

# The Persistent Nullifier

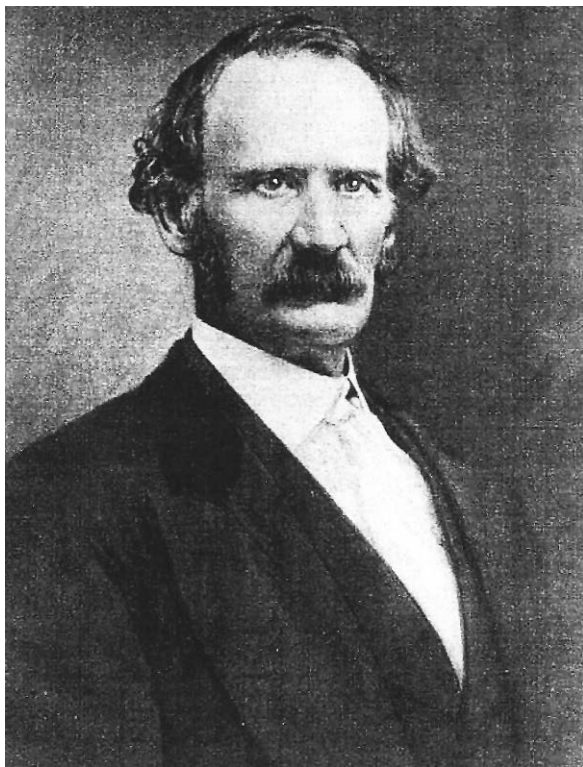
## The Life of Civil War Conspirator Lambdin P. Milligan

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When Lambdin P. Milligan rose to speak from a Fort Wayne, Indiana, hotel balcony to assembled Democrats of the 11th Congressional District, he stood at the pinnacle of his power. The Huntington man looked out over the upturned faces of thousands gathered to hear his words. It was a hot Saturday afternoon on August 13, 1864. Though rejected by the majority of delegates at the state Democratic convention in his bid for the party's gubernatorial nomination one month earlier, he knew he commanded a sizeable minority of the party who clamored for an immediate end to the war against the Confederate states. Many in that minority were members of the secret "Sons of Liberty" organization, which counted tens of thousands of followers in Indiana and plotted armed revolution in opposition to the government of President Abraham Lincoln. Milligan was one of the group's top leaders in the state, and, gazing at the throng below him, he saw the faces of fellow conspirators. His speech that afternoon excoriated the Lincoln government and demanded an immediate end to the war against the rebel states, which, he claimed, were perfectly within their rights to secede from the

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Lambdin P. Milligan, c. 1860. In the nearly 150 years since the U.S. Supreme Court case that bears his name, historians have portrayed Milligan along a wide historical spectrum from victim to villain, often basing their judgment upon misinformation and historical presentism.

Union. Concluding, he called on his followers to resist the upcoming draft and take up arms—“arm yourselves as best you can”—to fight for “liberty, order and peace.”

Milligan's call to arms was not simply high-flown rhetoric, so common in his day. It was a literal call for mass uprising against the government. Just three days later, on August 16, leaders of the Sons of Liberty planned an armed attack to free thousands of Confederate prisoners of war held in Camp Morton in Indianapolis. Following their leaders' orders, men from around the state filtered into the capital city by wagon and train, poised to attack. But at the last minute the conspiracy's leaders got cold feet and aborted the plot. With the passing of the revolutionary moment, Milligan's power slipped away; soon, the man who had commanded the crowd at Fort Wayne languished in a military prison.

Who was Lambdin P. Milligan? What did he believe? What did he do during the Civil War? Over the years, historians have arrived at differing, even contradictory, answers to these questions. Local historians—the compilers of county histories and boosters of civic pride—praise him for building roads, draining marshes, and bringing railroads to Huntington, often politely passing over his wartime misdeeds with mild rebukes.<sup>1</sup> One widely cited historian erroneously depicts him as a good Roman Catholic communicant during the war years, “proud of his Celtic background and his religion.”<sup>2</sup> Historians of Indiana’s Civil War-era politics have portrayed him as a victim of the unscrupulous and dictatorial measures of Indiana governor Oliver P. Morton and his henchmen.<sup>3</sup> Others, perhaps mindful of twentieth-century, anti-Communist witch hunts, cast the wartime conspiracies as fantasies concocted for political purposes. Morton and other northern Republican politicians figure, once again, as the villains in this scenario, and Milligan simply as a victim of tyranny.<sup>4</sup> Another historian with an eye on today’s militia movement portrays him as a half-hearted revolutionary, a member of the secret organization but uninvolved in its plots.<sup>5</sup>

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<sup>1</sup>*Historical Sketch of Huntington County, Indiana* (Huntington, Ind., 1877); Frank S. Bash, ed., *History of Huntington County, Indiana: A Narrative Account of Its Historical Progress, Its People, and Its Principal Interests* (Chicago, 1914); Darwin Kelley, *Milligan’s Fight Against Lincoln* (New York, 1973).

<sup>2</sup>Frank L. Klement, “Catholics as Copperheads during the Civil War,” *Catholic Historical Review* 80 (January 1994), 36-57. Throughout his large corpus on the “copperheads,” Klement erroneously makes Milligan a Catholic during the war. Numerous historians have echoed him. See, for example, Allan Nevins, “The Case of the Copperhead Conspirator,” in John A. Garraty, ed., *Quarrels That Have Shaped the Constitution* (New York, 1964), 92.

<sup>3</sup>See Kenneth M. Stampp, “The Milligan Case and the Election of 1864 in Indiana,” *Mississippi Valley Historical Review* 31 (June 1944), 41-58; and Stampp, *Indiana Politics during the Civil War* (1949; reprint, Bloomington, Ind., 1978); Gilbert R. Tredway, *Democratic Opposition to the Lincoln Administration in Indiana* (Indianapolis, Ind., 1973).

<sup>4</sup>Klement, the chief advocate for demonizing Morton and other Republican politicians, repeatedly argues that Morton presided over a conspiracy to smear the Democratic opposition for partisan purposes. See Frank L. Klement, *The Copperheads in the Middle West* (Chicago, 1960); Klement, “Carrington and the Golden Circle Legend in Indiana during the Civil War,” *Indiana Magazine of History* 61 (March 1965), 31-52; Klement, *Dark Lanterns: Secret Political Societies, Conspiracies, and Treason Trials in the Civil War* (Baton Rouge, La., 1984); and Klement, “The Indianapolis Treason Trials and Ex Parte Milligan,” in Michal R. Belknap, ed., *American Political Trials* (Westport, Conn., 1981), 101-127. For echoes of Klement’s argument, see Jean H. Baker, *Affairs of Party: The Political Culture of Northern Democrats in the Mid-nineteenth Century* (1983; reprint, New York, 1998); and Michal R. Belknap, “Alarm Bells from the Past: The Troubling History of American Military Commissions,” *Journal of Supreme Court History* 28 (November 2003), 300-322.

<sup>5</sup>Robert H. Churchill, “Liberty, Conscription, and a Party Divided: The Sons of Liberty Conspiracy, 1863-1864,” *Prologue* 30 (Winter 1998), 295-303; and Churchill, *To Shake Their Guns in the Tyrant’s Face: Libertarian Political Violence and the Origins of the Militia Movement* (Ann Arbor, Mich., 2009), 140-43.

Historians have made Milligan into various men for varying seasons. This essay cuts through the misinformation and the presentism of many accounts to identify who Milligan was, what he did, and what he believed. It is based on research in records that previous Milligan biographers and historians have largely ignored. These records reveal that, contrary to the litany found in other historians' works, much of it echoing wartime partisan apologia, he was no victim of political villainy. Far from it: Milligan ventured into conspiracy and treason with his eyes wide open, driven by his lifelong ideological imperatives. From his earliest manhood, he espoused the theory of federal relations that held that the states were sovereign and the central government was merely an agent of the states, which could rightly negate (nullify) any federal law. Under this theory, the Constitution permitted a state to secede from the Union. When secession and the Civil War came, Milligan and other Northerners believed the rebels had right on their side. Adherence to these political theories drove them to participate in wartime conspiracy to subvert the federal government and aid the Confederate rebellion. Milligan feared government tyranny and acted to curb what he saw as Abraham Lincoln's usurpation of authority. He helped to lead a secret society that plotted violent actions, and, with others, he called for the Union's northwestern states to declare their independence from the states of the Northeast. Anxious to combat such plots, government authorities employed spies, who identified Milligan as one of Indiana's leading conspirators. Officials in Washington, D.C., including the president, decided to employ military commission tribunals to try some of the leading plotters for conspiracy and treason, believing such trials to offer a more expedient means of securing convictions than the federal civil courts.

Arrested, tried, and convicted by the army, Milligan faced execution. His habeas corpus appeal reached the U.S. Supreme Court after war's end, at a time when many jurists desired an end to wartime legal chaos. In 1866, the court ruled in *Ex parte Milligan* that the military trial of a civilian in a place where the civil courts remained open was unconstitutional. The justices ordered Milligan's release.<sup>6</sup> In 1871, in a major civil rights case, the Indiana man sued those who had arrested him during the war for damages

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<sup>6</sup>U.S. Supreme Court Chief Justice William H. Rehnquist deemed *Ex parte Milligan* the first civil rights decision of that court. See Rehnquist, *All the Laws But One: Civil Liberties in Wartime* (New York, 1998), 128-37.



The twelve-member military commission that presided over the Indianapolis treason trials of 1864. Milligan's appeal of his conviction by the commission reached the U.S. Supreme Court.

U.S. Army Archives

in civil court.<sup>7</sup> Some historians have wrongly parroted partisan protestations of Milligan's innocence; others have minimized the threat posed by the conspiracies. This study shows that army commanders rightly believed that he was deeply implicated in the plots, which were widespread and serious. Milligan, driven by his long-held ideologies, conspired against his government. He was simply tried in the wrong court.

Lambdin Purdy Milligan was born on March 24, 1812, in rural Belmont County, Ohio, the eighth child of migrants from Maryland.<sup>8</sup> His father, Moses Milligan, a convert from Catholicism, raised his family in Meth-

<sup>7</sup>Federal jurist Allen Sharp argues that Milligan's federal civil suit was the "first great civil rights jury trial." See Sharp, "The Milligan Aftermath: A Celebrity Civil Rights Case," *Litigation* 24 (Summer 1998), 53-56, 70-71.

<sup>8</sup>A.T. McKelvey, ed., *Centennial History of Belmont County, Ohio, and Representative Citizens* (Chicago, 1903), 262. Many thanks to Patricia Sproat for sharing information from her unpublished genealogy, "Descendants of John Milligan." See *History of Huntington County Indiana from the Earliest Time to the Present* (Chicago, 1887), 514; and Florence L. Grayston, "Lambdin P. Milligan—A Knight of the Golden Circle," *Indiana Magazine of History* 43 (December 1947), 379-91.

odism and named his son after an itinerant Methodist preacher.<sup>9</sup> Little is known of Lambdin's Belmont County childhood other than the fact that his "decided taste for reading" led him to study law.<sup>10</sup> Accounts of Milligan's legal education are garbled. Obituaries noted incorrectly that he read law with "Shannon Alexander," but no such person existed.<sup>11</sup> Biographer Florence Grayston clarifies that he studied with "Shannon and Alexander" in St. Clairsville, the county seat, suggesting that it was a legal partnership.<sup>12</sup> The Shannon and Alexander families, prominent clans in Belmont County, both produced multiple attorneys who could have tutored him. Yet no law partnership of a Shannon and an Alexander appears to have existed at that time. Most likely, he studied with the rising Ohio politician Wilson Shannon. Shannon later served two terms as governor of Ohio and was appointed territorial governor of Kansas during the worst of the bloodshed of the 1850s.<sup>13</sup> The only verifiable fact is that state authorities admitted Milligan to the Ohio bar on October 27, 1835, at St. Clairsville.<sup>14</sup> On the same day, he married Sarah Ridgeway, member of a Belmont County farm family of Quakers and Methodists.

Lambdin Milligan came of age amidst the nullification crisis, the political conflict borne of differing views of the relationship between the states and the central government. President Andrew Jackson, at once a firm states' rights man and a nationalist believer in a perpetual Union, had faced down political forces led by his former vice president, John

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<sup>9</sup>William Lambdin served several Methodist congregations in the region. McKelvey, ed., *Centennial History of Belmont County, Ohio*, 250-51; and *The Methodist Magazine: Designed as a Compend of Useful Knowledge of Religious and Missionary Intelligence*, volume 8 (New York, 1825), 166, 444. A brother, Moses Asbury Milligan, named for another Methodist leader, became a circuit-riding Methodist pastor.

<sup>10</sup>*History of Huntington County Indiana*, 514.

<sup>11</sup>*Indianapolis Indiana State Journal*, December 13, 1899.

<sup>12</sup>Grayston, "Lambdin P. Milligan—A Knight of the Golden Circle," 381.

<sup>13</sup>From 1826 to 1834, Wilson Shannon practiced in partnership with William Kennon Sr. After dissolving their partnership, Shannon practiced alone until joining with Robert J. Alexander in 1841. Donald Eugene Day, "A Life of Wilson Shannon, Governor of Ohio, Diplomat, Territorial Governor of Kansas" (Ph.D. dissertation, Ohio State University, 1978), 15, 27. One historian characterizes Shannon as a "mediocre Ohio politician" whose "ineptitude" as governor of Kansas and clear support of proslavery settlers exacerbated the rising tide of violence. See Nicole Etcheson, *Bleeding Kansas: Contested Liberty in the Civil War Era* (Lawrence, Kan., 2004), 69, 82, 104.

<sup>14</sup>*History of Huntington County Indiana*, 514. Milligan told the compilers that he graduated "at the head of a class of nine," one of whom was Edwin M. Stanton, who later would play a significant part in his life. Lambdin's older brother, William, also studied law and was admitted to the bar in 1837.

C. Calhoun, who espoused strict beliefs in the supremacy of sovereign states over the federal government.<sup>15</sup> In February 1834, the twenty-one-year-old Milligan served as secretary at a meeting in St. Clairsville of "Original Jacksonians." The group described themselves as being raised in the "Jeffersonian school of '98 and '99," a reference to the Kentucky and Virginia Resolutions of 1798 and 1799, documentary pillars of state supremacy written respectively by Thomas Jefferson and James Madison. The assembled men protested the state Democratic Party leadership's moves, following Jackson's orders, to throw support behind Vice President Martin Van Buren to succeed to the presidency. While still in Congress in 1828, Van Buren had pushed through the tariff bill that had enraged South Carolinians and had prompted them, at Calhoun's urging, to claim the constitutional right to "nullify" offensive legislation. Saying it was too soon to select the next president, Milligan and other petitioners also rebuked Jackson's 1833 "Force Bill"—a measure that would have given the president powers to enforce federal authority in South Carolina with state militia forces as well as the army and navy—as an "unwarranted assumption of power" that "threatens to annihilate State Sovereignty, and with it the last vestage [sic] of liberty." The signers agreed with the Calhounite principle that the federal government possessed only "strictly limited powers...delegated by the States."<sup>16</sup> In the following weeks, the editor of the local Democratic Party newspaper, a disciplined Jackson man, accused the signers of being faithless to their great leader who had stood up to the nullifiers. "A party is organizing in this State," he warned, "under factious leaders, who are collegued with John C. Calhoun and the South Carolina Nullifiers, or secessionists, with the caption '*State Rights Party*.'" He exhorted his readers not to be "unconsciously led into the vortex of *rebellion*, *nullification*, and *secession*." Certain that many men had signed under the "wrong impression," he claimed that the organizers

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<sup>15</sup>The best work on the nullification crisis remains Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York, 1987). For a study of constitutional arguments regarding the nature of the Union, see Kenneth M. Stampp, "The Concept of a Perpetual Union," *Journal of American History* 65 (June 1978), 5-33. For works on the influence of nullification in northern political thought, see Kevin M. Gannon, "The Political Economy of Nullification: Ohio and the Bank of the United States, 1818-1824," *Ohio History* 114 (2007), 79-104; Gannon, "Calculating the Value of Union: States' Rights, Nullification, and Secession in the North, 1800-1848" (Ph.D. dissertation, University of South Carolina, 2002); Christian R. Esh, "The Sacred Cause of State Rights: Theories of Union and Sovereignty in the Antebellum North" (Ph.D. dissertation, University of Maryland-College Park, 2006).

