Colonization Society.” *Journal of the Early Republic* 5, no. 4 (1985): 463–80.

Epstein, Ricard A. “Caste and the Civil Rights Law: From Jim Crow to Same-Sex Marriages.” *Michigan Law Review* 92, no. 8 (Aug. 1994): 2456-2478.

Esarey, Logan. “Pioneer Politics in Indiana.” *Indiana Magazine of History* 13, no. 2 (June 1917): 99-128.

Ferguson, Earline Rae. “In Pursuit of the Full Enjoyment of Liberty and Happiness: Blacks in Antebellum Indianapolis, 1820-1860.” *Black History News & Notes*, no. 32 (May 1988): 4-8.

Finkelman, Paul “Almost a Free State: The Indiana Constitution of 1816 and the Problem of Slavery.” *Indiana Magazine of History* 111, no. 1 (March 2015): 64-95.

- “Evading the Ordinance: The Persistence of Bondage in Indiana and Illinois.” *Journal of the Early Republic* 9, no. 1 (1989): 21-51.
- “Prelude to the Fourteenth Amendment: Black Legal Rights in the Antebellum North.” *Rutgers Law Journal* 147, no. 3 & 4 (Spring and Summer 1986): 415-482.
- “*Scott v. Sandford*: The Court’s Most Dreadful Case and How It Changed History.” *Chicago Kent Law Review*, 82 no. 3 (2007).
- “Slavery and the Northwest Ordinance: A Study in Ambiguity.” *Journal of the Early Republic* 6, no. 4 (1986): 343-370.
- “The Kidnapping of John Davis and the Adoption of the Fugitive Slave Law of 1793.” *The Journal of Southern History* 56, no. 3 (August 1990): 397-398.

Ford, Lynn. “Indiana’s Black History.” *The Indianapolis Star* (February 1990).

- “Blacks Formed Their Own Settlements in the State.” *The Indianapolis Star* (February 20, 1990): 16.

- "Black Hoosiers Withstood Racist Laws of the 1850s." *Indianapolis Star* (February 15, 1990): 18.

Funk, Arville. "Railroad to Freedom." *Outdoor Indiana* (November 1964): 5-9

Gasparro, Joseph D. "The Desired Effect: Pontiac's Rebellion and the Native American Struggle to Survive in Britain's North American Conquest," *The Gettysburg Historical Journal* 6 (2007): 38-62.

Hall, Jacquelyn Dowd. "The Long Civil Rights Movement and the Political Uses of the Past," *Journal of American History* 91, no. 4 (2005): 1233-1263.

Haller, Mark H. "The Rise of the Jackson Party in Maryland, 1820-1829." *The Journal of Southern History* 28, no. 3 (1962): 307–26.

Hamm, Thomas D. "Church, State, Courts, and Law in Indiana to 1851." *Indiana Magazine of History* 111, no. 1 (2015): 30-63.

Hammond, John Craig. "Slavery, Settlement, and Empire: The Expansion and Growth of Slavery in the Interior of the North American Continent, 1770-1820." *Journal of the Early Republic* 32, no. 2 (Summer 2012): 175-206.

Harris, Michael H. "The American Journal of Legal History." *The American Journal of Legal History* 16, no. 3 (1972): 239-251.

Harris, Robert L. Jr. "Coming of Age: The Transformation of Afro-American Historiography," *The Journal of Negro History* 67, no. 2 (Summer 1982): 107-121.

Heckelman, Jac C. and John Diann. "Don't You be My Neighbor: Support for Racial-Exclusion Constitutional Provisions in Mid-19th Century Indiana and Illinois." *American Politics Research* 49, no. 5 (2021): 504-516.

Heiss, Willard. "City Black Fight First Fugitive Case in State." *The News* (February 22, 1979): 19.

Hendrickson, Thomas A. "Sheltering a Famous Fugitive Slave, Part I." *Black History News and Notes* (August 2001): 1-7.
- "Sheltering a Famous Fugitive Slave, Part II." *Black History News and Notes* (November 2001): 1-7.

