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Laws of Indiana Territory, 1801-1809, by Francis S. Philbrick

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BOOK REVIEWS

LAWS OF INDIANA TERRITORY, 1801-1809. By Francis S. Philbrick. Springfield, Illinois. Illinois State Historical Library. 1930. Pp. CCLXXXII, 734. Price \$3.00.

This volume is a publication of the laws of Indiana Territory, including both Indiana and Illinois, from 1801 to 1809, with a long introduction of two hundred eighty-two pages, by Professor Philbrick. The laws published furnish a wealth of historical material. Mr. Philbrick has done admirable work as an editor, and his introduction is a valuable contribution. All of his work seems to be conscientious and accurate. Mr. Philbrick divides the history of Indiana Territory into three stages. The first stage was the autocratic, somewhat military, non-representative government from 1787 to 1799. In this stage the government was by the governor and judges appointed from Washington. In this stage there was no legislative body. The governor and judges made the laws. The second stage was that of representative government from 1804 to 1809. In this stage the people had a legislature, and self-government was therefore introduced. This form of government was brought out by the slavery sentiment. The people also had a delegate to Congress. The governor appointed the judges, executed the laws, and had a veto power. He was still appointed from Washington. The third stage was that which existed after Illinois was made an independent territory. This division in Indiana Territory was brought about in 1809 because of its size, which made the judicial system, especially, inconvenient; because of slavery sentiment; because of the general spirit of individualism; and because of the fear on the part of the western counties of control by the eastern counties. The chief interest at this time was the slavery question.

The first figure in this period was that of William Henry Harrison, although in the latter part of the period his influence began to wane. He was attacked by the Divisionists because of his appointive power, his land policy, his attitude on representative government, and his treatment of the Indians. It is probably doubtful if a majority of all the people wanted division, but the leading Illinois men did, and they finally got it. Mr. Philbrick differs with Mr. Esarey as to the power and principles of Mr. Harrison.

One of the great problems of these years was the problem of land titles. There was complete confusion of titles. The acquisition of land was characterized by corrupt speculation. Attempted settlements of claims by Governor St. Clair and by Governor Harrison were full of errors, although Governor Harrison did not show the favoritism which Governor St. Clair showed. But everywhere the land situation was characterized by incredible fraud, forgeries, subornation, and perjury, all of which were uncovered by the Board of Federal Land Commissioners appointed to examine land titles in Indiana Territory.

The sources of the laws of Indiana Territory were (1) English law, prior to 1607, although the French insisted upon being governed by French

law, (2) the enactments of the Northwest Territory, and (3) the laws of Indiana Territory, both those of the first-grade government and those of the second-grade government. The laws were not printed until 1804. The French could not understand English, and there was such opposition to all tax laws that the scheme of social control set up was entirely inadequate. It was characterized more by disobedience and nullification than by any real control.

The social life was characterized by gambling, lotteries, drunkenness, the teaching of vices to Indians, frontier fighting, vagrancy, idleness, and Sabbath breaking. Governor Harrison said that the territory had become "an asylum for the vile and abandoned criminals." Laws against such practices as have been named were promulgated in Puritan fashion, but also in Puritan fashion they were not enforced. Mr. Philbrick gives one instance of a legislative divorce. Imprisonment for debt was common. Slavery of the blacks existed, in spite of the Northwest Ordinance (Mr. Esarey to the contrary), through the option given to the blacks either of indenture or going back to their slave state.

The judicial system was characterized by circuit riding. This was unsatisfactory and burdensome. The admission requirements for attorneys were low; yet the reason for this was not the scarcity of attorneys. Even the judges were corrupt. Yet, if there was any learned profession in the territory, it was the legal profession. On the whole, the laws published in this volume and the introduction of Mr. Philbrick give a sorry picture of the political and social life of the people of Indiana Territory. It is too sordid and primitive to awaken anything but shame and disappointment. But perhaps many things which still exist in the state of Indiana can be better understood in the light of the early history of the period covered by this volume.

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LAWS OF INDIANA TERRITORY, 1801-1809. By Francis S. Philbrick. Indianapolis, Indiana. Historical Bureau of the Indiana Library and Historical Department. 1930. Pp. CCLXXXII, 741. Price \$3.00.

This volume is a reprint of the volume reviewed above and is like the above volume in every respect, except for a supplement to the appendix, printed after the index, containing a list of officials, and except for four additional maps. The Indiana reprint is issued on thin paper so that the volume is only half the size of the original publication. One hundred copies have been printed on rag paper for the sake of permanence for preservation in the larger libraries of the state.