<sup>16</sup>*St. Clairsville [Ohio] Gazette*, February 8, 1834.



of the meeting meant to draw off good Jackson men to archrival Henry Clay. Local Jackson supporters joined in the assault on the renegades. A counter petition, signed by such local Democratic potentates as Wilson Shannon, blasted the “combined forces of nullification, Federalism, and the Bank.” Duly threatened by party leaders with expulsion and other punishments, many of the signers publicly recanted, admitting that they had signed under the misapprehension that the meeting had been sanctioned by the party. One confessed that “I hate Nullification with all my heart” and equated it with treason; another viewed the meeting as part of a scheme to divide the party. The recanters further endorsed Van Buren to be Jackson’s successor.<sup>17</sup>

While many of the original signatories buckled to Democratic Party pressure and recanted, Milligan stood firm. He joined a group of about fifty men at a follow-up meeting, where the participants again repudiated any attempt to anoint Van Buren for the presidency and stated that neither Van Buren nor Henry Clay was a worthy successor. They reiterated that they would “support no candidate for that office, but a republican of the Jeffersonian school of ’98 and ’99,” and they announced their fealty to Jackson, while lamenting that he was surrounded by bad advisers. They voiced dismay at the encroachments of federal power into matters reserved to the states, and subscribed to the Kentucky and Virginia Resolutions as the cornerstones of government. The Democratic newspaper commented dismissively on the group but observed that while the dissidents followed the two historic resolutions as their “textbook,” they rejected a resolution put forward by Milligan’s committee that endorsed nullification.<sup>18</sup> The dissident group met once more, with Milligan again serving on the resolutions committee, and attacked Van Buren and banks.<sup>19</sup>

The meetings of the Belmont County “original Jacksonians” mirrored a splintering of the Democratic Party taking place in communities around the country, as men left Jackson’s party and threw their support to his opponents. Belmont County newspaper accounts show that Milligan was

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<sup>17</sup>*Ibid.*, February 8, 15, 22, 1834.

<sup>18</sup>*Ibid.*, March 1, 1834.

<sup>19</sup>*St. Clairsville [Ohio] Belmont Journal and Enquirer*, March 22, 29, and April 5, 1834; *St. Clairsville Gazette*, June 6, 1835. Robert J. Alexander, one of those who may have tutored Milligan in the law, also attended the meetings and helped compose the anti-Jackson resolutions. At the time, he owned a newspaper that published the meeting’s proceeding and served as an opposition mouthpiece.



among them. He followed Calhoun into the Whig Party when the South Carolinian began to act loosely in concert with Clay and other anti-Jackson leaders. He secured appointment to represent the county at a state Whig convention in 1837 and worked to advance Whig interests by speaking and electioneering.<sup>20</sup> But when President Van Buren wooed Calhoun back to the Democratic Party with proslavery promises, Milligan, the nullifier, followed Calhoun back into the fold.<sup>21</sup> In April 1838, shortly after Calhoun's return to the party, the young Ohio lawyer appeared at the Democratic celebration of Jefferson's birthday, offering toasts that reprimanded nationalist Whig heroes John Quincy Adams and Daniel Webster. The Whigs were the heirs of the hated Federalists, he exclaimed.<sup>22</sup> He was soon selected as a county delegate to the Democratic state convention, lending his skills to the composition of county convention resolutions. He spoke in favor of Wilson Shannon in his bid for governor and denounced banks. Significantly, he offered a resolution that "domestic institutions of the States [are] sacred to themselves," adding that any "interference" by the federal government was a violation of the Constitution and "should not be tolerated to gratify religious or political bigotry."<sup>23</sup> Such language conveyed a clear message that slavery was protected by the U.S. Constitution and that abolitionism, driven by religious or moral beliefs, was unconstitutional and unlawful. His resolution, a full-throated endorsement of slavery, was modeled closely on Calhoun's resolutions introduced on the floor of the U.S. Senate defending the institution.<sup>24</sup> Milligan stumped for Democratic candidates and at one July 4 celebration offered the traditional toast: "Our country right or wrong."<sup>25</sup> It bears note that while Milligan returned to the Democratic Party and took a leading role in county party affairs, he absented himself from celebrations of Jackson's January 8, 1815, victory over the British

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<sup>20</sup>St. Clairsville [Ohio] *Belmont Chronicle*, June 27 and August 8, 1837.

<sup>21</sup>Charles M. Wiltse, *John C. Calhoun: Nullifier, 1829-1839* (New York, 1949), 344-51, 374-79. For the origins of the Whig coalition, see Michael F. Holt, *The Rise and Fall of the American Whig Party* (New York, 1999), 20-32. See also Robert V. Remini, *Henry Clay: Statesman for the Union* (New York, 1991), 458-70. A scholar of Calhoun's political thought notes that "In the end, for Calhoun, protecting slavery was a higher principle than states' rights." See James H. Read, *Majority Rule Versus Consensus: The Political Thought of John C. Calhoun* (Lawrence, Kan., 2009), 106.

<sup>22</sup>St. Clairsville *Gazette*, April 21 and 28, 1838.

<sup>23</sup>Ibid., August [illegible] and September 8, 1838.

<sup>24</sup>Wiltse, *John C. Calhoun*, 370-74.

<sup>25</sup>St. Clairsville *Gazette*, July 11, 1840.

at New Orleans, a day which party faithful typically celebrated in public jollifications.<sup>26</sup> But Milligan could not honor the nationalist foe of his champion, Calhoun. Jackson had been a state sovereignty adherent and slavery defender, but in facing down the nullifiers, he had violated the meaning of the Kentucky and Virginia Resolutions. A few years later, on the occasion of Jackson's birthday, Milligan again refused outright to speak at a party rally in Old Hickory's honor.<sup>27</sup> Though he once called himself an "original Jacksonian," Jackson the nationalist was now anathema to him.

By the early 1840s, Milligan had established himself as a proslavery northern Democratic defender of the South. By embracing Calhoun's brand of Democratic ideology, he signaled his adherence to the belief that slavery was a positive good to society and the rightful status for African American men and women. He rejected abolitionism, which emerged as a significant force in northern politics in the 1830s and prompted heightened sectional tensions. From its founding, many members of the Democratic Party had protected the "peculiar institution" of southern slavery. Northerners who feared the rise of sectional discord over slavery as a threat to the Union allied themselves with southern proslavery advocates. Milligan was one such "doughface" northerner. Coming of age in the nullification crisis, he embraced the state sovereignty ideology enunciated by Calhoun. He held these views for the rest of his life, believing them to be the "first principles" of American constitutionalism and allowing them to guide his political actions in the years to come.<sup>28</sup>

While politics was central to his life, Milligan had a growing family to support. In 1842, he moved to Cadiz in neighboring Harrison County to practice law and Democratic politics. But he did not remain there long. Evidence suggests that he needed money. When his father Moses died in 1843, Lambdin, as executor and recipient of the lion's share of the estate, quickly sold the farm for \$2500. Sarah's mother, Rebecca Ridgeway, loaned

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<sup>26</sup>Ibid., January 18, 1839.

<sup>27</sup>Cadiz [Ohio] *Democratic Whig Standard and Public Advertiser*, March 16, 1844.

<sup>28</sup>An important study of "doughface" politics in the North is Leonard L. Richards, *The Slave Power: The Free North and Southern Domination, 1780-1840* (Baton Rouge, La., 2000). See also Morton M. Rosenberg and Dennis V. McClurg, *The Politics of Pro-Slavery Sentiment in Indiana, 1816-1861*, Ball State Monograph Number Twelve, Publications in History Number Three (Muncie, Ind., 1968); and Nicholas Wood, "'A Sacrifice on the Altar of Slavery': Doughface Politics and Black Disenfranchisement in Pennsylvania, 1837-1838," *Journal of the Early Republic* 31 (Spring 2011), 75-106.

him money in 1844.<sup>29</sup> In the same year, Sarah gave birth to another son, Moses W. Milligan. Health problems, too, may have intruded. Milligan was a big, physically powerful man whom contemporaries described as a “tall, rugged character” of “gigantic size.”<sup>30</sup> Later in life, however, Milligan noted that he left Ohio “after a long and severe illness.”<sup>31</sup> One biographer suggests that he suffered from meningitis or epilepsy.<sup>32</sup> In the winter of 1844-1845, the Cadiz newspapers reported that severe outbreaks of erysipelas, a painful bacterial skin infection, and “lung fever” ravaged the town; more than twenty residents fell severely ill and upwards of ten died. The “scourge” lasted for several weeks, greatly frightening the population.<sup>33</sup> We do not know if Milligan fell victim, but he later suffered from erysipelas during the Civil War and it factored in his arrest in 1864. Whatever the reason, he left his legal career behind in Ohio and with his growing family set out in the fall of 1845 for northeastern Indiana.<sup>34</sup> They settled in rural Huntington County, an area of broad, dense forests and extensive, flat marshes. A small population of Native Americans of the Miami Nation still resided in the region. White settlers were relatively few, and in later years persons who had settled the area in the mid-1840s were considered pioneers. But the region showed rich potential for farmers eager to find abundant, cheap, clearable, and fertile acreage. Its flat expanses would have been especially attractive to people accustomed to farming in the narrow valleys of southeastern Ohio.

Lambdin Milligan and his family initially resided on land in southwestern Huntington County. David Ridgeway, a brother-in-law, and Milligan together purchased a 320-acre property that they had kept their eyes on since 1842-1843, land which had been deeded by the federal government

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<sup>29</sup>Many thanks to Mr. Lee Eilbacher for allowing me to read his unpublished manuscript biography of Milligan. An attorney, Mr. Eilbacher greatly aided my understanding of Milligan's early law practice. Lee Eilbacher, “A Hoosier Lawyer,” 22-23, copy in author's possession. The Whig newspaper in Huntington, locked in editorial combat with Milligan in 1849, claimed that Milligan's “rascality” sent his bankrupt father to his grave. *Huntington Indiana Herald*, June 6, 1849.

<sup>30</sup>*Fort Wayne Sentinel*, December 21, 1899; *History of Huntington County Indiana*, 514.

<sup>31</sup>*History of Huntington County Indiana*, 514.

<sup>32</sup>Grayston, “Lambdin P. Milligan—A Knight of the Golden Circle,” 381. Grayston offers no sources to back her claim of meningitis or epilepsy.

<sup>33</sup>*Cadiz Harrison Republican*, November 28 and December 26, 1844, January 22, 1845; *Cadiz Democratic Whig Standard and American Protestant*, December 6, 1844.

<sup>34</sup>In testimony in his federal civil suit in 1871, Milligan confirmed that he moved to Huntington in the “fall of 1845.” *Indianapolis Daily Journal*, May 20, 1871.

to a Miami Indian as a reserve. The partnership soon soured over financial differences; a resultant lawsuit slowly wended its way to the Indiana Supreme Court, which in late 1855 decided for Ridgeway.<sup>35</sup> Milligan, now working on his own, bought and sold land in Huntington County, sometimes selling out quickly for a handsome profit. In one instance, he purchased eighty acres for \$700 in 1849 and sold them in 1854 for \$2500.<sup>36</sup> Deed and property tax records show that he spent the rest of his life buying and selling property in his home county, sometimes with business partners, but primarily on his own. As the town of Huntington grew in size and population, he invested heavily in town lots. In later years, the rents he obtained from tenants on his properties formed a steady part of his income.<sup>37</sup>

Milligan swore off the practice of law after he left Ohio. Perhaps, as was hinted in later years, he found legal work dull.<sup>38</sup> He returned to Democratic Party politics. In the late 1840s, Milligan began work as deputy clerk of the circuit court and deputy county recorder, where his primary duties would have been to copy legal and land papers.<sup>39</sup> While supplementing his income, the position afforded him entrée into politics in the courthouse and region. He formed political alliances with fellow Democrats James R. Slack and John R. Coffroth, Pennsylvania-born at-

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<sup>35</sup>See depositions included in the transcript of David Ridgeway and Solomon Pefley v. L.P. Milligan, Indiana Supreme Court Case File Records, box 256, file number 23, 991, in Indiana State Archives, Commission on Public Records, Indianapolis, Indiana (hereinafter cited Indiana State Archives); Albert G. Porter, comp., *Report of Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana* (Indianapolis, Ind., 1889), 7:217-19. David Ridgeway was the Whig candidate for state representative for Huntington and Whitley Counties in 1849. *Huntington Indiana Herald*, May 30, 1849.

<sup>36</sup>Huntington County General Index of Deeds, volume 1 [1834-1867], Huntington County Recorder's Office, microfilmed by the Genealogical Society of Utah, roll 2295390, accessed at the Indiana State Archives.

<sup>37</sup>See the depositions of William H. Trammel, Benjamin F. Hendrix, and Benjamin F. Ibach, dated January 2, 1871, in *Lambdin P. Milligan v. James R. Slack, et al.*, Mixed Case File 1472, Record Group 21, Records of the U.S. Circuit Court for the District of Indiana, Indianapolis, Mixed Case Files, National Archives and Records Administration, Great Lakes Region, Chicago, Illinois (hereinafter NARA-GLR).

<sup>38</sup>In 1874, Samuel Winter, the editor of the *Huntington Democrat*, a friend and political ally of Milligan, wrote that Milligan might "renounce the monotonous routine of a profession which has long since been distasteful to him" to accept the Democratic nomination to be candidate for the U.S. House of Representatives. See *Huntington Democrat*, May 21, 1874.

<sup>39</sup>Milligan testified in 1871 that he lived three years on the land in southern Huntington County and then moved to town. Afterwards, "I moved from town to a farm half a mile southeast of town, and from that back into town, then fifteen or sixteen years ago, to the farm where I live now." *Indianapolis Daily Journal*, May 22, 1871.

torneys who had ventured west to frontier Huntington. As he had in Ohio, Milligan secured a commission as a justice of the peace in 1847, but he held ambitions for higher elected office.<sup>40</sup> The next year, he made the first of many bids, securing the Democratic nomination for state senate for Huntington, Whitley, and Kosciusko Counties. It was at this time that he obtained the moniker "Colonel Milligan," by which neighbors addressed him until his death.<sup>41</sup> In an election year that saw Whig military hero Zachary Taylor win the White House, Milligan lost.<sup>42</sup> Undaunted, he soon suggested himself as the Democratic nominee for Congress. The editor of the Whig *Indiana Herald* mocked his ambitions, noted his recent selection as fence-viewer, and asked "will this prevent him from taking his seat in Congress if elected?" An observer in Lafayette joked that he would fail in his drive for the nomination, "notwithstanding his unaccountable adroitness at fishing."<sup>43</sup> The metaphor was apt. The *Herald* correctly pointed out that Milligan had been "fishing for office almost ever since he became a citizen of the county."<sup>44</sup> He craved office as a means to satisfy his pecuniary needs and his desire for a platform to voice his views. In 1850, he secured the nomination for state representative for Huntington and Whitley Counties but lost in the general election to the Whig candidate.<sup>45</sup> Electoral success eluded him.

Amid his early attempts to win office, Milligan tried his hand at editing a political newspaper. In October 1848, Huntington County Democrats established the *Democratic Age* to combat the recently created Whig *Herald*.

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<sup>40</sup>Record of Commissions, 1845-1851, Indiana Secretary of State Records, 1985055, Indiana State Archives.

<sup>41</sup>Milligan obtained an Ohio state militia commission in 1837 as an adjutant in a militia regiment. See Eilbacher, "A Hoosier Lawyer," 15. An adjutant is an administrative officer who at the regimental level holds the rank of lieutenant. The salutation "Colonel" may have originally been a mildly mocking and deprecating address, but Milligan employed it as a way to command respect and deference. Even his family members called him "the Colonel." See references to the "Col" in 1880, 1882, 1886, and 1889 diaries of Marie Louise and Iby Milligan at the Indiana Room, Huntington Public Library, Huntington, Indiana.