Hoss, Alla. "Indiana's Indian Laws: Indigenous Erasure and Racism in the Land of the Indians." *Kansas Journal of Law & Public Policy* 30, no. 2 (Spring 2021): 184-233.

Howard, Thomas W. "Indiana Newspapers and the Presidential Election of 1824." *The Indiana Magazine of History* (1967): 177-206.

Humphreys, Sexson. "State Once Had 446 Slaves." *Indianapolis News* (June 22, 1968): 6.

Jacobi, Lori B. "More Than a Church: The Educational Role of the African Methodist Episcopal Church in Indiana, 1844-1861." *Black History News & Notes*, no. 31 (February 1988): 4-8.

Jackson, Eric R. "Quest for Freedom: The Underground Railroad in Southwest Ohio, Northern Kentucky, and Southern Indiana." *Traces of Indiana and Midwestern History* 27, no. 2 (2015): 38-46.

Jordan, Ryan. "The Indiana Separation of 1842 and the Limits of Quaker Antislavery." *Quaker History* 89, no. 1 (Spring 2000): 1-27.

Lane, Betty J. "Underground for Slave' Railroad' Without Rails." *Outdoor Indiana* (March 1968): 4-7.

Leary, Edward A. "Ex-Slave First Negro Detective." *Indianapolis Star* (n.d.): K1.

"Legislation in the Northwest Territory." *Ohio Archaeological and Historical Quarterly* (March 1888): 303-318.

Leonard, Adam A. "Personal Politics in Indiana 1816 to 1840." *Indiana Magazine of History* 19, no. 1 (March 1923): 1-56.

Luthin, Reinhard H. "Indiana and Lincoln's Rise to the Presidency." *The Indiana Magazine of History* (1942): 385-405.

Lynch, William O. "The Flow of Colonists to and from Indiana before the Civil War." *The Indiana Magazine of History* (1915): 1-7.

Madison, James H. "Extending Liberty Westward: The Northwest Ordinance of 1787." *OAH Magazine of History* 2, no. 4 (Fall 1987): 15-18.

Madison, James H., John Worth, Stephen C. Moberly, and Eric Sandweiss. "In Memoriam: Donald F. Carmony, 1910-2005." *Indiana Magazine of History* 101, no. 4 (December 2005): 321-327.

Marlow, William A. "Age of Indiana … Early Attempts to Emancipate Slaves." n.p (March 20, 1947).

- "Age of Indiana… Hoosiers Aided Underground Railway." n.p (April 3, 1947).

McDermott, William F. "Slavery's Grandchildren." *Coronet* (January 1948): 123-126.

McDonald, Earl E. "The Negro in Indiana Before 1881." *Indiana Magazine of History* 27, no. 4 (December 1931): 291-306.

- "Disposal of Negro Slaves by Will in Knox County, Indiana." *Indiana Magazine of History* 26, no. 2 (1930): 143–146.

McDonough, Robert. "The Readers Corner." *The Star Magazine* (n.d).

Mcgurk, Harry L. "A Pioneer Indiana County Circuit Court." *The American Journal of Legal History* 15, no. 4 (October 1971): 278-287.

Medlin, Sarah. "Resistance to Antislavery Friends in Indiana." *Earlham Historical Journal* (2015): 45-46.

Miller, Jerry. "People of Color: Grant County's Black Heritage." *Chronicle-Tribune Magazine* (July 9, 1978): 4, 12.

Mishler, Max. "Improper and Almost Rebellious Conduct: Enslaved People's Legal Politics and Abolition in the British Empire." *American Historical Review* (June 2023): 648-684.

Monahan, Thomas P. "Marriage Across Racial Lines in Indiana." *Journal of Marriage and Family* 35, no. 4 (November 1973): 632-640.

Money, Charles H. "The Fugitive Slave Law of 1850 in Indiana." *The Indiana Magazine of History* (1921): 159-198.
- "The Fugitive Slave Law in Indiana:(Concluded)." *The Indiana Magazine of History* (1921): 257-297.

Moores, Merrill. "Indiana In 1816." *The Indiana Magazine of History* (1916): 271-280.

