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TREASON IN INDIANA

A Review Essay

Late at night on October 9, 1862, Dr. Theodore Horton of Wells County, Indiana was called to a carriage which waited in front of his house by a man who was a perfect stranger. As a rural physician, Dr. Horton was used to travelling long distances with strangers to take care of some medical emergency in the county. After they had covered some distance on the road, the stranger arrested the doctor and took him to the Federal Building in Indianapolis. After five weeks' confinement, the authorities released the doctor without granting him a hearing or telling him the specific offense for which he had been arrested.

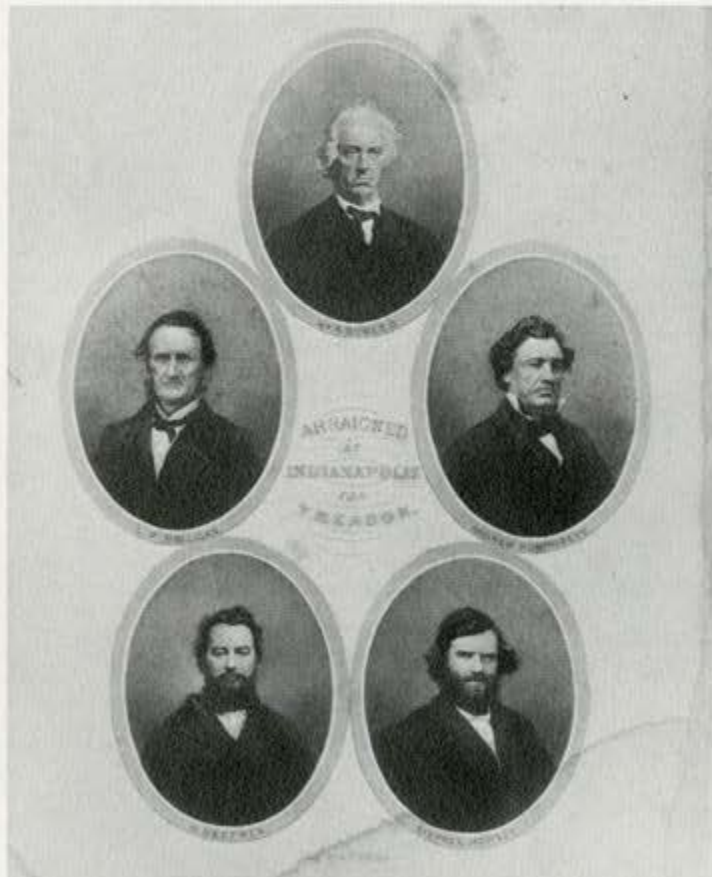
Not long before the night of his arrest, Dr. Horton had attended a political mass meeting addressed by a Republican candidate for the state legislature and by an army recruiting officer. The officer had failed in his request for volunteers for the army, and the crowd had urged Dr. Horton to speak. Witnesses agreed that the doctor linked the recruiting failure to the fact that the Civil War had been converted into a crusade to eliminate slavery and states' rights. Republican witnesses claimed that he urged this as justification for refusing to enlist; Democratic witnesses claimed the doctor merely explained the reason for the recruiting officer's failure. Whatever the case, clearly the doctor's arrest stemmed from his behavior at that political meeting.

Dr. Horton's arrest is one of many incidents recounted in G. R. Tredway's new book, *Democratic Opposition to the Lincoln Administration in Indiana* ([Indianapolis]: Indiana Historical Bureau, 1973). Tredway casts his nets broadly, but in general it can be said he means "opposition" with a vengeance. He does not recount the political opposition of the Democratic legislature in Indiana to the Republican administration in the State or in Washington. Rather his book focuses on the formation of various secret societies embracing prominent Democrats in their membership, their involvement with a "Northwest Conspiracy" to aid the Confederacy,

and the trials for treason which resulted from the exposure of the conspiracy in 1864. To the degree that other instances like the Horton arrest are covered in the book, they are present as background and setting for the formation of the secret societies, the Northwest Conspiracy, and the treason trials. In short, Tredway's book belongs on the shelf with the works of Frank Klement on Copperheads in the Midwest; that, and not Indiana politics in general or Indiana's direct relationship with the Lincoln administration, is the subject of the book.