<sup>42</sup>*Huntington Indiana Herald*, August 16 and November 22, 1848. Milligan won Huntington County by 24 votes (460 to 436). The election occurred on August 7, 1848. See Dorothy Riker and Gayle Thornbrough, comps., *Indiana Election Returns, 1816-1851* (Indianapolis, Ind., 1960), 333.

<sup>43</sup>*Huntington Indiana Herald*, April 4, 11, and May 23, 1849. The April 11 edition of the *Herald* quoted the *Lafayette Argus* newspaper.

<sup>44</sup>*Ibid.*, June 12, 1850.

<sup>45</sup>*Ibid.*, August 7, 1850; *Indiana Election Returns*, 348.

County party leaders installed Milligan in the editor's chair. But, matching the editor's unpleasant personality, the tone of the paper was unduly nasty and subscribers were few. The party men who had installed him removed him from editorial control, and the paper soon collapsed. Later attempts to form a Democratic mouthpiece in the town finally took in 1858 with the launch of the *Huntington Democrat*. Over the years, Milligan was a frequent and ostensibly anonymous contributor ("What! L.P. Milligan disguise his style?" quipped the *Herald*) who also assisted in subsidizing the paper.<sup>46</sup>

With his ambitions for elective office (temporarily) squelched and his career as a newspaperman cut short, Milligan was forced to fall back on his training as a lawyer. After a brief tenure as county prosecutor in the Court of Common Pleas, in early 1853 he returned to the private practice of law, advertising that his office was in the clerk's office in the courthouse.<sup>47</sup> If he found the work of writing deeds, estates, contracts, and other legal documents tedious, it became the route to his social and political prominence. His practice flourished, and he soon appeared in several northern Indiana county courts. His legal work was diverse; he took both criminal and civil briefs, including corporate and railroad work. At his death, a newspaper described him as a strong lawyer: "He was not remarkable as an advocate, but was, however, a clear, terse and forceful speaker. He endeavored always to convince and not merely to please."<sup>48</sup> Milligan brought an unyielding and vindictive personality to his practice, suing his neighbors for various misdeeds and his clients for nonpayment of fees. He frequently appeared in court as a party to a case, usually representing himself. In Huntington County alone, up to 1887, he sued (alone or jointly with another plaintiff) forty-four times; in turn, he was sued on seven occasions.<sup>49</sup>

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<sup>46</sup>*Huntington Indiana Herald*, October 9, 1850, March 26, 1851, September 28, 1858, and January 19, 1859; *Bluffton Banner*, January 16, 1851. The Whig newspaper reported that Milligan owned a share of the *Huntington Observer*, the successor to the *Democratic Age*, but sold it in exchange for payment of county tax delinquent lists. *Huntington Indiana Herald*, May 11, 1853.

<sup>47</sup>The Whig newspaper criticized Milligan's conviction rate as prosecutor for the Court of Common Pleas, noting that in one term he won only "two or three" of 25 cases brought before the court. *Huntington Indiana Herald*, April 13, 1853. The advertisement in the *Huntington Observer* of April 26, 1853, is dated January 26, 1853, meaning that it first appeared in that issue of the newspaper.

<sup>48</sup>*Indianapolis Indiana State Journal*, December 13, 1899.

<sup>49</sup>See Index to Civil Case Files, volumes 1 and 2, Clerk of the Huntington Circuit Court, Huntington, Indiana, microfilmed by the Genealogical Society of Utah, roll 2320497, accessed at the Indiana State Archives.

Both his political and legal work brought Milligan to the center of Huntington County's circle of power brokers. He and fellow Democrats Slack and Coffroth formed what the Whig editor termed a "corrupt clique" who controlled both courthouse offices and town hall. The three men were "wire workers" who manipulated county Democratic conventions, controlled nominations for county offices, elected the officers, and reaped the rewards of party victory in the form of contracts, legal fees, and other perquisites.<sup>50</sup> Power shifted among and within the triumvirate, with Milligan and Coffroth sometimes together in the ascendancy, and with Slack sometimes the sole leader. By 1855, Slack and Milligan stood in opposite camps within the county Democratic leadership, though the original source of their personal animosity—political, ideological, business, or personal—is not evident.<sup>51</sup> Their rivalry played an important role in Milligan's arrest and trial during the Civil War, and in the following years Milligan used all available means to attack his hated enemy. Their mutual antipathy ended only with Slack's death in 1881.

A major local election fraud case brought the three Democratic leaders together. Late in 1858, local members of the new Republican Party—the successor to the now-defunct Whig Party—claimed Democratic fraud in the recently completed elections. Exhaustive hearings before the county commissioners elicited heated speeches by the contending parties. The Democrats hired Slack, Coffroth, and Milligan as their champions. The Republicans brought in out-of-town attorneys to argue that Democrats had engaged in ballot-box stuffing and that Milligan had carried the ballot box up to his courthouse office after the election. The case was hard-fought; attorneys took more than one hundred depositions; Milligan interposed "innumerable objections to every step" and made "threats and malicious thrusts."<sup>52</sup> At one point Indianapolis attorney Jonathan W. Gordon, hired to present the Republican case, seized a cane "with the intention of *lamming* Mr. Milligan."<sup>53</sup> In closing arguments, local Republican attorney David O. Daily took eight hours to make the case for fraud. Milligan dragged

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<sup>50</sup>*Huntington Indiana Herald*, October 11, 1852, September 28, 1853, and October 24, 1854.

<sup>51</sup>*Ibid.*, February 14, 1855.

<sup>52</sup>*Ibid.*, November 24 and December 1, 1858.

<sup>53</sup>*Huntington Democrat*, April 19, 1860. The newspaper noted that Milligan mocked Gordon by calling him a "valiant man and mighty in battle."



his defense speech out to twelve hours. The Democrats won, perhaps on the basis of Milligan's long-windedness.<sup>54</sup>

In 1858, Milligan ran for and won the office of Huntington Township trustee. Afterwards, he imperiously published notice that he would only conduct township business one day per week; he did not wish to be called upon "at all times." As trustee, he was in the position to supervise the building of public schools, but as a doctrinaire Democrat, he opposed free public schools as government interference with paternal family leadership. In later years, he boasted of his opposition to free public schools at an 1848 referendum, saying that he had objected to "absolv[ing] the parent from that strong solicitation for the moral as well as the mental culture of the child; as well might you farm out the clothing and boarding of your children to the hirelings of the law selected by irresponsible office holders, not for their intelligence or moral worth, but to subserve some political or sinister end."<sup>55</sup> Many within the local Democratic Party, however, led by James Slack, supported free public education. Milligan won reelection as trustee in 1862, but only by a narrow margin.<sup>56</sup>

While a lead player in politics, Milligan took an active part in the economic development of Huntington and its environs. He served as an officer for a plank road company and helped to organize the county agricultural society that superintended the county fair. At the fair, he proudly showed horses and cattle that he bred on his prosperous farm just west of town on the north bank of the Little Wabash River; in later years, he bred race horses and took great delight in his stable.<sup>57</sup> He organized efforts to drain marshes in the county to bring more farmland into production. Meanwhile, the county's population increased rapidly; from 1832 to 1856,

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<sup>54</sup>*Huntington Indiana Herald*, December 29, 1858, January 5, 1859.

<sup>55</sup>*Ibid.*, August 16, 1848; *Huntington Democrat*, August 8, 1867.

<sup>56</sup>*Huntington Indiana Herald*, April 6, 13, 1859, January 25, April 11, and September 19, 1860, February 19, 1862. Thanks in part to Milligan, it took years for Huntington to secure free public schools and erect adequate school facilities.

<sup>57</sup>*Ibid.*, November 5, 1851, January 12, 1853, and April 15, 1857. The 1850 Census of Agriculture lists Milligan as owning one "milch cow," one horse, two working oxen, and two "swine," with a total livestock value of \$116. The census fails to note in which township those listed resided; Milligan is not listed as owning land. The 1860 Census of Agriculture shows a marked change in Milligan's agricultural fortunes. It notes that he owned 60 acres of improved land and 45 acres of unimproved land in Huntington Township worth a total of \$5000. He also owned five horses, six milch cows, two oxen, twelve other cattle, and twenty hogs worth a total of \$900, as well as producing various commodities such as corn, oats, butter, honey, and market garden produce. U.S., Seventh Census of Agriculture, 1850, Indiana, accessed at the Indiana State Archives.

the town of Huntington doubled in size to 1500 residents and boasted thirty stores along its streets.<sup>58</sup> Town boosterism crossed partisan lines, and party foes typically buried the hatchet to work together to bring home lucrative railroad projects. Milligan worked with Whigs and then with Republicans, playing a lead role in efforts to route a railroad line through town. In later years, he proudly boasted that his work at a meeting in Logansport had proved instrumental in securing the Toledo, Wabash, and Western railroad through Huntington; that line, when completed in early 1856, connected the town to Fort Wayne and eastern markets. Starting with one train per day, the railroad carried people and commodities year-round, even as canal traffic stopped each winter.<sup>59</sup>

With the town of Huntington growing and business flourishing in the region, Milligan looked again to secure elective office. He sought the Democratic nomination for attorney general at the 1860 state party convention, but received only 43 of 391 votes cast on the first ballot and dropped out of contention.<sup>60</sup> That year saw a four-way presidential election contest. With the election of Republican antislavery candidate Abraham Lincoln, Southern slave states began to secede from the Union. During the secession crisis in the winter of 1860-1861, many in the North rallied to the Union. Others did not. Some Northerners contended that states possessed the right of secession, reiterating the Calhounite interpretation of Jefferson's nullification principle. The editors of the *Huntington Democrat* announced that "we favor the right of secession."<sup>61</sup> Later, they wrote that "self-preservation would dictate to [Indiana's citizens] that they cut loose from the God-abhorred Yankee, or New England States, and declare for a Northwestern Confederacy."<sup>62</sup> Milligan had campaigned for Democratic

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<sup>58</sup>*Huntington Indiana Herald*, April 23, 1856.

<sup>59</sup>*Huntington Democrat*, June 21, 1883; *Huntington Indiana Herald*, January 16, 1856, and July 20, 1870. For a study of one town's boosterism to attract railroads, see Don Harrison Doyle, *The Social Order of a Frontier Community: Jacksonville, Illinois, 1825-1870* (Urbana, Ill., 1978), 42-46, 79-91.

<sup>60</sup>*Huntington Indiana Herald*, May 11, 1859, and January 25, 1860. The Republican newspaper suggested that Milligan aimed to obtain the judgeship of the Court of Common Pleas, but, in the words of the *Huntington Democrat*, he was "obnoxious" to some Democrats. *Ibid.*, June 20, 27, 1860. Rival Slack put his name forward for nomination for lieutenant governor and obtained 82 votes on the first ballot.

<sup>61</sup>*Ibid.*, January 9, 1861, quoting the *Huntington Democrat*, December 27, 1860. The *Herald* noted that the community severely chastised the *Democrat's* editors, who then retracted their statement.

<sup>62</sup>*Ibid.*, February 13, 1861, quoting the *Huntington Democrat*, February 7, 1861. See also *Indiana Herald*, April 10, 1861.

candidate Stephen A. Douglas of Illinois, but after the election he took a strongly pro-secession stance. When town leaders scheduled a meeting at the courthouse for all parties to discuss the issues, he and Coffroth—who had backed proslavery Democratic candidate John C. Breckinridge of Kentucky—outmaneuvered the others assembled, stacked the committee memberships, and produced their own majority report. The series of resolutions stated that the U.S. Constitution ought not to be amended; that the sections should try to reconcile, with the proviso that if “first principles” (meaning protection of slavery under the Constitution) were not respected and reconciliation could not be reached, the North should “let our brethren depart in peace”; that the property rights of Southerners (i.e., slavery) must be protected; that Congress might not abolish slavery, except with the consent of the South, nor regulate the master-slave relationship; and that Huntington County’s people were willing to compromise with the South.<sup>63</sup>

The rebel attack on Fort Sumter startled the North and communities like Huntington. The *Herald* observed that the community showed near-unanimous support for the federal government.<sup>64</sup> Hastily organized public gatherings produced volunteer companies to rally to the government’s aid. Democrat James Slack took a prominent part in the meetings, finding common cause with Republicans in defense of the Union. Standing in contrast were public meetings led by Milligan and Coffroth where, according to the *Herald*, “every man who favors the preservation of the Union was denounced without stint.” Indeed, the newspaper reported, “Mr. Milligan even went so far as to say that he would rather spit upon the stars and stripes than to see them at the head of an army marching.”<sup>65</sup> Tensions between the defenders of the Union and the proponents of disunion soon produced violence in the town. Symbolizing the break between Huntington’s War Democrats and Peace Democrats, Slack and *Democrat* editor Samuel Winter brawled in a knife fight. Later, soldiers of the 47th Indiana Volunteer Infantry Regiment, commanded by newly appointed Colonel Slack, burst into the office of the *Democrat* and gave

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<sup>63</sup>Ibid., February 20, 1861. Years later the *Herald* noted that census records showed only two African Americans resided in Huntington County in 1860, a decline from fourteen in 1840. That number rose to five in 1870. See Ibid., November 6, 1872.

<sup>64</sup>Ibid., April 17, 1861.

<sup>65</sup>Ibid., June 5, 1861.

Winter a “sound thrashing.”<sup>66</sup> Coffroth spoke at meetings in the county surrounded by bodyguards.<sup>67</sup> Nearby Blackford County Democrats announced that Coffroth and Milligan together would address a gathering in Hartford City of the “*Genuine friends of the Union, & the Constitution—those who are opposed to waging an unjust, and unprofitable crusade against the Southern people.*”<sup>68</sup>

Milligan opposed the war from the outset, guided by his long-standing belief in the Constitution’s “first principles”: the constitutionality of slavery and the rights of nullification and secession. Many Indianans agreed with him, or found the war obnoxious enough to ally with him. While most state residents had initially voiced indignation at the rebel attack on Fort Sumter and were hot for retribution, many of those indignant citizens gradually lost their martial spirit and came to oppose the war. The reasons for their opposition varied from anger at President Lincoln’s unilateral call for volunteer troops, the declarations of martial law and the suspension of the privilege of the writ of habeas corpus, the rising death toll, the arrests of outspoken war critics, the suppression of Democratic newspapers, and violent intimidation by pro-war individuals and groups to outright sympathy for the rebel cause.<sup>69</sup> Contrary to expectations, federal forces failed to defeat the Confederates quickly. Rebel victory at Bull Run in July 1861 steeled the resolve of many Northern opponents, who began to call for an end to fighting and recognition of the Southern Confederacy.

As the military conflict dragged on into 1862 without success in sight, antiwar Democrats in northeastern Indiana began to look to Milligan as a leader. As he spoke in counties around the region, Democratic newspa-

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<sup>66</sup>Ibid., July 31, 1861; *Terre Haute Daily Wabash Express*, October 15, 1861. Later, the soldiers joked about the assault on Winter and the *Huntington Democrat*: “Why is the 47<sup>th</sup> regt like Col. Slack’s pen-knife? Ans: Because it has entered *Winter* quarters.” *Huntington Indiana Herald*, February 12, 1862. For a study of violence against the press in Indiana during the Civil War, see Stephen E. Towne, “Works of Indiscretion: Violence Against the Democratic Press in Indiana during the Civil War,” *Journalism History* 31 (Fall 2005), 138-49.

<sup>67</sup>*Huntington Indiana Herald*, July 31, 1861.

<sup>68</sup>J. F. Duckwall to Laz Noble, August 10, 1861, in Adjutant General of Indiana Records, A4017 024596, folder 11, Indiana State Archives, reprinted in Richard F. Nation and Stephen E. Towne, eds., *Indiana’s War: The Civil War in Documents* (Athens, Ohio, 2009), 127-28. Duckwall feared violence would result from the political meeting and asked that state authorities send troops to disperse “secession meetings.” Soldiers of an Indiana regiment vowed to break up the meeting. See *Richmond Broad Axe of Freedom*, August 17, 1861.