Andrea Neal, "George Julian Served Indiana as its Radical Republican," *Indiana Policy Review* (November 23, 2014).

Nelson, Jacquelyn S. "The Military Response of the Society of Friends in Indiana to the Civil War." *The Indiana Magazine of History* (1985): 101-130.

Onuf, Peter S. "Democracy, Empire, and the 1816 Indiana Constitution." *Indiana Magazine of History* 111, no. 1 (March 2015): 5-29.

Owen, Daniel. "Circumvention of Article VI of the Ordinance of 1787." *Indiana Magazine of History* 36, no. 2 (1940): 110–116.

Pfaff, Dani. "Let the Records Show: Slavery and Involuntary Servitude in Vincennes, Indiana." *Traces: Black History News and Notes* (Spring 2012): 34-41.

Pierce, Merrily. "Luke Decker and Slavery: His Cases with Bob and Anthony, 1817-1822." *Indiana Magazine of History* 85, no. 1 (March 1989): 31-49.

Power, Fremont. "How It Was in Slavery." *Indianapolis News* (January 18, 1978): 45.

Riddleberger, Patrick W. "The Making of a Political Abolitionist: George W. Julian and the Free Soilers, 1848." *The Indiana Magazine of History* (1955): 221-236.

Roberts, C.W. "History of Roberts Settlement." *Noblesville Daily Ledger* (July 25, 1925): 2-3.

Rodriguez, Daniel B. "Change That Matters: An Essay on State Constitutional Development." *Penn State Law Review* 115, no. 4 (Spring 2011): 1073-1098.

Rose, Gregory S. "The Distribution of Indiana's Ethnic and Racial Minorities in 1850." *The Indiana Magazine of History* (1991): 224-260.

Rush, Loretta H., and Marie Forney Miller. "Cultivating State Constitutional Law to Form a More Perfect Union-Indiana's Story." *Notre Dame Journal of Ethics & Public Policy* 33, no. 2 (2019): 377-398.

Scherrer, Anton. "Our Town." *Indianapolis Times* (July 21, 1939): 13.
- "Our Town: Ephraim Ensaw." *Indianapolis Times* (March 20, 1940).

Sebrey, Mary Ann. "A Matter of Record: Corydon Woman Wants to Save Stories of Relatives Who Came Here as Slaves." *The Corydon Democrat* (March 25, 1981): 1-2.

Slaughter, Jean. "Levi Coffin: The Roots in Indiana." *Indianapolis Slave Magazine* (May 1977): 20-22.

"Slavery and Freedom in American State Constitutional Development," *Journal of Policy History* 27, no. 2 (2015): 301-336.

Smith, Henry Lester. "The Underground Railroad in Monroe County." *The Indiana Magazine of History* (1917): 288-297.

Strand, Palma Joy. "Racism 4.0, Civility, and Re-Constitution." *Hastings Constitution Law Quarterly* 42, no. 4 (2015): 763-797.

Thornbrough, Emma Lou. "The Race Issue in Indiana Politics During the Civil War." *The Indiana Magazine of History* (1951): 165-188.
- "Indiana and Fugitive Slave Legislation." *Indiana Magazine of History* 50, no. 3 (1954): 201–28.

Whicker, J. Wesley. "Centennial Sketches of the Early History of the Valley of the Wabash." n.d (n.p).

Williams, Sandra Boyd. "The Indiana Supreme Court and the Struggle Against Slavery." *Indiana Law Review* 30 (1997): 305-317.

Appendix A

An Ordnance for the Government of the Territory of the United States, Northwest of the River Ohio

An ordinance for the government of the territory of the United States, North-west of the river Ohio. An ORDINANCE for the GOVERNMENT of the TERRITORY of the UNITED STATES, North-West of the RIVER OHIO.