The Copperheads, steeped in the bitterest controversy of their own era, were bound for controversial treatment at the hands of historians. In general, studies since the 1940's (when "fifth column" movements seemed to be the cause of early fascist successes) have attempted to exonerate the Democratic party from the identification with Copperheadism which Republican politicians of the Civil

War era attempted to establish and succeeded in establishing in the history books for many years thereafter. Most historians agree that the Civil War Democratic party constituted by and large a loyal opposition, although there is little agreement beyond that basic point on what their grounds of opposition were. The questions about Copperheads that remain seem to be three: (1) How large a following did the Copperheads, defined loosely as "peace Democrats," have in the Democratic party? (2) Were the intentions of even the Copperhead or peace-Democrat faction treasonable? (3) Why did they have those intentions to oppose the war? Were they old-fashioned agrarians who harked back to the Jeffersonian and Jacksonian opposition to banks, internal improvements or railroads, and tariffs (and anticipated late nineteenth-century agrarian opposition to railroads by means of Granger laws)? Were they traditional believers in Jeffersonian versions of American constitutional liberty who could not adapt to the curtailments of civil liberties in the North that came with the military campaigns against the South? Were they racists,



From the Lincoln National Life Foundation

The above portraits formed the frontispiece of Benn Pitman, ed., *The Trials for Treason at Indianapolis, Disclosing the Plans for Establishing a North-Western Confederacy* (Cincinnati: Moore, Wiltach & Baldwin, 1865).

pure and simple, driven to opposition by the Emancipation Proclamation and Lincoln's gradual approach to radical policies on the Negro? Were they men of Southern origins moved North only in body but not in spirit?

Only two of the questions have been answered to anyone's satisfaction and one of the two only in part. As Richard O. Curry points out in his summary review of literature on the question, "The Union As It Was: A Critique of Recent Interpretations of the 'Copperheads,'" *Civil War History*, XIII (March, 1967), 25-39, it is clear today as never before that Copperheads were not Grangers-in-the-making. For even if the Copperheads were doctrinaire agrarians who feared the commercial domination of the Northeast, the so-called Granger laws, aimed at the fingers of eastern commercial domination, the railroads, were the product of commercial and small-town animosity, not of farmers' animosity. Whether the Copperheads were agrarians or not remains a moot question, but if they were, they looked backward to the era of Jefferson and Jackson rather than forward to the conflicts of the Gilded Age.

Moreover, it seems clear that Copperheads were not necessarily men of Southern origins living in the southern counties of midwestern states. Curry summarizes studies of Iowa and Ohio that found Copperheads in regions that voted heavily Democratic before the war, whether in the northern or southern sections of the states. Kenneth Stamp's *Indiana Politics During the Civil War* (Indianapolis: Indiana Historical Bureau, 1949) argues that dependence of the southern counties on river trade through the Ohio-Mississippi Rivers system made them vigorous supporters of the war effort to get the Mississippi back in the Union. Tredway's book confirms this incidentally by citing the south-central (Sullivan, Greene, Monroe, and Brown, for example) rather than southern counties as the areas where murders of draft enlistment officers and general violent conflicts between Democrats and Republicans frequently took place.

Tredway's book does not really answer the third question, or rather, it answers the question by saying Copperheads were motivated by all four considerations, economic, ideological, geographical, and racist. He does not concern himself with weighing each strand to find the key contributing factor. However, one of the better sections of the book is a biographical analysis of Copperhead leadership in Indiana, and this section perhaps suggests some conclusions that Tredway does not draw himself. In the chapter on "State Leaders of the Secret Orders," Tredway brings together biographical sketches of William A. Bowles of French Lick, Harrison D. Dodd of Indianapolis, Horace Heffren of Salem, Andrew Humphreys of rural Greene County, Lambdin P. Milligan of Huntington, and John C. Walker of Shelbyville. At least one thing united all these men: the federal authorities in 1864 tried to arrest them and try them for treason.