<sup>69</sup>For a study of the antiwar Democrats, see Jennifer L. Weber, *Copperheads: The Rise and Fall of Lincoln’s Opponents in the North* (New York, 2006).

pers in Anderson, Bluffton, and Hartford City put forward his name for Congress. While he cagily made no announcement of his intention to seek the party nomination for Congress in the Eleventh District, he allowed the *Democrat* and other papers to build support for him.<sup>70</sup> As county party chair, he enunciated his Democratic vision of “the Constitution as it is, the Union as it was” and his view that the states had the right to “control their domestic institutions without interference.” He accused the Lincoln administration of feeding “runaway niggers” and “lazy and worn-out slaves” with tax funds at the expense of starving soldiers. Lincoln and the Republican-controlled Congress’s policies degraded white people to the level of the Negro; the “Freeman,” he said, had the right to question the sacrifice of lives “wasted upon useless fields of carnage to carry out the crazy schemes of New England fanatics.”<sup>71</sup> He increased his speaking rounds and hammered at the selfish interests of the corrupt eastern states, which he claimed were profiting from the war while the West suffered. His denunciation of puritan fanaticism and celebration of constitutional integrity became hallmarks of his rhetoric then and in later years.<sup>72</sup> The *Democrat* endorsed him for the nomination, saying he would be a “tower of strength.” Alluding to Milligan’s chief drawbacks—his grating personality and penchant for making enemies—the paper acknowledged that he was “personally unpopular” but argued that “personal animosity” should be set aside.<sup>73</sup> Still, delegates at the congressional district convention selected James F. McDowell of Marion, who went on to beat the Republican incumbent. Indiana Democrats benefitted from slow progress in the war, the savage reaction to Lincoln’s preliminary Emancipation Proclamation of September 22, and the unpopularity of the draft, which commenced one week before the October election. They won seven of eleven Indiana

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<sup>70</sup>*Indianapolis Daily State Sentinel*, October 3, 1861; *Huntington Indiana Herald*, February 26, 1862; *Huntington Democrat*, February 20 and April 24, 1862.

<sup>71</sup>*Huntington Democrat*, July 10, 1862.

<sup>72</sup>*Ibid.*, August 7, 1862. At an August 2 event, Milligan weighed in against the Federalist “traitors” of New England in the War of 1812 against Great Britain. His speech, reported the *Democrat*, was “replete with facts of today, and historical reminiscences of the past.” *Ibid.* For other historical allusions, see also *Fort Wayne Sentinel*, no date, reprinted in *Huntington Democrat*, November 27, 1862, and *Fort Wayne Dawson’s Democratic Times and Union*, November 24, 1862. It is probable that Milligan either wrote or suggested many of the *Democrat*’s editorials containing strong historical allusions.

<sup>73</sup>*Huntington Democrat*, August 14, 1862.

congressional seats and large majorities in both chambers of the General Assembly.<sup>74</sup>

During the summer campaign, Milligan's political opponents noted his strident antiwar rhetoric. The *Herald* proclaimed him an "arch rebel sympathizer." A Republican attorney from Huntington wrote to Governor Morton to report that Milligan was "bolder and meaner than ever."<sup>75</sup> Such reports arose as the War Department in Washington, D.C., authorized civilian authorities to arrest anyone who discouraged enlistments and ordered the suspension of the privilege of the writ of habeas corpus in their cases.<sup>76</sup> Prompted by the order, Morton's private secretary sent newspaper clippings of Milligan's speeches to John Hanna, the U.S. Attorney for Indiana, with the suggestion that he "should be arrested at once. Please give this your personal and immediate attention."<sup>77</sup> While military authorities arrested several prominent local Democratic leaders around the state for discouraging enlistments in 1862, the Huntington man was not among them.

Democrats congratulated themselves on their stunning election victories. Milligan issued a statement noting that "success is due to the fact that law, order, right, the Union and Constitutional liberty were on our side" against "tyranny, anarchy, misrule, plunder, corruption, disunion, usurpation and despotism." He urged redoubled effort to organize locally with an eye toward winning back the White House—"not in the fabulous order of the Knights of the Golden Circle, or any other secret legion, but in clubs in every township."<sup>78</sup> The *Democrat* took up his themes with editorials calling for protection of states' rights to "regulate...domestic institutions." Alluding to Lincoln's Emancipation Proclamation, the paper cautioned that if the president could "annul the laws of any Southern State, he can do the same in any Northern State."<sup>79</sup> The paper also reintroduced

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<sup>74</sup>Kenneth M. Stampp, *Indiana Politics during the Civil War* (1949; reprint, Bloomington, Ind., 1978), 156-57.

<sup>75</sup>*Huntington Indiana Herald*, July 30, August 6 and 16, 1862; David O. Dailey to Morton, August 7, 1862, 75th Indiana Volunteer Infantry Regiment Correspondence, Adjutant General of Indiana Records, Indiana State Archives.

<sup>76</sup>Mark E. Neely Jr., *The Fate of Liberty: Abraham Lincoln and Civil Liberties* (New York, 1991), 52-53.

<sup>77</sup>William R. Holloway to John Hanna, August 15, 1862, John Hanna Papers, Lilly Library, Indiana University-Bloomington.

<sup>78</sup>*Huntington Democrat*, October 23, 1862.

<sup>79</sup>*Ibid.*, November 27, 1862.

the Northwestern separation issue, asking, "With which section shall we go?" and arguing that the Southern planter and the Northern farmer were "natural allies" whose interests were "interwoven." The Northwest should break from New England, which only wished to exploit farmers for financial gain.<sup>80</sup>

Issues of rebellion and sectionalism continued to roil the Northwest in the new year. The Indiana General Assembly nearly erupted in partisan violence in a showdown between Governor Morton and the Democratic majority. The Union war effort was stymied by a resilient Confederacy. The need for more troops led Congress to pass a new draft law, much to the disgust of antiwar Democrats. Amid the political turmoil, Milligan continued his legal practice with high-profile cases touching on war-related issues. In Huntington County, an army deserter named John Sturman killed a drunken canal boatman in what he claimed was self-defense, after the boatman cheered for Confederate president Jefferson Davis and said he could whip any man in a U.S. uniform. County officers appointed Milligan and Coffroth to defend Sturman in court, but the defendant's wife, a Unionist, had no faith in the pair and wrote to Governor Morton for help: "The authorities here are all strong Sesection [sic] and his attorneys are the same." They had taken all his money, she continued, and "now they do not care any thing about him because he is a union man and wants to go back to the army." She added that the local "sesech" were preparing to resist the draft and had promised her husband help in breaking out of jail if he would join them, "but he says he wants to come out honorably or not at all." Milligan and Coffroth had done little to help him, she claimed, and "a Union [man] cannot have justice done."<sup>81</sup>

In another important case, Milligan defended a Democratic state senator of neighboring Whitley County who had been arrested in Ohio. Alexander J. Douglas had spoken at a Democratic rally in Crestline, Ohio, in the place of former Ohio Congressman Clement L. Vallandigham, who had himself been arrested by troops for making antiwar speeches. In his

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<sup>80</sup>Ibid., January 15 and 29, 1863.

<sup>81</sup>Eunice Sturman to Morton, April 13 and May 22, 1863, Pardon Files, Indiana Secretary of State Records, Indiana State Archives. At his trial, a jury found Sturman guilty of second-degree murder, but the judge vacated the ruling and ordered a new trial. Sturman escaped jail, rejoined his regiment, and fought its battles for the rest of the war. Upon his return home, authorities rearrested and convicted him. The Huntington newspapers are replete with articles about the case. For an account of Sturman's killing of Thomas Clarke, see *Huntington Democrat*, November 27, 1862.



speech, Douglas assailed Vallandigham's arrest and urged his listeners to oppose the war and arm themselves when next they voted. Troops arrested Douglas and held him in a military prison in Cincinnati for trial by the same military commission that had found Vallandigham guilty. Douglas called on Milligan to defend him. Given little time to prepare, Milligan first denied the legitimacy of the military commission to try a civilian. When the commission dismissed that point, he argued that the Ohio listeners who had reported Douglas's words to state and military authorities were mistaken. The commission found Douglas guilty of uttering statements in violation of military edict. When Maj. Gen. Ambrose Burnside learned (from Governor Morton) that President Lincoln and his Cabinet considered the general's heavy-handed methods counterproductive, however, he ordered Douglas released. Not privy to the high-level discussions between president, governor, and general that freed Douglas, Indiana Democrats rejoiced at the apparent legal victory over military tyranny and showered Milligan with praise.<sup>82</sup>

Anointed a champion of freedom by energized antiwar Democrats, Milligan accepted invitations to speak across northern Indiana. Traveling to several counties, he gave "fearless" addresses to large and appreciative audiences reiterating his message of resistance to federal government despotism.<sup>83</sup> One Republican editor observed that Milligan "considered separation [of the North and South] a fixed fact" and urged that the Northwest should cut loose from the East and go with the South.<sup>84</sup> His message was popular, and newspaper editors soon began to mention him as a possible Democratic candidate for governor.<sup>85</sup>

Nowhere was Milligan more popular in the summer of 1863 than among the antiwar Democrats of Huntington County. That summer witnessed violent clashes there and in neighboring counties, and he was in the thick of them. With troops roaming the countryside to arrest deserters, draft dodgers, and those who sheltered them, armed groups formed

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<sup>82</sup>Stephen E. Towne, "Worse Than Vallandigham: Governor Oliver P. Morton, Lambdin P. Milligan, and the Military Arrest and Trial of Indiana State Senator Alexander J. Douglas during the Civil War," *Indiana Magazine of History* 106 (March 2010), 1-39.

<sup>83</sup>*Fort Wayne Dawson's Democratic Times and Union*, April 30, 1863; *Peru Miami County Sentinel*, July 23 and November 26, 1863; *Plymouth Weekly Democrat*, August 13, 1863.

<sup>84</sup>*Portland Jay Torch-Light*, August 13, 1863.

<sup>85</sup>*Plymouth Weekly Democrat*, November 19, 1863; *Fort Wayne Weekly Sentinel*, December 5, 1863.

to combat arrests. Violent resistance to the draft enrollment occurred in Rock Creek Township in Wells County, next door to Huntington, where “several hundred men and boys congregated...armed with rifles shot guns and revolvers and such other weapons” and defied government attempts to arrest the assaulters. Thieves stole a shipment of seventy-two state militia rifles at the railroad depot at Huntington which military authorities never recovered. The district provost marshal warned his deputy at Huntington that “large quantities of gunpowder are constantly being shipped to your town” down the Wabash and Erie Canal. He also reported that upwards of 300 armed men, “all simpathizers [sic] with the rebels,” drilled regularly in Huntington County and planned to deceive state authorities that they were government supporters, in order to draw arms under Indiana’s militia law.<sup>86</sup> On several occasions in July, armed horsemen (estimated to number up to 170) gathered and paraded through the town streets to defy and intimidate government officials and Republicans. One night, Milligan, the hero of the moment and leader of antiwar Democrats, addressed the armed men with an “inflammatory speech.”<sup>87</sup> Not mincing words, the *Democrat* warned that the riders would not brook interference.<sup>88</sup> The armed processions in town were a local show of strength on the part of the county’s militantly antiwar population.

Similar events occurred across Indiana and other states of the Northwest. The region endured a low-intensity guerrilla insurgency, with scores of small battles ranging from murderous ambushes and shootouts to armed street brawls. Large assemblies of armed men gathered in daylight or darkness to confront government officers. Numerous clashes between armed groups—often troops on one side and armed insurgents who melted into the landscape and local population on the other—produced many deaths and injuries. Federal and local civilian law enforcement were powerless against these armed groups, and military authorities had few troops to suppress resistance to the draft or to arrest deserters. It was a situation ripe for chaos.

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<sup>86</sup>Capt. Calvin Cowgill to James M. Bratton, July 7 and 10, 1863; Cowgill to Amos Townsend, July 10 and 28, 1863; Cowgill to Capt. Charles Kent, July 10, 1863; Cowgill to Col. James B. Fry, July 10 and August 4, 1863; Cowgill to Morton, July 25, 1863; Cowgill to Col. Conrad Baker, August 2, 4, 7, and 24, 1863, all in Record Group 110, Provost Marshal General Bureau Records, 11th District of Indiana, E 5290, Letters Sent, volume 1, 102-103, 110, 109, 171, 114, 126, 188-89, 165, 181, 187, 201-202, and 307-308, NARA-GLR.

<sup>87</sup>*Huntington Indiana Herald*, July 15 and 29, 1863.

<sup>88</sup>*Huntington Democrat*, July 16, 1863.

Secret political organizations played a significant role in this anarchic and unstable atmosphere. Fraternal secret orders such as the Masons, Oddfellows, and Knights Templar were already popular facets of American male society. In the Civil War era, these fraternal groups provided a model for political organizations sporting secret handshakes, signals, and arcane oaths and rituals, and enunciating opposition to the war. Their rise resulted from the fraught conditions of the Northern home front. Some men feared arrest for speech or action in defiance of the government; some feared the draft. They saw the evidence of Lincoln's tyranny, despotism, and usurpation all around them: military arrests, suppression of the press, military commission trials of civilians, higher taxes and fees, roving squads of troops who arrested deserters and those who harbored them, military interference in elections, and more. While fearful, men joined these organizations for ideological reasons as well. Democrats believed that Lincoln's Republican administration represented an assault on time-tested constitutional institutions, and they joined together in secret groups to bolster the party's efforts to preserve the Union as it was. Republicans, for their part, also formed secret orders for self-defense and support of the Union war effort, the most prominent of which was the Union League.<sup>89</sup> But Union Leaguers openly acknowledged the existence of their group, whereas the Democratic organizations veiled themselves in mystery. Up to 1863, antiwar, anti-Republican secret groups were most often known as Knights of the Golden Circle (KGC), a group established in the mid-1850s to advance a filibustering agenda to spread North American slavery into the Caribbean and Central America.<sup>90</sup> In 1861, evidence arose that KGC chapters had formed in Ohio, Indiana, and Illinois, advancing a pro-Confederate agenda among antiwar Democrats. Federal and state authorities, both civil and military, tried to gather information about these groups and their intentions. Morton and other governors earnestly warned Lincoln and the War Department of the growing threat. The governors and military authorities were especially worried by the widespread problem of desertion, extensively encouraged and assisted by the secret

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<sup>89</sup>See Guy James Gibson, "Lincoln's Leagues: The Union League Movement during the Civil War," (Ph.D. dissertation, University of Illinois-Urbana-Champaign, 1957).

<sup>90</sup>For a recent study that inadequately addresses the presence of the KGC in northern communities, see Mark A. Lause, *A Secret Society History of the Civil War* (Urbana, Ill., 2011). See also David C. Keehn, "Strong Arm of Secession: The Knights of the Golden Circle in the Crisis of 1861," *North and South* 10 (June 2008), 42-57; and Keehn, *Knights of the Golden Circle: Secret Empire, Southern Secession, Civil War* (Baton Rouge, La, 2013).

groups. In the spring and summer of 1863, local U.S. Army commanders responded to the desertion problem by establishing espionage operations to chase down and arrest deserters and draft dodgers in Ohio, Indiana, Illinois, and elsewhere. Detectives also investigated the sale of arms and ammunition to groups who had vowed to protect deserters. With their own investigations augmented by the network of detectives hired by the Provost Marshal General Bureau to prowl in every congressional district of the United States, military commanders accumulated significant evidence of secret organizations behind the efforts to protect deserters and obstruct the draft.<sup>91</sup>

Notwithstanding Milligan's 1862 injunction to Democrats to steer clear of the KGC, evidence exists that by 1863 he was actively participating in secret organizations in northeastern Indiana and working to subvert the war effort. That summer, the provost marshal in the 11th Congressional District reported to Washington that "I know that there is an extensive organization in the counties of Wells-Huntington-Grant-Blackford and a portion of Madison to resist the draft," adding that "they are all armed and the most reckless and desperate ones amongst them go in squads of 15 to 20."<sup>92</sup> In later testimony in the Indianapolis military commission trials and still later in federal court, witnesses acknowledged their membership in the "Circle of the Mighty Host," a local name for the KGC. In the summer of 1863, that group renamed itself the "Order of American Knights" (OAK)—the KGC reorganized and under new leadership. The OAK espoused a state sovereignty and proslavery agenda; in 1864, the group took the name "Sons of Liberty."<sup>93</sup> Members testified that in late 1863 and 1864 Milligan initiated them into the group, teaching them its secret handgrips and signs. The secretary of the state council of the OAK (and later the Sons of Liberty) testified that leaders had appointed Milligan a major general of their military wing at the state organizational meeting

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<sup>91</sup>See Stephen E. Towne, "Detectives and Spies: U.S. Army Espionage in the Old Northwest during the Civil War," *Ohio Valley History* 13(Fall 2013).