BE IT ORDAINED by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and nonresident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grand-child, to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, them in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them their deceased parents share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district, — — — And until the governor and judges shall adopt laws as herein after mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be, (being of full age) and attested by three witnesses; — -and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincent's, and the neighbouring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked, he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governors in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of

Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper division thereof — -and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; provided that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the legislature; provided that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years and be a resident in the district, or unless he shall have resided in the district three years, and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: — -Provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district; or the like freehold and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years, and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress, any three of whom to be a quorum, and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall make an oath or affirmation of fidelity, and of office, the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house, assembled in one room, shall have authority by joint ballot to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory, — -to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit:

Article the First. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments in the said territory.

Article the Second. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law; all persons shall be bailable unless for capital offences, where the proof shall be evident, or the presumption great; and fines shall be moderate, and no cruel or unusual punishments shall be inflicted; no man shall be deprived of his liberty or property but by his judgment of his peers, or the law of the land; and should the public exigencies make it necessary for the common preservation to take any person's property, or to demand his particular services, full compensation shall be made for the same; — - and in the just preservation of rights and property it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide and without fraud previously formed.

Article the Third. Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorised by Congress; but laws found in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

Article the Fourth. The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory, shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expences of government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states, as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new states, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Missisippi and St. Lawrence, and the carrying places between the same shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost or duty therefor.

Article the Fifth. There shall be formed in the said territory, not less than three nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western state in the said territory, shall be bounded by the Missisippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincent's due north to the territorial line between the United States and Canada, and by the said territorial line to the lake of the Woods and Missisippi. The

middle state shall be bounded by the said direct line, the Wabash from Post Vincent's to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided however, and it is further understood and declared, that the boundaries of these three states, shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan: and whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted by its delegates into the Congress of the United states, on an equal footing with the original states in all respects whatever; and shall be at liberty to form a permanent constitution and state government: Provided the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

Article the Sixth. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in punishment of crimes whereof the party shall have been duly convicted: Provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and c Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void.

DONE by the UNITED STATES in CONGRESS assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the 12th.

“Northwest Ordinance of 1787.” *1 U.S.C. at LVII-LIX.* 2012.

Appendix B

Clark County Negro Registry, 1805-1810 Table

NAME OF MASTER	Name of Slave	AGE	Former State	YEARS of INDENTURED	DATE OF REGISTERTATION
Evan Shelby	York	17	-	30	10/21/1805
James Arbuckle	Isaac	16	-	44	5/6/1806
William Bullitt	Jemime	36	-	20	7/21/1806
Mary Provine	Aaron	6	-	-	10/6/1806
Mary Provine	Sam	5	-	-	10/6/1806
William Berry	Sarah	13	-	-	11/13/1806
John Evans	Willis	14	North Carolina	-	11/16/1807
John Jackson	Betty	55	Kentucky	10	3/16/1808
Aaron Willcoxen	Judy	29	Kentucky	30	3/16/1808
Waller Taylor	Gabriel	19	Virginia	42	6/15/1808
James Bruce	Moses	15	-	10	10/29/1808
Frederick Fisher	David	17	Kentucky	23	5/8/1809
John Harrison	James	23	Kentucky	32	5/25/1809
Willis W. Goodwin	Anthony	45	Kentucky	16	5/30/1809
Joseph Oatman	Sam	23	Kentucky	26	6/7/1809
James Clark	Sam	9	Kentucky	-	7/3/1809
Samuel Ledgerwood	Adam	42	Knox County	-	7/20/1809
Samuel Ledgerwood	Polly	27	Knox County	-	7/20/1809
John Harrison	Dick	55	Kentucky	10	7/31/1809
Edmund H. Taylor	Anne	48	-	21	10/18/1809

John Chunn	John	7	-	-	12/27/1809
John Maxwell	Rachel	10	-	-	1/1/1810
Daniel Speer	James	20	-	60	5/14/1810
Samuel Gwathmey	Fanny	17	Kentucky	33	7/5/1810
Joseph A. Lingan	Ama	31	-	30	9/5/1810
Joseph A. Lingan	Fanny	7	-	-	9/5/1810
Williamson Dunn	Isaac	8	-	-	9/17/1810
Bezaleel Maxwell	Dick	14	-	-	9/28/1810
Bezaleel Maxwell	-	13	-	-	9/28/1810
David Maxwell	Maria	10	-	-	9/28/1810
David Maxwell	Sarah	19	-	12	9/28/1810
Isaac Shelby	Harry	16	-	21	10/30/1810
Isaac Shelby	Alley	17	-	25	10/30/1810
Evan Shelby	Julia	15	-	40	11/12/1810
Edmund H. Taylor	Ben	15	-	40	11/13/1810