Little else seems to tie them together in any discernible political or social pattern. They were not all men of Southern origins; Heffren came from New York. They did not live in the south or south-central sections of the State; Milligan was from northern Indiana. If they were agrarians, it was a matter of ideology and not of occupation. Bowles was a physician and Heffren a school-teacher and lawyer. All were Democrats in 1860, apparently, but Dodd had been a Whig, a Know Nothing, and a Republican! Even as Democrats, they came from two different factions of the party, the Douglas and the Buchanan (in Indiana, Bright) faction.

Ideological motivations provide more interesting grounds for speculation if only because they are less clearly defined. However, such motivations had little to do with Walker, whose opposition stemmed from a personal feud with Indiana Governor Oliver P. Morton. Walker supported the war vigorously enough to command an Indiana regiment for almost a year, but fell out with Morton over politically-motivated appointments to his command. Still, he may have been ripe for feuding with Morton because of his pre-war identification with the (Douglas wing of the) Democratic party. Walker came to denounce Republican "tyranny" and "despotism [as good] as that of France or of Austria." He also denounced Republican intentions to subjugate the states and meddle with slavery.

Bowles also attacked the Republicans' "perverted construction of the Constitution" and defended slavery. He added economic considerations: Indiana was tied by commerce to the South and, if left alone with New England in the North, would simply become the "hughers of wood and drawers of water" for the Northeast. Dodd feared the development by Republicans of a "centralized power sufficient to reduce the States to territories" and denounced military interference with civil elections in Kentucky. Andrew Humphreys always warned of dangers to free speech and freedom of the press and urged the people "to stand up for their rights." Milligan began denouncing the "tyranny and usurpations" of the President as early as August, 1861, claiming the war was "illegally brought on by an usurper." The Union had to be saved by and for a "strict construction of the Constitution . . . and the faithful observation of the rights of every section of the Union." By 1864, Milligan was claiming that only a reunion of West and South could save Indiana from "pecuniary vassalage to the commercial and manufacturing interests of the East." He also prided himself upon his soundness on what he called the "Nigger question."

Tredway draws no particular conclusions, and perhaps he is right not to. These men represented, in Tredway's estimation, the party's "lunatic fringe." When Dodd mentioned to Joseph J. Bingham, chairman of the Democratic State Central Committee, a plan to release Confederate prisoners near Indianapolis and precipitate a revolution, Bingham was astonished, refused the request, and called a meeting of party leaders to convince him to drop his plans. Even so, Bingham apparently did not advise federal authorities; the Indiana Democratic party certainly tolerated such bizarre ideas. Moreover, even the lunatic fringe of a party may carry its underlying principles to their logical, if impolitic, extremes. The Copperheads' political opinions seem worth some analysis.

At first blush, one feels inclined to agree with Richard O. Curry that these Copperheads seem motivated by an old-fashioned ideology of strict constructionist constitutionalism. Their economic program seems opportunistic at most. Only Bowles and Milligan seem to have mentioned economic questions at all, and Milligan apparently came to stress the theme in 1864; in 1861, constitutional questions preoccupied him, and they still interested him at the later date. Bowles's mention of commerce was incidental to his stress on other themes. Walker had personal business interests of his own, interests of the internal improvement variety, river channelization and swamp reclamation, not agricultural interests.

Yet the constitutional theme fails to yield a consistent pattern as well. Horace Heffren, as a member of the Indiana legislature in 1861, argued that wars naturally abridged the liberties of the people and that the government's war powers must be broad. Eventually, he would denounce Lincoln for persistent violation of the Constitution and for dictatorial tendencies — but only after the issuance of the Emancipation Proclamation.