<sup>92</sup>Cowgill to Fry, August 10, 1863, RG 110, Provost Marshal General Bureau Records, 11th District of Indiana, E 5290, Letters Sent, volume 1, 216, NARA-GLR.

<sup>93</sup>Judge Advocate General Joseph Holt's report on the secret conspiracy highlighted the proslavery and state sovereignty tenets of the OAK. See Holt to Stanton, October 8, 1864, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* (Washington, D.C., 1880-1901), series 2, volume 7, 930-53 (hereinafter cited as OR).

in Terre Haute in August 1863.<sup>94</sup> Most significantly, at Milligan's military commission trial, defense counsel Coffroth admitted that his client had joined the secret organization—although only, he argued, to moderate the group and steer it away from “mischief.”<sup>95</sup>

In early 1864, military commanders in Indiana, working closely with Governor Morton, investigated the activities of secret groups that they believed were working to subvert the war effort. Colonel Conrad Baker, commanding the Provost Marshal General Bureau operation in Indiana to administer the draft and capture deserters, reported to Washington that “secret oathbound societies” smuggled arms from Canada into Indiana and plotted “open resistance to the Government.” He recommended that two men who were members of the secret society in Huntington and Wells Counties be employed as spies. John Jackson was a soldier in the 101st Indiana Volunteer Infantry and could “perform the part of a deserter” and circulate among the membership. Jackson identified Milligan as a county leader of an organization that numbered tens of thousands statewide. The other spy was Dr. Henry S. Zumro, a physician in Markle, who had been nosing about on his own and had contacted authorities.<sup>96</sup> Military officials put Jackson and Zumro under the authority of Brigadier General Henry B. Carrington, who had investigated the secret organizations since December 1862. Working for Carrington and Morton, Zumro devised a ruse to be arrested by the provost marshal for “treasonable language” and other disloyalty “to establish their [i.e., the local secret group's] confidence

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<sup>94</sup>See the testimony of William M. Harrison in Benn Pitman, comp., *The Trials for Treason at Indianapolis, Disclosing the Plans for Establishing a North-Western Confederacy* (Cincinnati, Ohio, 1865), 80-81. Harrison also testified in the federal court trial in 1871. See *Indianapolis Daily Journal*, May 25, 1871; and *Indianapolis Daily Sentinel*, May 24, 1871.

<sup>95</sup>Coffroth argued to the military tribunal that “we claim the right to show that the purpose Mr. Milligan had in view in going into the order, was to control and direct it so that it should do no mischief.” *The Trials for Treason at Indianapolis*, 166; also in Samuel Klaus, ed., *The Milligan Case: Ex Parte: In the Matter of Lambdin P. Milligan* (New York, 1929), 404. The original manuscript trial transcript is in Record Group 153, Records of the Judge Advocate General, Court Martial Case Files, Military Commission Trial of Humphreys, Milligan, Horsey, and Bowles, NN-3409, box 1878, National Archives and Records Administration, Washington, D.C. (hereinafter NARA-WDC).

<sup>96</sup>Baker to Col. James B. Fry, March 5, 1864, Record Group 393, U.S. Army Continental Commands, Part I, Northern Department Records, E 3349, Letters Received, box 3, NARA-WDC. An affidavit of John Jackson dated March 4, 1864, is found in RG 153, Records of the Judge Advocate General, Court Martial Case Files, Military Commission Trial of Harrison H. Dodd, NN-2716, box 1808, NARA-WDC.

in me more strongly.”<sup>97</sup> After his release, he approached Milligan to be his defense attorney and tried to extract information regarding the organization’s plans. Another spy working for army commanders, Felix G. Stidger, infiltrated the state organization’s leadership and also identified Milligan as a major general.<sup>98</sup>

In the summer of 1864, as the federal government’s war effort in the South stalled and tensions in Indiana again hovered at the boiling point, Milligan sought the Democratic nomination for governor. As a perennial loser, winner only of township offices, his candidacy for statewide office appears far-fetched. He had, however, significant statewide support deriving from his leadership in the Sons of Liberty, as well as notoriety for his unyielding antiwar stance and radical state sovereignty views. In speeches and public writings, he repeated his denunciations of Lincoln’s misrule and tyranny. When the state Democratic convention at Indianapolis began on July 12, party delegates who were fellow members of the secret organization, a large minority of the convention, backed him. Harrison H. Dodd, a prominent Indianapolis Democrat and state leader of the Sons of Liberty, nominated Milligan. The party’s mainstream nominated Joseph E. McDonald, a respected attorney. Amid much commotion on the convention floor, an overwhelming majority of delegates voted for McDonald over Milligan, 1097 to 196. Fellow secret society members Lafayette Develin of Cambridge City and Bayless W. Hanna of Terre Haute next put Milligan’s name up for the lieutenant governor nomination, but the Huntington man

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<sup>97</sup>Henry S. Zumro to Morton, March 19, 1864, 101st Indiana Volunteer Infantry Regimental Correspondence, Adjutant General Records, Indiana State Archives; Brig. Gen. Henry B. Carrington to James M. Bratton, March 25, 1864, Letter Book of Henry B. Carrington [1863-1864] (“Willard Book”), 212, Henry B. Carrington Papers, Indiana State Archives; Carrington to Baker, April 4, 1864, folder 1, box 1, Conrad Baker Papers, M8, Indiana Historical Society, Indianapolis, Indiana. In a deposition dated January 3, 1871, for Milligan’s civil case, Zumro explained that he had spoken to James Slack about the secret organization. Slack, in turn, informed Morton, who sent Colonel L. S. Shuler to Huntington County to elicit more information. Zumro met with Morton and Baker in Indianapolis. See *Lambdin P. Milligan v. James R. Slack, et al.*, Mixed Case File 1472, Record Group 21, Records of the U.S. Circuit Court for the District of Indiana, Indianapolis, Mixed Case Files, NARA-GLR. After Slack was dropped from the suit, the case was called *Milligan v. Hovey*.

<sup>98</sup>Carrington to Potter, June 6, 1864, Record Group 393, Part I, Northern Department Records, E3351, Confidential Correspondence re O.A.K., 21-26, NARA-WDC, printed in *OR*, series 2, volume 7, 341-42; F. G. Stidger to Capt. Stephen E. Jones, June 17, 1864, Record Group 153, Judge Advocate General Records, Court Martial Case Files, NN-2716, Trial of H.H. Dodd, NARA-WDC. Stidger wrote a memoir of his spy activities. See his *Treason History of the Order of Sons of Liberty, formerly Circle of Honor, succeeded by Knights of the Golden Circle, afterward Order of American Knights* (Chicago, 1903).

turned it down and called for party unity under McDonald. As General Carrington, who attended and observed the convention, explained it, the antiwar wing dominated by leaders of the secret group opted for party unity behind establishment candidates as the best way to beat the Republicans.<sup>99</sup>

His bid for governor ended, Milligan continued to champion state sovereignty against the tyranny of the Lincoln administration. Speaking from the Fort Wayne hotel balcony on August 13, he again called for an immediate end to the war by recognizing the Confederate government. Ranging over United States history, he argued that the individual states had always acted as sovereign entities; that the Constitution guaranteed states' power over the federal government; and that the Founders had never meant to allow the federal government to coerce states to remain in the Union. Dancing around the issue of resistance to the draft ("Upon the question whether you will resist the draft I have no advice to give"), he nonetheless told men that they should be guided by love of wives and children against the dictates of tyrant rulers who demanded blood sacrifices. Concluding, he called on Democrats to rise up in arms:

No nation that had once been free, and surrendered her liberties ever was known to regain them again. Then I exhort you to prepare for the crisis, not by secret organization, but conscious of a rectitude of purpose, go at it boldly and in open daylight, and emblazon it on your banners. Let liberty be your watchword let it resound from every stump in Indiana. 'A free election or a free fight.' Organize and arm yourselves with pikes and scythes; with long guns, with short guns, arm yourselves as best you can. Some must needs perish in the conflict, but I for one would rather be snuffed out in the blaze of a glorious struggle for right, than flicker a little longer with the scintillations of expiring liberty.<sup>100</sup>

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<sup>99</sup>*Fort Wayne Dawson's Democratic Times*, July 14, 1864; Carrington to Capt. C. H. Potter, July 14, 1864, RG 393, Part I, Northern Department Records, E 3349, Letters Received, box 3, NARA-WDC. Historian Kenneth Stampp dismisses the strength of the peace wing of the Democratic Party at the state convention. See Stampp, *Indiana Politics during the Civil War*, 232-34.

<sup>100</sup>*Huntington Democrat*, September 1, 1864. The speech is reprinted in Darwin Kelley, ed., "Lambdin P. Milligan's Appeal for State's Rights and Constitutional Liberty during the Civil War," *Indiana Magazine of History* 66 (September 1970), 263-83. The Fort Wayne meeting, estimated by a Democratic paper to have attracted five thousand persons, produced resolutions reaffirming the Kentucky and Virginia Resolutions of 1798 and 1799 and demanding the immediate cessation of fighting and a convention of all the states. *Fort Wayne Dawson's Democratic Times*, August 15, 1864.



Again, Milligan publicly advised Democrats not to organize secretly. Privately, however, he was active in secret political societies that plotted resistance and revolution. Days after his speech, the secret group's efforts climaxed in a plot to release the Confederate prisoners of war at Camp Morton in Indianapolis on August 16. Spymaster Carrington, kept informed by spies inside the secret organization, reported that Milligan was one of the plotters who "were urging resistance to the government." The plot was foiled when prominent establishment Democrats got cold feet and called on Carrington, who made a show of military force in the city with the few troops he had.<sup>101</sup> Milligan's Fort Wayne call to arms was a preliminary to the August 16 plot. Two weeks later, he went to Chicago to attend the Democratic National Convention, which nominated former General George B. McClellan for president. He gave grudging support to pro-war McClellan, who accepted the party's nomination while snubbing its immediate-peace plank, which Milligan had supported.<sup>102</sup>

As the summer's events unfolded, worried Republican governors of Ohio, Indiana, and Illinois conferred with military commanders about the growing threat of insurrection. In their private debates, they concurred that the leading conspirators should be arrested. While their spies gave them warning of the plotters' intentions, however, the governors and generals agreed that they lacked sufficient troops to quell a mass uprising. Their efforts to gain the president's backing initially failed; Lincoln, preoccupied with the military campaigns in Virginia, Georgia, and Louisiana, dismissed their fears. In July, Secretary of War Edwin M. Stanton, lobbied by the governors and bombarded by the generals with pleas for more troops, sent trusted Judge Advocate General Joseph Holt west to investigate the secret societies. Holt reported back that the "treasonable association" was real, in communication with Confederate agents, and dangerous; in Indiana, Illinois, and to a lesser extent in Ohio, the societies posed a formidable and imminent threat of revolution "whenever a favorable opportunity shall arise." Troops arrested conspiracy leaders in Missouri and Kentucky, but Holt agreed that the lack of troops in the other states made similar arrests

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<sup>101</sup>Two letters of Carrington to Potter, August 16, 1864, RG 393, Part III, District of Indiana Records, E 218, Letters Sent, volume 1, 80-82, 82-84, NARA-WDC.

<sup>102</sup>Milligan to Charles B. Lasselle, September 8, 1864, in Lasselle Family Collection, L127, Manuscripts Section, Indiana Division, Indiana State Library, Indianapolis, Indiana.

there inadvisable.<sup>103</sup> Holt's reports to Washington did the trick for the besieged western governors and generals. Convinced, Stanton provided them with supplies, new military commanders, and, most importantly, extra troops to guard prisoner-of-war camps. The last-minute arrival of reinforcements played a significant part in forestalling the August 16 uprising at Indianapolis. Concurrently, news of intercepted shipments of large quantities of guns and ammunition in Indianapolis and Terre Haute electrified Indiana and helped prompt commanders to impose a regional arms embargo. Along with arms and ammunition seized at Dodd's business offices, troops seized records of the Sons of Liberty that included correspondence of Milligan. Morton had many of these records published in the *Indianapolis Daily Journal*.<sup>104</sup>

In late August, the generals and governors, no doubt aided by Joseph Holt, convinced Stanton and, tacitly, Lincoln that the leading conspirators should be arrested and tried by military commission. This decision followed their shared frustration with the failure of trials for conspiracy and treason in federal civilian courts. In 1861, efforts to bring KGC conspirators to trial at Cleveland had collapsed when witnesses suddenly died or buckled to intimidation. Federal grand jury investigations in Indiana and Ohio in 1862 and 1863 bore no fruit. Most importantly, the Camp Chase (Columbus, Ohio) conspiracy trials in federal court at Cincinnati languished amid courtroom delays. The U.S. attorney prosecuting the cases privately voiced his frustration to Attorney General Edward Bates about the U.S. Constitution's requirements for proving treason.<sup>105</sup> Clearly, the federal civil courts had not provided an expedient route for trying conspirators. On the other side of the coin, the Charleston, Illinois, street gun battle of March 29, 1864, had resulted in military arrests of many civilians, fifteen of whom were still held in military prison awaiting disposition. Military commanders in Illinois advocated their trial by military commission. In late July, Holt's assistant judge advocate general agreed,

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<sup>103</sup>Joseph Holt to Edwin M. Stanton, July 29, 1864, volume 22, Edwin McMasters Stanton Papers, Manuscripts Division, Library of Congress, Washington, D.C.; Holt to Stanton, July 31 and August 5, 1864, OR, series 1, volume 39, part 2, 212-15, and series 3, volume 4, 577-79. See Elizabeth D. Leonard, *Lincoln's Forgotten Ally: Judge Advocate General Joseph Holt of Kentucky* (Chapel Hill, N. C., 2011).

<sup>104</sup>*Indianapolis Daily Journal*, August 23, 1864.

<sup>105</sup>Flamen Ball to Edward Bates, April 26, 1864, Record Group 60, General Records of the Department of Justice, E 9, Letters Received, folder Ohio "Southern District of Ohio (US Attorney)," National Archives and Records Administration-College Park, Maryland.

writing that the incident “must be regarded as...a great military crime.”<sup>106</sup> Meanwhile, the war was progressing poorly. Federal forces in Virginia were mired in trench warfare, and in Georgia Major General William T. Sherman’s advance ground to a halt against stiff rebel resistance outside Atlanta. Lincoln’s reelection prospects looked poor. How the decision was made in Washington remains unclear, but national leaders decided to employ military commission tribunals to try the conspirators.<sup>107</sup> To do so in Indiana, Stanton ordered Brevet Major General Alvin P. Hovey to take command of the military District of Indiana and gave him authority to arrest civilians and try them by military commission. Hovey, a War Democrat, former U.S. attorney and Indiana Supreme Court justice, set to work and in early September arrested Dodd, the state leader of the Sons of Liberty, and other persons. He soon convened a military commission tribunal made up of high-ranking army officers to try Dodd for conspiracy and treason. Witnesses included some of the spies who had supplied information to the army and Morton from the inside of the conspiracy. The trial, reported verbatim in the Indianapolis daily newspapers, created a sensation throughout the Northwest. In early October, days before the state elections, an emboldened Hovey widened his net and issued orders

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<sup>106</sup>Peter J. Barry, “The Charleston Riot and Its Aftermath: Civil, Military, and Presidential Responses,” *Journal of Illinois History* 7 (Summer 2004), 99.