KNOX COUNTY REGISER, 1805-1807 Table

Name of Master	**Name of Slave**	**Age**	**Former State**	**Years of Indenture**	**Date of Registration**
Eli Hawkins	Ann	17	South Carolina	90	11/28/1805
Mathias Rose	Milly	15	Kentucky	70	11/28/1805
Thomas Jones, Sr.	Salia	18	Maryland	10	12/6/1805
Elihu Stout	Pheby	16	Kentucky	60	12/11/1805
Joseph Hollingsworth	Jeffrey	30	South Carolina	20	2/1/1806

Joseph Hollingsworth	Sena	30	South Carolina	20	2/21/1806
William Hawkins	Marget	28	South Carolina	20	2/21/1806
William Hawkins	Jane	6	South Carolina	-	2/21/1806
William Hawkins	Judy	4	South Carolina	-	2/21/1806
William Hawkins	David	2	South Carolina	-	2/21/1806
Daniel Smith	Annes	16	Kentucky	99	5/2/1806
John Hadden	Franky	30	Virginia	30	5/2/1806
John Hadden	Isac	15	Kentucky	40	5/2/1806
John Hadden	James	16	Kentucky	36	5/2/1806
Samuel Ledgerwood	Adam	40	Kentucky	12	7/26/1806
John Murphy	Watt	38	Kentucky	18	9/10/1806
James Ford	Dinah	17	Kentucky	30	9/23/1806
James Ford	Fanny	20	Kentucky	30	9/23/1806
James Ford	Bob	22	Kentucky	30	9/23/1806
Francis Jordan	Ned	16	-	30	9/23/1806
Thomas Harris	Nan	25	Tennessee	38	10/6/1806
Thomas Montgomery	Eve	30	Kentucky	99	10/17/1806
James Johnston	Judy	30	Kentucky	18	10/23/1806
James Johnston	Nero	4	Kentucky	-	10/23/1806
John Johnston	Fame	33	Kentucky	21	11/8/1806
John Grant	Will	36	Kentucky	20	11/18/1806
John Grant	Vine	32	Kentucky	20	11/18/1806
Richard Boyd	Henson	22	Tennessee	-	12/26/1806

Philip Trowell	Janie	17	Tennessee	40	12/28/1806
Philip Trowell	Adam	19	South Carolina	35	12/28/1806
Philip Trowell	Patience	16	Tennessee	40	12/28/1806
Philip Trowell	Cloe	17	Tennessee	40	2/5/1807
Joshua Sexton	Mournen	48	Georgia	14	1/24/1807
Benjamin D. Price	Milly Gorden	60	Kentucky	20	2/10/1807
Benjamin D. Price	Milly	20	Kentucky	40	2/10/1807
Benjamin D. Price	-	8	Kentucky	-	2/10/1807
Robert Elliott	Jack	25	South Carolina	20	2/14/1807
Robert Elliott	Betty	20	South Carolina	20	2/14/1807
Samuel Ledgerwood	Polly	24	Kentucky	11	2/26/1807
James Robb	Ally	24	Kentucky	40	3/5/1807
Martin Rose	Pomp	21	Kentucky	40	3/6/1807
Martin Rose	Ned	27	Kentucky	40	3/6/1807
Martin Rose	Bob	20	Kentucky	40	3/6/1807
James Scott	Ruben	16	Kentucky	50	3/23/1807
Joel Collins	Patrick	-	-	20	3/28/1807
Walter Montgomery	Mime	17	Kentucky	40	4/7/1807
John Warrick	Flora	30	Kentucky	20	4/7/1807
John Warrick	Lemon	32	Kentucky	20	4/7/1807
Adam Goodlet	Dick	18	Kentucky	14	4/10/1807