In fact, none of the men seems to have supported the war after September of 1862, though some supported it before then. Both Heffren and Walker were out of the military service by then and did not return. Humphreys surfaced as an opposition leader only in the spring of 1863; Dodd's activities apparently began to increase significantly about the same time. Bowles and Milligan opposed the war from the start, well before it could realistically be construed as a crusade against slavery, denouncing broad construction of the Constitution for the war effort. In both cases, however, strict constructionism was coupled with concern about slavery and might be interpreted as high-toned and statesmanlike codewords for racism. Bowles had brought some of his wife's slaves to Indiana in violation of the state constitution, but he had escaped conviction because of faulty indictments. During the secession crisis of 1861, he defied opponents to prove that slavery was not "legally and morally right." Milligan denounced the war as illegal in 1861, but he also denounced it as a war "for the furtherance of the ends of a foul, fanatical, abolition party."

There was no constitutional nicety involved in the Vincennes *Western Sun's* denunciation of Lincoln for dismissing McClellan in November, 1862: "We hope he will arrest Lincoln, Halleck, Stanton, and Company — place them in prison — disperse the present abolition



Photograph Courtesy of the Fort Wayne Public Library, Fort Wayne, Indiana

The above map of Indiana appeared in [Alfred T. Andreas], *Illustrated Historical Atlas of the State of Indiana* (Chicago: Baskin, Forester & Co., [1876]). To note the geographical location of the home counties of the men mentioned in this *Lincoln Lore* is to see that sectional interpretations of the Copperhead movement are too simple. The configuration of the counties, incidentally, was the same in Civil War times except that Jasper included the area of Newton.

Congress — call a convention of the states (excluding New England) to fix a basis for settlement." One cannot help but wonder whether constitutionalism most often provided a high-sounding code for resistance to what was really feared, emancipation. In Tredway's sketches of Copperhead leaders one can find instances of support for broad war powers, only a few instances of economic complaint about banks, tariffs, or railroads, but not a single claim of even moderate anti-slavery sentiment. Slavery attitude and not constitutionalism or economic interest seems to have been the commonest denominator.

Tredway begins his book by emphasizing policy towards Negroes as the most important of the various factors contributing to opposition to the Lincoln administration, but he loses interest along the way, choosing not to weigh the contributing factors in his leadership analysis which appears seven chapters later. The result is to give the impression that constitutionalism was more important than it really was and, therefore, that Democratic opposition was a response to Republican moves on all fronts, constitutional, economic, and racial. In short, Tredway believes that Democratic opposition was largely a response to Republican aggression. In asserting this, he documents what Frank Klement argued thirteen years ago in *The Copperheads in the Middle West*: that Democratic secret societies were mutual protection societies organized to counter Republican secret societies and loyal leagues, and that Democrats at first denounced all secret societies (a legacy of their anti-Know Nothing stance in the fifties perhaps).

In fact, Tredway tries to write two books at once. The first is a sort of social history of Indiana during the Civil War, focusing on violent partisan conflicts as reported in county newspapers. This is a patchwork of vignettes of soldiers run amok, of intimidation of the press and of public speakers, of draft resistance, and of calls for troops to put down expected violence. The second is a study of the Indiana treason trials. Both are worthwhile subjects, but they each deserve undivided attention. By splitting his focus, he obscures the issues and fails to document his conclusions effectively.

The first topic demands exclusive focus because the events are difficult to evaluate. One example is the death of Lewis Prosser. For all events of partisan violence there are at least two versions; in Prosser's case the reports differ sharply. Here is the Republican version as summarized by Tredway:

... Lewis Prosser, former state legislator and a leader of the Brown County Democracy, appeared at the meeting [at Bean Blossom, April 18, 1863] with a companion named William Snyder armed to the teeth and intent upon breaking it up. Captain Ambrose D. Cuning and four soldiers of the 70th Indiana were present, however, and thwarted Prosser's plan. A wild gun battle broke out in the crowded meeting hall when Prosser shot and killed a sergeant who was merely remonstrating with him. Prosser was put out of action by a bullet from the revolver of Captain Cuning and Snyder was overpowered and disarmed.

And here is the Democratic version:

Prosser had attended in response to "repeated and urgent solicitations" by Republican leaders to engage in "public discussion" with some of them. He and Snyder had been squirrel hunting and arrived still carrying their rifles. They disapproved of the speaking arrangements, however, and proposed to withdraw, but the soldiers attempted to force them to remain. A sergeant wrestled with Prosser and forcibly took his rifle, whereupon Prosser drew a revolver and killed his assailant.