<sup>107</sup>Morton biographer William Dudley Foulke wrote that “Secretary Stanton and Governor Morton determined that more drastic measures were required. It was necessary to strike terror into the hearts of the conspirators and prevent a repetition of plots which...were a continual source of danger in the midst of the struggle for national existence. So it was determined to resort to a military commission.” Foulke did not cite any sources documenting this decision. See Foulke, *Life of Oliver P. Morton, Including His Important Speeches* (Indianapolis, Ind., 1899), 1:419. Other writers have followed Foulke. See Rehnquist, *All the Laws But One*, 83. In keeping with his portrait of Morton as an evil “political genius,” Stamp assigns all the responsibility to Morton. See Stamp, “The Milligan Case and the Election of 1864 in Indiana,” *Mississippi Valley Historical Review* 31 (June 1944), 51-52; and Stamp, *Indiana Politics during the Civil War*, 246-47. Stamp ignores the months-long debate that occurred between several governors, generals, and Washington authorities about using military commissions. While historians know that Stanton often took bold measures independent of Lincoln, I believe that the secretary did not take unilateral steps in matters of political significance without consulting the president. I am guided by entries in the private diary of Maj. Gen. Samuel P. Heintzelman, commander of the Northern Department. In late August 1864, he complained that Stanton would not take the bold step to stop arms sales in the Midwest: “The copperheads are arming. The War Dept. won’t take the responsibility, so I have to. Gov. [John] Brough [of Ohio] will sustain me to the extent of his power.” A month later, Heintzelman complained about Stanton: “I have not been radical enough—won’t arrest people without orders—will not take the responsibility of doing what Mr. Stanton would not do without Mr. Lincoln’s orders.” See diary entries of August 22 and September 30, 1864, in Samuel P. Heintzelman Papers, Manuscripts Division, Library of Congress, Washington, D. C.

to arrest other leading Hoosier conspirators whom the trial witnesses had implicated: Andrew Humphreys of Greene County; Dr. William A. Bowles of Orange County; Joseph J. Bingham, editor of the *Indianapolis Sentinel* and Democratic state party chairman; Horace Heffren of Washington County; and Stephen Horsey of Martin County. Hovey also issued an order for the arrest of Milligan.

On October 5, a company of fifty troops set out by train from Indianapolis for Huntington. Obtaining a special train at the Peru junction, the troops reached Huntington at midnight. The captain in command ordered the car containing his troops uncoupled near Milligan's farmhouse, alongside the tracks west of town. Surrounding the house, he knocked at the door and found Milligan on a couch downstairs. The previous day Milligan had had surgery on his leg to treat an erysipelas infection. His family protested that he had been prostrated for five weeks with the infection and fever and could not be moved without endangering his life. The captain reported that he sent for Milligan's "family physician," who stated that Milligan could be removed to Indianapolis with "no injurious effect." The officer also learned that a neighbor had seen Milligan walk from his house to the railroad station in town, a distance of three-fourths of a mile, just two days earlier. Satisfied, the troops carried their prisoner on the couch to the railroad car. As these discussions took place, word of his early-morning arrest reached town and crowds gathered near the locomotive at the station, guarded by troops, "swearing that he (Milligan) should not be taken, and that they would defend him to the death." Following orders to avoid a "collision," the captain "took no notice of the threats made," collected his troops, coupled the car to the engine, and returned to the capital, arriving at 4 a.m. Troops placed Milligan in a prison stockade on the grounds of the Soldiers' Home, a military facility in the city.<sup>108</sup>

Hovey prepared charges against Milligan and the other new prisoners, held in cells in the federal courthouse building or in military prisons around

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<sup>108</sup>Captain Samuel Place Jr. to Captain A. C. Kemper, October 7, 1864, Record Group 109, "Union Provost Marshal's Files of Papers Relating to Individual Citizens," M345, microfilm roll 191, NARA-WDC. Place noted that "loyal citizens" of Huntington provided helpful information during the arrest, but also "on account of the large predominancy of disloyal sentiment existing in the place, requested that their names might not be made public." Place identified Dr. D. S. Leyman as Milligan's family physician. In his civil trial in 1871, the Indianapolis papers reported variously about who performed the surgery on Milligan's leg. The *Journal* reported Milligan testified that Dr. William M. Swayzee performed it, while the *Sentinel* printed that "Dr. Frazier" did it. See *Indianapolis Daily Journal* and *Indianapolis Daily Sentinel*, May 20, 1871. The *Sentinel's* reporter occasionally noted that he could not hear all the testimony clearly.

the city. Dodd escaped from the federal building in the early morning of October 7, prompting embarrassed commanders to tighten security measures for the other prisoners. Milligan's cramped cell in the Soldiers' Home was drafty, cold, and uncomfortable, and the prisoner suffered greatly during his imprisonment.<sup>109</sup> The commission found Dodd guilty in absentia and turned its attention to the new prisoners charged with treason and conspiracy. John Coffroth defended Milligan. The newspaperman Bingham turned government witness to finger the other conspirators. Likewise, in the middle of the trial the army prosecutor dropped charges against Heffren, who proceeded to spill details about plots coordinated with Confederate agents. The convenient target of their blame was Dodd, safely ensconced in Canada. As the trial continued into November, Henry Zumro, the Markle physician-turned-army-spy, took the stand. He told of his knowledge of the secret societies in Huntington and Wells Counties and of Milligan's leadership. Milligan's attorney retaliated by calling Huntington witnesses to attest to Zumro's bad character: "I would not believe him under oath," many swore.<sup>110</sup> Under cross-examination, however, the local witnesses acknowledged membership in the "Circle of the Mighty Host," the OAK, and the Sons of Liberty. The trial dragged on into December, when defense attorneys argued that the army's spies had obtained information by deceit, rendering their statements unreliable. The army argued that the secret organizations were part of a general conspiracy to cripple the war effort and to raise rebellion in the North. The officers on the tribunal found the defendants guilty of treason. Hovey withheld public announcement of the verdicts to press Lincoln for death sentences. By this time, the October state elections and the presidential election of November had produced resounding Republican victories for Morton and Lincoln. Military victories in Georgia buoyed Northern senti-

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<sup>109</sup>In the civil trial of 1871, Milligan claimed federal officers deliberately treated him cruelly. There is no question that the weakened man suffered during his incarceration in Indianapolis in the fall and early winter of 1864. The officers who were defendants in the trial did not strenuously contest the claim of harshness; they contended merely that they acted without personal malice. See the testimony in *Indianapolis Daily Journal* and *Indianapolis Daily Sentinel*. During the military trial, army officers received reports that attempts would be made to help Milligan and other prisoners escape. See Capt. Calvin Cowgill to Brig. Gen. Thomas J. Pitcher, November 29, 1864, RG 109, "Union Provost Marshal's Files of Papers Relating to Individual Citizens," M345, microfilm roll 191, NARA-WDC.

<sup>110</sup>Klement portrays Zumro as a dishonest witness, based solely on the testimony of defense witnesses called by Milligan's lawyer. He ignores testimony of good character from prosecution witnesses, who said he was their trusted family physician and had never heard anything bad about him before the trial. See Pitman, *Trials for Treason*, 189-91; Klement, *Dark Lanterns*, 183; and Klement, "The Indianapolis Treason Trials and *Ex parte Milligan*," 113.

Indianapolis 28 Dec. 1864

Wm. B. Stanton Sec. War.

Dear Sir I have  
 been condemned to die with-  
 out evidence. Please examine  
 the facts and advise the  
 President do this much for  
 an old acquaintance and  
 friend—

Yours very truly

L. P. Milligan

A note from Lambdin Milligan to Secretary of War Edwin M. Stanton, December 28, 1864. From a military prison, Milligan wrote to Stanton, asking his former legal

colleague to plead his case with President Lincoln.

National Archives and Records Administration

ment in favor of the Republicans, but the Indianapolis military commission trials undoubtedly played an additional role in turning public sentiment against the Democrats. Joseph Holt, Lincoln's legal adviser on military trials, advised the president that the death penalty was proper for Milligan and the other conspirators. In January 1865, with the president's assent, Hovey announced the verdicts: the defendants (excepting Humphreys) were sentenced to be executed for treason.

Milligan and his friends scrambled to save his life. The prisoner wrote to his old legal adversary in Ohio, Secretary of War Stanton: "I have been condemned to die without evidence. Please examine the facts and advise

the President do this much for an old acquaintance and friend.”<sup>111</sup> Coffroth and others went to Washington to plead for his client. Lawyers entered a request for a writ of habeas corpus in the federal circuit court in Indianapolis. Joseph E. McDonald obtained a promise from Lincoln for their release, the president purportedly saying that he would merely detain them temporarily.<sup>112</sup> At home, the *Huntington Democrat* attacked the trial as a “farce” committed by “pimps in power.” Prosecutors had produced “not a scintilla of evidence” to show that Milligan knew of Dodd’s conspiracy. Editor Winter reported rumors that Lincoln would soon commute the “political prisoners” sentences or release them.<sup>113</sup> The president’s death by an assassin’s hand, however, dashed their hopes. New president Andrew Johnson promptly approved the order for execution, set to occur only days away. The *Huntington Democrat*, commenting on Lincoln’s murder, quoted Milligan as saying: “We have lost our best friend.”<sup>114</sup> Efforts to obtain mercy continued, and the divided decision of the circuit court judges in Indianapolis meant that Milligan’s case would go to the United States Supreme Court. Morton sent former congressman John U. Pettit to press Johnson to remit the sentence. The president offered a delay in the death sentence, and Sarah Milligan and Huntington attorneys sped to Washington to plead for commutation. Coffroth wired Huntington from the capital with news of the success of their mission: Johnson commuted the sentences to life in prison.<sup>115</sup>

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<sup>111</sup>Milligan to Stanton, December 28, 1864, RG 153, Records of the Judge Advocate General, Court Martial Case Files, Military Commission Trial of Humphreys, Milligan, Horsey, and Bowles, NN-3409, box 1879, NARA-WDC; *Indianapolis Daily Journal*, May 22, 1871.

<sup>112</sup>In 1866, David Davis told William H. Herndon that he had advised Lincoln that military commissions, especially in the North, were “unconstitutional and wrong.” According to Davis, Lincoln had told McDonald that “he wouldn’t hang them...but said—I guess I’ll keep them in prison awhile to prevent them from killing the government. I am satisfied that Lincoln was thoroughly opposed to these Military Commissions, Especially in the free States.” Herndon interview with David Davis, September 20, 1866, in Douglas L. Wilson and Rodney O. Davis, eds., *Herndon’s Informants: Letters, Interviews, and Statements about Abraham Lincoln* (Urbana, Ill., 1998), 348-49.

<sup>113</sup>*Huntington Democrat*, February 9 and 16, 1865. Winter did not deny the existence of the OAK and anointed them the “Apostles of Civil Liberty in America.” He added that the Sons of Liberty was the “abolition designation” of the OAK.

<sup>114</sup>*Ibid.*, May 11, 1865.

<sup>115</sup>*Ibid.*, May 18, 25, and June 1, 1865. The *Democrat* noted that Huntington Republican attorney David O. Daily reported that Governor Morton and other state officials all wrote petitions to the president to commute the sentence. See petitions and other correspondence in RG 153, Records of the Judge Advocate General, Court Martial Case Files, Military Commission Trial of Humphreys, Milligan, Horsey, and Bowles, NN-3409, box 1879, NARA-WDC.



Military authorities sent Milligan, Bowles, and Horsey under heavy guard, with ball and chain clasped around their ankles, to the high security Ohio State Penitentiary in Columbus. There Milligan lived what he described as a nightmarish existence, working as “slave labor” in the prison factory and dissecting corpses in the prison hospital.<sup>116</sup> Meanwhile, attorneys worked on the case pending before the Supreme Court and hoped for a presidential pardon. Supreme Court Justice David Davis, in his capacity as judge of the U.S. Circuit Court in Indiana, had ensured a division in Milligan’s habeas corpus request, thus sending the case to the high court. During the war, Davis had vainly counseled Lincoln against using military commission tribunals to try civilians in the North.<sup>117</sup> Now the case was before him and the other justices. The war was over, relative peace had been restored, and reconstruction of governance in the rebellious states had commenced. Eminent attorneys, including Republican jurists, joined Coffroth and Joseph McDonald to argue on Milligan’s behalf, eager to restore legal forms after wartime chaos. Oral arguments before the Supreme Court took place over several days in early March 1866. Coffroth, a spectator in the chamber, described proceedings and predicted: “*There is no doubt about the result of the case. [Milligan counsel Dudley] Field has bet a wine supper that the decision will be unanimous in our favor.*”<sup>118</sup> As it was, a divided court ruled in early April in favor of Milligan, Bowles, and Horsey (the now-famous decision in *Ex parte Milligan* only appeared in December). Milligan had been tried and convicted of treason in the wrong court. Coffroth immediately applied for a habeas corpus writ in an

<sup>116</sup>See Milligan’s testimony in his civil trial, *Indianapolis Daily Journal* and *Indianapolis Daily Sentinel*, May 20–22, 1871. See also *Huntington Democrat*, December 27, 1866, quoting the *Cincinnati Enquirer*.

<sup>117</sup>See Peter J. Barry, “I’ll keep them in prison awhile...”: Abraham Lincoln and David Davis on Civil Liberties in Wartime,” *Journal of the Abraham Lincoln Association* 28 (Winter 2007), 20–29.

<sup>118</sup>Coffroth to Samuel Winter, March 9, 1866, in *Huntington Democrat*, March 15, 1866. Republican James A. Garfield, wartime general and congressman, joined Milligan’s legal team and argued eloquently before the court. Then and in later years, when campaigning for office in Ohio as a Republican, he justified his defense of Milligan. Warren [Ohio] *Western Reserve Chronicle*, June 20 and July 11, 1866. Speaking in 1874, he said that he “believed they deserved the severest punishment,” but he opposed the idea of trial by military commission “where the war was not raging” and civil courts were open. “I felt when I made that argument that I was doing as worthy a thing as I ever had done in my life.” He added: “Having saved civil liberty is this country against cruel invasion, we ought to save it from our own recklessness.” His words were recalled in 1880 when he ran for president. *Milwaukee Sentinel*, July 6, 1880. Garfield’s argument appears in Klaus, *The Milligan Case*, 93–120. See also Willard L. King, *Lincoln’s Manager: David Davis* (Cambridge, Mass., 1960), 245–58.

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## **Grand Ovation to Col. Milligan.**

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### **ENTHUSIASTIC RECEPTION!**

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#### **One Day Devoted to a Glorious Cause.**

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The return of Col. L. P. Milligan to his home, on last Thursday morning, was the occasion of a demonstration, on the part of his friends and neighbors, to which all history furnishes but one parallel, and that is the ovation of welcome which greeted the immortal Demosthenes upon his return to Piræus from his exile at Megara. As the great Athenian was received upon his arrival in that city by its magistrates and dignitaries and citizens, so was our illustrious fellow-citizen received by the Mayor, the Common Council and the citizens with the utmost manifestations of affection and joy, blended with sorrow and indignation at the flagitious wrongs and cruel persecution to which he has been subjected in the last eighteen months.

"Grand Ovation to Col. Milligan," *Huntington Democrat*, April 19, 1866.  
 Milligan's Democratic hometown newspaper reported his return from prison as a major historical event and the vindication of a hero.

**A LITTLE EVENT.**—That immaculate Democratic martyr, Lambdin P. Milligan, of Huntington county, the late speaker at Bluffton, in answer to "Brown, of Wells," was in the city yesterday, under the especial care and protection of John R. Coffroth, Democratic candidate for Attorney General. He was taken out upon the public streets, and welcomed into small juntos of the faithful, where his distinguished services were acknowledged in innumerable handshakings, and "smiles" upon the part of the great untterrified. Milligan looks as much of an incarnated, cadaverous devil as when he was plotting ruin and murder for us and our families two years ago. The snaky devil still lurks in the eye, and the sardonic grin still play upon the features, as they did when in the cabals of the Sons of Liberty, he gloated over the anticipations of social anarchy and revolution. The hand that shook his in candid grasp should be palsied for shame; the face of Coffroth should be forever mantled in blushes. Treason and traitors were openly cajoled yesterday by Democrats, and yet they will come before honest men, and ask for their suffrage.

"A Little Event," *Indianapolis Daily Journal*, May 30, 1866. One of the capital's Republican newspapers reported Milligan's trip to Indianapolis as the return of a traitor whose appearance resembled that of a "cadaverous devil."

Ohio court and delivered it to the prison. The War Department ordered the prisoners' release.<sup>119</sup> Milligan and the others emerged from the prison on April 10; he arrived to a hero's welcome at the Huntington depot on April 12, with Democratic throngs cheering, bands playing, and speeches resounding. "Though his voice was weak," the *Huntington Democrat* reported, Milligan responded with a short speech of thanks to the hometown faithful for always believing him innocent and approving of his actions. "What revolutions in government or society have intervened since my seclusion," he added, "I know not, but I am and always have been opposed to revolutions, believing that seldom if ever have their fruits equalled their cost in treasure, blood and moral retrogression."<sup>120</sup>

Revolutions had occurred in the eighteen months that Milligan languished in prison. The once-mighty Democratic Party had been humbled. Voters had reelected Lincoln and the Confederate rebellion had collapsed. An assassin put in the White House a new president who warred with Congress over Southern reconstruction. Congress and most of the states had ratified a constitutional amendment ending slavery and closing the chapter on the dispute that had prompted rebellion and war. Congress would soon introduce language to amend the Constitution to grant citizenship to African American people. The federal triumph was the *de facto* end of most arguments for state sovereignty, nullification, and secession. In society, war had mobilized a Northern industrial and financial powerhouse governed by capital markets in New York, Boston, and Philadelphia. Milligan had fought to preserve a union of sovereign states superior to the central government, a union in which slavery was protected and African Americans were kept in chains. He had joined with conspirators to raise rebellion in the North. He had urged secession of Northwestern states to isolate New England, the breeding ground of ideas that polluted the country. Milligan denied being a revolutionary and would in coming years portray himself as an innocent victim of government tyranny. But by his reactionary efforts against the war of coercion and in

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<sup>119</sup>*Columbus Ohio Statesman*, n.d., quoted in *Coshocton Democrat*, April 17, 1866.

<sup>120</sup>*Huntington Democrat*, April 19, 1866. A full account of Milligan's homecoming appeared in *Cincinnati West and South*, April 23, 1866. Governor Morton commented on the Supreme Court's ruling, writing: "All can now see that if Bowles and Milligan had been executed it would have hung like a Millstone about the necks of all persons concerned, and rested as a dark cloud upon the Union Party of Indiana." Their "unquestionable" guilt would have been forgotten. "When I interfered to prevent their execution I knew it would subject me to much slanderous censure but I believed that I was doing right." Morton to Richard Smith, April 20, 1866, Oliver P. Morton Letterbooks, volume 5, 1-9, Conrad Baker Papers, M8, Indiana Historical Society.

favor of Northern insurrection, he had helped to create exactly what he feared: a powerful central government, a mighty industrial and financial economy, and a society in which all men and women, regardless of skin color, could enjoy freedom.

Milligan's return to Huntington began the next phase in his life, as he worked to vindicate his wartime efforts in favor of state sovereignty and slavery and to transform himself into a martyr for civil liberties. The revision of his record commenced. The *Huntington Democrat* soon printed editorials claiming that the army officers who formed the military commission were the true conspirators and that Milligan was the victim.<sup>121</sup> The *Democrat* and other papers also averred that authorities had arrested him to stifle speech, omitting his leadership of a wartime conspiracy.<sup>122</sup> Still weak from his prison ordeal, Milligan nonetheless accepted an invitation to speak at nearby Bluffton, where he lashed out at all the evils of the country. In a long speech, he angrily assailed New England puritanism, the monied oligarchy, paper money, national banks, congressional usurpation, and "Yankees" quartered on Indiana's soil. "Who can now soberly look around and smile at the condition of things?" Lincoln's murder and Morton's recent stroke and paralysis were, he said, evidence of God's vengeance against unrepentant sinners. He urged the restoration of government to its "original purity" and suggested that if the Constitution should be amended, it should further restrict the powers of the federal government.<sup>123</sup> The speech was a bitter jeremiad laden with foreboding

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<sup>121</sup>*Huntington Democrat*, May 3 and 10, 1866.

<sup>122</sup>Milligan was imprisoned "purely for political offenses, in other words, simply for holding opinions obnoxious to the party in power." *Columbus Ohio Statesman*, n.d., quoted in *Coshocton Democrat*, April 17, 1866. In his speech in Huntington, Milligan was quoted to say: "I have never wronged my country or fellow man—nor did those who clamored for my oppression, ever suspect me of any wrong." *Fort Wayne Democrat*, April 18, 1866, quoted in *Cambridge City Western Mirror*, April 26, 1866.

<sup>123</sup>*Huntington Democrat*, May 31, 1866. The speech attracted severe censure from Republican newspapers such as the *Chicago Tribune*, *Cleveland Morning Leader*, and *Cincinnati Gazette*. The *New York Tribune* remarked that "Mr. Calhoun, we regret to aver, was the grand ancestor of this brand of blackguard[ism]. He set the fashion of sneering at the Puritans," and Milligan was following his pattern of "striving to create sectional jealousies." Quoted in *Philadelphia Evening Telegraph*, June 12, 1866. An Ohio legislator from Belmont County recounted visiting Milligan in prison at Columbus and noted the difference between what the prisoner said then and what he said in the Bluffton speech. Milligan, he wrote, had put his faith in Lincoln until his murder; he also praised Morton "who spared no pains in his efforts to secure a commutation of sentence." He was bitter against Johnson, "but spoke in the highest terms of praise of Mr. Lincoln and Gov. Morton." See letter of Isaac Welsh in *St. Clairsville Belmont Chronicle*, June 14, 1866.

and gloom, a reflection of his mental state upon release from prison. Milligan also dealt with unfinished business. In the previous year a federal grand jury in Indianapolis had indicted him for conspiracy to overthrow the federal government. Days after his Bluffton speech, he traveled to the state capital, where he appeared before the federal circuit court and gave bail. The matter of trying Milligan properly in a civil court rested with U.S. Attorney John Hanna, who, following the cue of President Johnson who granted amnesty to Confederate rebels in arms, dropped the indictment.<sup>124</sup> Milligan was free from the threat of civil trial and imprisonment.

Free from prosecution, Milligan turned his attention to reforming his party. A network of conservative Northern and border state Democrats, including former acolytes of John C. Calhoun, continued to advocate "state sovereignty Democracy" and "federal subordination." Leaders of this group included former Ohio congressman Alexander Long (censured by the House in 1864 for his speech advocating Southern secession) and Cincinnati attorney and politician William M. Corry. In 1863, as lawyer for one of the conspirators arrested in the Camp Chase plot, Corry had put forward the singular defense "that treason or conspiracy against the United States after the refusal of some of the States to continue the constitutional compact is no longer possible."<sup>125</sup> Soon after war's end, with Long's financial backing, Corry started a newspaper, *West and South*, to castigate mainline Democratic Party leaders for expedient deviation from orthodoxy. Westerners and Southerners, he wrote, were bound together against eastern elites. The paper regularly printed Jefferson's Kentucky Resolutions of 1798 and Calhoun's writings and announced that it did "most emphatically plant itself on the Calhoun theory of the federal system." Corry tied state sovereignty, white supremacy, and "negro subordination" together, proclaimed that abolition of slavery was a crime, and declared that African Americans "must work under direction of their superiors." He

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<sup>124</sup>*Huntington Democrat*, June 7, 14, 1866, January 17, 1867; *Huntington Indiana Herald*, May 30 and June 6, 1866.

<sup>125</sup>*Cincinnati Daily Enquirer*, November 17, 1863. At his death in 1880, a newspaper obituarist noted that "a speech from [Corry] without a reference to the resolutions of '98 was incomplete." *Chicago Inter-Ocean*, September 13, 1880. In a speech during the war, Corry concluded that separation was already irrevocable and that the rebels could not be defeated. The South, he claimed, only seceded from fear of attack on free trade and strict construction of the U.S. Constitution. "The danger of losing slaves was only used in the second place, as a tocsin to arouse the people." See his *Against the Degradation of the States: an Oration Delivered before the Peace Democracy at Canton, Stark County, Ohio, July 4, 1863* (Cincinnati, Ohio, 1863).



praised Milligan for his principles while the latter was in prison: "The best men of Indiana [are] in the Ohio Penitentiary."<sup>126</sup> By late 1866, Milligan, Corry, Long, and others collaborated in a plan to reform the Democratic Party along ideologically purer lines. They called for a convention to be held in Cincinnati on Jefferson's birthday (April 13) in 1867 to form a new "United States Democratic Party," nominate candidates, and discuss proper Democratic doctrine. Meeting organizers chose Milligan to give the keynote speech, in which he attacked the idea of a perpetual Union and upheld the Confederate states' right to fight federal coercion. State sovereignty, he declared, was not a dead issue, and constitutional restrictions upon federal powers would remedy the country's many ills.<sup>127</sup>

Milligan took his message back to Huntington and, with the official backing of the new party's leaders, prepared a manifesto to organize a United States Democratic Party in Indiana. The document, published in the *Huntington Democrat*, announced that many regular Democratic leaders had "strayed from the ancient faith and creed of the party" into cooperation with President Johnson and others of the "revolutionary party" to secure the "spoils of office." The time had come to reorganize the party. Ideological purity was required: "None will be regarded as of us whose faith on Federal relations does not square with those of Thomas Jefferson and his political associates."<sup>128</sup> In a two-hour speech to a "large and respectable assemblage" gathered at the courthouse, Milligan lamented that the Democratic Party had "sunken into a mass of materialism based upon money and numbers" led by eastern capitalists who preyed upon western farmers. "No party can be successful with such leaders as [New York banker] August Belmont," he predicted. Reorganization based upon "ancient and time-honored" principles would return Democrats and the country to the "happy condition we enjoyed before the deceitful revolution."<sup>129</sup> Elsewhere, Milligan advocated the

<sup>126</sup>*Cincinnati West and South*, November 5, 1865, March 19, July 16, 23, 1866, August 17, 1867. For Long and *West and South*, see Joanna D. Cowden, "Heaven Will Frown on Such a Cause as This": Six Democrats Who Opposed Lincoln's War (Lanham, Md., 2001), 189.

<sup>127</sup>*Ibid.*, April 20, 1867. For a study of ideological disputes within the Democratic Party, see Joel H. Silbey, *A Respectable Minority: The Democratic Party in the Civil War Era, 1860-1868* (New York, 1977). For a study of the survival of secessionist thought after the rebellion, see Cynthia Nicoletti, "The Great Question of the War: The Legal Status of Secession in the Aftermath of the American Civil War" (Ph.D. dissertation, University of Virginia, 2010). See also Nicoletti, "The American Civil War as a Trial by Battle," *Law and History Review* 28 (Spring 2010), 71-110.

<sup>128</sup>*Huntington Democrat*, May 23, 1867.

<sup>129</sup>*Ibid.*, June 20, 1867.

repudiation of the national debt, for “he who lends his money to a usurper to enable him to overthrow the Government and our liberties, should lose it.” He bemoaned that southern whites were being disenfranchised while former slaves were obtaining the vote. It was a fight between the friends of freedom and despotism. “Let the nabobs of New England understand that freedom or civil war will be the alternative,” he threatened.<sup>130</sup> His calls for reform attracted little support, however, and the true-believers’ efforts to restore purity to the national party soon collapsed. Still, he remained popular in Huntington, where he wrested control of the county organization from Slack. The town’s Republican editor ascribed “The Old Gentleman’s” popularity among Democratic rank-and-file to his “candor”: in a local speech advocating “rubbing out” the federal debt, Milligan fired up the crowd by removing his linen coat and declaring he could whip any man who contradicted him.<sup>131</sup>

Along with rebuilding a purer Democratic Party, Milligan also worked to restart his law practice. His legal defense had been expensive, and while many Huntingtonians chipped in to help pay his legal bills, he paid much of the balance himself. While yet in “feeble health,” soon after his release from prison he resumed his practice and called on debtors to pay up.<sup>132</sup> He needed to make money, but, ever vengeful, he also aimed to settle scores against wartime foes. He represented his Presbyterian pastor, the Rev. Richard A. Curran, in a civil suit against Wabash men who had assaulted the cleric in 1863 over his well-known pro-secession views. Venued to Cass County because of the case’s notoriety, the suit occupied two full weeks of testimony. Milligan’s closing speech lasted five hours. Curran won, but instead of the \$5000 damages that he had demanded, he received only \$100 from the jury. The Wabash Republican newspaper noted after

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<sup>130</sup>*Cincinnati West and South*, September 7, 1867; *Rochester* [New York] *Union*, n.d., in *Huntington Democrat*, September 19, 1867. In 1869, Milligan led Huntington County Democrats in efforts against ratification of the Fifteenth Amendment to the Constitution which would allow negro suffrage. African Americans would neither be permitted to come to the county nor be permitted to vote, he vowed. *Huntington Indiana Herald*, March 10 and 17, 1869.

<sup>131</sup>*Huntington Indiana Herald*, July 15, 1868. Milligan’s speeches in favor of repudiating the federal debt gained national attention. In a speech at Logansport, he noted that during the war he had warned that the war was being waged to benefit the “monetary and manufacturing interest.... I told them so in 1861; I told so in 1862, in 1863, and again in 1864. Then they stopped me.” While calling for the repudiation of the federal debt, he opposed repudiation of debts incurred by the Confederate government. *Daily Cleveland Herald*, August 12, 1868.

<sup>132</sup>*Huntington Democrat*, June 28, 1866, May 21, 1868.



the trial that Milligan had been unknown beyond thirty miles from Huntington “until treason, the sum of all villainies, made him notorious.”<sup>133</sup>

Early in 1868, as part of his campaign of vengeance, Milligan filed suit in the Huntington Court of Common Pleas against twenty-four defendants, all of whom had in some way participated in his military arrest and trial. He demanded damages of more than \$500,000 for his illegal arrest and for defamation of character of “an innocent, Union-loving citizen.” The defendants included his inveterate enemy James Slack; former governor, now U.S. senator, Oliver P. Morton; General Hovey, who had ordered his arrest; the members of the military commission who had tried him; the court stenographer who had published a book-length edition of the trial transcript; and Huntington neighbors who had either spied on (e.g., Zumro) or slandered him. Partisan observers commented that Milligan aimed to harass those whom he believed had persecuted him during the war. They had made his life miserable; now he would get his revenge.<sup>134</sup> The defendants promptly had the case removed to the federal court in Indianapolis and succeeded in dragging out legal preliminaries for years before the case came to trial. While awaiting trial, Milligan initiated and won a side suit in local court against Zumro for debt for the legal services provided him after his dummy arrest.<sup>135</sup>

The trial, *Milligan v. Hovey, et al.*, finally commenced in Indianapolis in May 1871, with Morton, Slack, and others pared off the original list of defendants, and with the demand for damages reduced to \$100,000. Former Democratic U.S. senator Thomas A. Hendricks, a skilled lawyer, represented the plaintiff. Benjamin Harrison, an army general during the

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<sup>133</sup>*Wabash Weekly Plain Dealer*, March 28 and April 11, 1867. See also *Logansport Democratic Pharos*, March 20 and 27, 1867; and *Logansport Weekly Journal*, March 16, 23, and 30, 1867. For the original incident, see *Huntington Democrat*, July 16 and 23, 1863.

<sup>134</sup>*Huntington Indiana Herald*, March 18, June 24, August 5, and December 16, 1868.