To keep a long book from being even longer, Tredway concludes that the Democratic version is nearer the truth largely because the results of a bipartisan investigation initiated by Governor Morton were never made public. Tredway might at least have summarized the competing case. Both sides agree that Prosser came armed, that he brought an uninvited armed companion with him, and that Prosser fired first. Whatever the case, the reader will be indebted to Tredway for describing a large number of similarly interesting but little-known events.

Tredway's answer to the first question about the Copperheads (how large a group were they?) is that they were a small group that grew larger as the Lincoln administration's policies in regard to civil liberties drove

more and more moderate Democrats into agreement and association with the lunatic fringe. His answer to the second question concerning the nature of their platform is a departure from Klement, Curry, and other writers who have stressed the loyalty of the opposition in the Civil War. Tredway believes there was a Northwest Conspiracy with treasonable intentions, but he retains the flavor of Klement's work by saying that it could have come to fruition only if defensive, that is, only if the Lincoln administration had used troops at the polls in Indiana in the same way it did in border slave states like Kentucky. Tredway's proof of the latter point must rest on two things: (1) analysis of the plans of the leaders and (2) analysis of discontent in the State, showing that it was growing in 1864. The first he provides; the second, however, he fails to provide because he abandons his county-level social history for a close treatment of the treason trials and the events leading up to them.

This is not to say that the second book Tredway attempts to write is without its virtues also. Chief among them is a detailed analysis of the evidence from the treason trials, relying principally upon manuscript sources rather than the conventional source, Benn Pitman, ed., *The Trials for Treason at Indianapolis, Disclosing the Plans for Establishing a North Western Confederacy* (Cincinnati: Moore, Wiltach & Baldwin, 1865). Pitman, says Tredway, was not so much biased in his reporting as pressed for space, but the result was nevertheless distortion of the record. For example, summaries of testimony read like a narrative of the witnesses, but the testimony was actually elicited by unreported questions from the prosecutor. It is sometimes illuminating to know what questions witnesses were answering.

To some degree, Tredway's observations on the trial do not go much beyond conventional folk wisdom. We all know the old saw that military justice is to justice what military music is to music. In other words, the treason trial could not live up to high standards of civil justice simply because it was trial by military commission. Nonetheless, the specific workings of such a trial are not common knowledge and Tredway's description is interesting:

A military commission consisted of a board of army officers headed by a president which heard evidence and passed sentence, with two-thirds majority required for death. The commission also determined procedure and ruled on the admissibility of evidence. The president presided only nominally, and a trial was really controlled by the judge advocate, whose powers combined those of a prosecuting attorney and a presiding judge in the civil judiciary. Since the president of the commission and its members usually knew little of the law, they were subject to manipulation by the judge advocate.

Even more interesting is Tredway's analysis of the actual testimony presented within the context of this trial by military commission. Here the reader will find the all-too-familiar trappings of state political trials: *agents provocateurs*, spies who were the steadiest attenders at secret meetings, and cases of near entrapment (in some cases, spies seem to have established the very military organizations which defendants got into trouble for joining).

Ironically, however, to undermine the proofs of guilt at the trial and to ridicule the extent of the supposed conspiracy is to undermine the first half of Tredway's book. The effect is to document what Klement, Curry, and Stampf contended long ago, that the opposition was loyal and that conspiracies were largely the figments of Republican imaginations or even the constructs of Republican politicians in search of an issue to smear their honest adversaries. Not only does Tredway try to combine two books in one, but they are also books essentially at cross purposes with each other.

It is little wonder, though, that Tredway's treatment of Copperheads in Indiana is confused, for confusion reigns supreme throughout the literature on the question. Take, for example, Curry's historiographical summary of recent literature on the Copperheads. It is written to systematize and bring some clarity to the confusing mass of books and articles written about Copperheads in different states. These studies are written from perspectives

(To be Continued)