<sup>135</sup>See L. P. Milligan v. H. S. Zumro, September 7, 1870, Huntington County Circuit Court Civil Case Files, roll 210, accessed at the Huntington Public Library. The case file includes Milligan's brief, claiming that Zumro retained Milligan as his legal counsel on February 25, 1864, and that Zumro consulted Milligan frequently from March through September 1864. The Republican newspaper in town commented that Milligan aimed to persecute those who had been involved in his punishment for treason and had aided the war effort: “He loses no opportunity to vent his wrath against every soldier who assisted in putting down the rebellion. In his speech in the Zumro case he said: ‘There were only two classes of men who went to the Union armies in this war—first were boys who could be excited by inflammatory speeches in the excitement of the time....The second class was composed of men, who went in for the offices and the plunder.’” *Huntington Indiana Herald*, February 22, 1871.

war and rising star in the Indiana Republican Party, led a bench full of legal talent for the defense.<sup>136</sup> The trial attracted national press attention. From the outset, federal circuit court judge Thomas Drummond emphatically tamped down defense counsel efforts to raise “collateral issues” touching on the fraught wartime atmosphere in Indiana and the activities of the secret organizations. He aimed to restrict the case to findings regarding Milligan’s illegal arrest and imprisonment. In two days on the witness stand, Milligan recited the tribulations he had suffered, from being hauled from his house strapped to his sickbed, held in a freezing military prison cell in lousy conditions, fed meager fare, and forced to breathe sickening body odors of other prisoners, to working in the Ohio prison “alive with vermin” as slave labor and cutting up the dead bodies of fellow prisoners in the prison hospital. Milligan’s testimony made clear that, beyond physical suffering, his imprisonment had taken a psychological toll: “I can stand out-door exercise full as well [as before], I think; but I can’t endure office work so well. I require more outdoor atmosphere....When the court room isn’t crowded, as far as trials are concerned, I can do that very well; but a very few days close confinement in the office—hard office work, brings on the same state of feeling that I contracted in prison.”<sup>137</sup>

Over Hendricks’s objections, defense attorneys read testimony of the military commission trial into the record and questioned witnesses about Milligan’s role in wartime plots. Several days into the trial, a courtroom dust-up brought the issue of wartime events in Indiana to the forefront. Defense attorneys argued that they wished to show that Milligan had been an officer first in the OAK and later the Sons of Liberty, and that he and the secret order, in communication with Confederate rebels, had plotted treason. They also argued that a state of war had existed in Indiana—that the state had been a “theater of war”—as a result of the actions of Milligan and the other conspirators. They maneuvered Judge Drummond into accepting testimony about wartime conditions in Indiana and the secret societies to show that the defendants had not acted out of personal malice.<sup>138</sup> Given the go-ahead, defense counsel called witnesses to testify about Milligan’s leadership in conspiracy. Having failed to keep out

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<sup>136</sup>A Harrison biographer suggests that President Ulysses S. Grant assigned Harrison to defend the former army officers. See Harry J. Sievers, *Benjamin Harrison: Hoosier Statesman* (New York, 1959), 2:42.

<sup>137</sup>*Indianapolis Daily Sentinel*, May 21, 1871.

<sup>138</sup>*Ibid.*, May 24, 1871; and *Indianapolis Daily Journal*, May 24, 1871.

such testimony, Hendricks recalled Milligan to the stand to deny active leadership in the plots and to deflect points raised by witnesses. In his instructions to the jury, Drummond summarized that the defense had demonstrated conclusively that a conspiracy had existed in Indiana during the war and that army commanders, made aware of it by their spies and informants, had acted in a way they thought was necessary. But civil government in Indiana had remained intact, he concluded, and Milligan could have been tried by a civil court. His instructions almost required jurors to find that Milligan's arrest and trial by military commission had been unconstitutional. He noted, however, that the plaintiff had only filed his civil suit for damages in March 1868. Federal and state laws set the statute of limitations at two years, meaning that "defendants would not be liable for any act done prior to March 13, 1866." After deliberation, the jury found for Milligan but awarded him only five dollars in damages, plus court costs.<sup>139</sup> It was a stunning result. While Democratic newspaper editorials properly portrayed the ruling as a principled victory for Milligan and civil rights, Republicans noted that the trial "proved" the existence of wartime treason in Indiana and that Milligan had been a "ringleader" in it.<sup>140</sup> In the aftermath of the verdict, Milligan remained publicly silent, but his actions betrayed his dissatisfaction with the outcome and his continued determination to exact retribution. He immediately filed motion for a new trial against Slack and others to contest the transfer of the case to federal court, but his effort ended two years later when the Indiana Supreme Court refused to take up his case.<sup>141</sup> His drive to collect court costs took years; he obtained \$786 by congressional appropriation during the Democratic administration of President Grover Cleveland in 1885.<sup>142</sup> National leaders

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<sup>139</sup>*Indianapolis Daily Sentinel*, May 30 and 31, 1871; *Huntington Indiana Herald*, August 23, 1871. Jurors followed a state law passed by the Republican-controlled Indiana General Assembly in 1867 limiting damages in suits arising from wartime incidents to five dollars. See *Laws of the State of Indiana Passed at the Forty-fifth Regular Session of the General Assembly* (Indianapolis, Ind., 1867), 148-49.

<sup>140</sup>*Fort Wayne Daily Gazette*, June 1, 1871; *Huntington Indiana Herald*, June 7, 1871. Many newspapers commented editorially on the ruling, including newspapers in the South which focused on repercussions for federal reconstruction policy. See, for example, *Charleston [South Carolina] Daily News*, June 8, 1871.

<sup>141</sup>*Indianapolis Daily News*, June 1 and 2, 1871; *Logansport Weekly Journal*, September 2, 1871. See *Milligan v. Slack, et al.*, Indiana Supreme Court Case File Records, box 1217, file number 28,999, in Indiana State Archives.

<sup>142</sup>*Huntington Indiana Herald*, December 25, 1878; *Fort Wayne Daily Gazette*, October 31, 1885; and *St. Louis Globe-Democrat*, October 31, 1885.

in wartime had wrongly tried Milligan for treason in a military court to obtain an expedient judgment, but his compulsion to avenge the wrong had only cemented his notoriety as an “unhung traitor.” An editor for the *Indianapolis Daily Commercial* commented on the *Ex parte Milligan* ruling and the case just ended, writing, “It must be borne in mind that he was not set at liberty because he was innocent, but because his case had been tried in the wrong court.” Observed the Republican newspaper in his hometown: “The lawsuit has not helped the plaintiff, either in purse or reputation.”<sup>143</sup>

In the aftermath of the civil trial, Milligan’s life returned to its normal rhythms. His legal practice rebounded; he remained a prominent Democratic Party leader in the county and congressional district; and he enjoyed the life of a prosperous gentleman farmer, breeding prize horses and cattle. Still, his acerbic personality fueled acrimony. The election of James Slack to the circuit court bench produced threats from Milligan that he would be forced to retire from practicing law. His political and legal collaboration with John Coffroth ended in acrimonious public feuds that resulted in Coffroth moving to Lafayette. Others also fled to avoid his lawsuits: William Bickel, a local merchant whom Milligan sued for wartime slander, moved to Minnesota; Henry Zumro moved to Nebraska.<sup>144</sup>

His public life a constant uproar of conflict, Milligan found solace elsewhere. Having been raised a Methodist and worshipping in an Old School Presbyterian congregation during the war, he converted to Catholicism in 1870.<sup>145</sup> Sources do not reveal what prompted his confirmation in the faith tradition of his grandfather. A political arch-conservative who reacted against new thinking and ideas, he believed that all of society’s evils derived from New England puritanism. Methodists and other Protestants who had pressed for abolition were anathema to him. Perhaps the reactionary conservatism of Catholicism under Pope Pius IX attracted Milligan. Opponents held up Milligan as the champion of an outdated world-

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<sup>143</sup>*Indianapolis Daily Commercial*, June 1, 1871; *Huntington Indiana Herald*, June 7, 1871.

<sup>144</sup>On Milligan’s threat to retire, see *Huntington Democrat*, October 9, 1873. On the feud with Coffroth, see *Huntington Democrat*, August 29, 1872; and *Huntington Indiana Herald*, September 18, 1872. In the 1871 federal trial, Coffroth testified that in 1864 he and Milligan were “not on good terms at all,” were not “personally friendly,” and had “little fights.” *Indianapolis Daily Sentinel*, May 20, 1871. Still, the two men remained co-owners of Huntington real estate. See *Huntington Democrat*, January 6, 1876, and January 17, 1884. On driving Bickel out of town, see *Huntington Indiana Herald*, June 24 and August 5, 1868. On Zumro’s removal to Nebraska, see *Huntington Democrat*, February 19, 1874, May 25 and June 16, 1876.

<sup>145</sup>*Huntington Democrat*, May 12, 1870.

view. The editor of the *Herald* quipped that Milligan was two hundred years behind the times: "He imagines that the old, settled political and religious difficulties between Puritans and Catholics are still living issues" and attacks the former "with all the zeal of a new convert." Milligan, he opined, was still "laboring under the impression that the doctrine of States Rights, so called, and the extension of slavery are yet vital questions.... He forgets that the war settled *him* and the two latter doctrines."<sup>146</sup>

In 1870, Sarah Ridgeway Milligan died after a long illness and was buried in the Catholic cemetery in Huntington. In 1873, in Richmond, Indiana, Lambdin married Evansville widow Marie Louise Cavender.<sup>147</sup> Together they led a quiet domestic existence. Milligan's sons James and Moses both became local butchers, married, and raised large families. James dabbled in local politics and served as a town constable before his death in 1891. In 1883, Moses entered into a partnership with his father, building the "Milligan Block," a handsome structure opposite the Huntington courthouse which accommodated Milligan's law offices as well as the Windsor Hotel, an elegant restaurant and inn run by Moses and his wife.<sup>148</sup> Youngest son Lillo, often called Lewis, enlisted in the regular U.S. Army and served on the western frontier for three years.<sup>149</sup>

Milligan and his family secured a prominent place in local society, with the newspapers regularly reporting on his movements and health. Lambdin returned to town boosterism and building economic infrastructure. Newspapers reported his frequent trips to New York and other eastern business centers to meet with financiers to lay the groundwork for building a major railroad from the east coast to Chicago. He lobbied neighboring communities in northern Indiana to muster support and financial backing, pressing county governments to raise taxes to finance construction. The result was an 1879 contract with the Chicago and Atlantic Railroad Company to lay tracks across northern Indiana for a new railroad. For his efforts, Milligan was elected secretary of the company and served as its general counsel for years. Along with supervising millions of dollars of contracts to construct the line, he brought a major locomotive repair

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<sup>146</sup>*Huntington Indiana Herald*, July 8, 1868.

<sup>147</sup>*Huntington Democrat*, August 14 and 28, 1873.

<sup>148</sup>*Ibid.*, June 21, September 6, November 22, and December 6, 1883.

<sup>149</sup>*Ibid.*, June 21, 1877.

facility to Huntington. As the town grew in population and prosperity, his railroad work received bipartisan support from the newspapers.<sup>150</sup> Still, he sued the Wabash railroad on multiple occasions when locomotives traversing his farm pasture struck and killed his valuable horses.<sup>151</sup>

Milligan remained active in politics. In 1872, he supported the Democratic Party's alliance with the "Liberal Republicans" behind Horace Greeley for president, in opposition to the corrupt Grant administration. Speaking at the courthouse, he announced that he backed the eccentric New York editor because "from his record I believe he would respect the doctrine of state rights."<sup>152</sup> In later years he spoke against the "fraud" that put Republican Rutherford B. Hayes in the White House, and lectured on tariff issues during the campaign of Democrat Grover Cleveland in 1884. He continued to be a force in county party leadership, was regularly selected as a delegate to party conventions at the district and state levels, and spoke out on public issues.<sup>153</sup> He remained forever hopeful of winning elective office to provide a platform to press his ideas. Election years brought reports of his efforts to drum up support for a run for Congress, the legislature, or a judgeship. In 1874, he sought nomination to run for Congress, employing the *Democrat* to puff his record of "independent thought," honesty, and opposition to "monopolies and monied oppression," and to circulate the fiction that "public life has no particular fascination for him."<sup>154</sup> In 1882, at the age of seventy, he ran for state senator as an "Independent Democratic" candidate in opposition to the regular party nominee, accusing party leaders of truckling under to the "Whiskey element" in opposing prohibition. A longtime temperance man, he received support from Republicans who agitated for prohibiting the sale of alcoholic drink. Republicans did not even nominate a candidate,

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<sup>150</sup>*Huntington Indiana Herald*, December 22, 1868, November 29, December 17, 1871, January 31, February 21, and November 27, 1872, March 26, 1873; *Huntington Democrat*, December 16, 1875.

<sup>151</sup>*Huntington Democrat*, June 9, 1876; *Fort Wayne Weekly Sentinel*, November 13, 1878, and June 30, 1887. One of the cases made it to the Indiana Supreme Court. See *Toledo, Wabash and Western Railroad v. L. P. Milligan*, Indiana Supreme Court Case File Records, box 1377, case 30,632, Indiana State Archives.

<sup>152</sup>*Huntington Indiana Herald*, October 23, 1872.

<sup>153</sup>*Huntington Democrat*, January 4, 1877, and September 25, 1884; *Fort Wayne Weekly Gazette*, June 5, 1890.

<sup>154</sup>*Fort Wayne Daily Gazette*, February 4, 1870; *Huntington Democrat*, July 7, 1870, May 14 and 21, June 11, and July 9, 1874.

prompting accusations that Milligan was their nominee. He lost badly, polling an embarrassing third place behind the Democratic and Greenback Party candidates and gave up further attempts at elected office.<sup>155</sup>

Frustrated in politics, Milligan continued his busy legal practice. Jettisoning his past “hard money,” anti-bank beliefs, he represented the national bank of Huntington as well as other corporate and financial interests.<sup>156</sup> He defended accused murderers and arsonists in prominent criminal cases in regional courts and argued cases before the Indiana Supreme Court. In 1898, on his 86th birthday, he announced his decision to retire from the law in the Huntington courtroom. Addressing the court in a speech reviewing his career, he portrayed himself as a martyr for “constitutional liberty,” claiming that during his imprisonment President Johnson had sent him a message offering a full pardon in return for his consent to dismiss his habeas corpus case wending its way to the Supreme Court. “If I have any distinct trait of character,” he congratulated himself, “it is the persistency with which I stand by convictions of right.” Constitutional lawyers, he claimed, would forever thank him for the “restoration of law over anarchy and military despotism,” and he cited the 1871 civil case as another such triumph. In concluding, he called on his fellow attorneys to “respect the law, respect the Court..., and above all to respect yourselves, remembering that a trickster cannot be a good lawyer.”<sup>157</sup> The next year, wife Marie died in Fort Wayne following surgery. Milligan moved from the farmhouse to an apartment in the Milligan Block, and there, on December 21, 1899, he died.

A review of Lambdin P. Milligan’s life makes clear that in its long course he veered little from his early adherence to principles of state sovereignty and nullification first advanced by Thomas Jefferson and later

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<sup>155</sup>Milligan was an officer in the local Sons of Temperance lodge at least from 1849. In the 1850s, when temperance issues were important in early Republican platforms, he drops out of sight in the records. See *Huntington Indiana Herald*, September 19, 1849, February 29, 1860, December 27, 1882; *Huntington Democrat*, August 16, 1883; *Huntington Indiana Herald*, August 30, September 13, 27, and October 18, 1882. Milligan’s independent candidacy led politicians to label him a renegade to the Democratic Party and a Republican, an accusation later echoed erroneously. See Thomas R. Marshall, *Recollections of Thomas R. Marshall, Vice-President and Hoosier Philosopher: A Hoosier Salad* (Indianapolis, Ind., 1925), 73; and David Williamson, *The 47th Indiana Volunteer Infantry: A Civil War History* (Jefferson, N. C., 2011), 302.

<sup>156</sup>*Huntington Democrat*, March 2, 1876.

<sup>157</sup>*Huntington Daily News-Democrat*, March 25, 1898; *Fort Wayne News*, March 25, 1898.

amplified by John C. Calhoun. The nullification crisis of his early adulthood shaped his worldview, and he never deviated from it. He held on to his core belief with tenacity. In 1925, a local historian in Huntington published a newspaper article describing a manuscript account, in his possession but now sadly lost, of the military arrest and trial. The account had been written by Milligan himself sometime in his later years, and in it he purportedly wrote: "I recognize the changes in our government, both by constitutional amendments and federal aggression, and now with the timidity of Democratic leaders, have but little hope of a return to first principles."<sup>158</sup> During the Civil War, however, appalled by the threats to constitutional government posed by the Lincoln administration in its efforts to crush rebellion in both Southern and Northern states, he had refused to accept a recast federal relationship between central government and the states. Accordingly, he helped lead a conspiracy to resist it with force. With wartime and postwar obfuscation of the record cleared away, historians must understand Milligan to have been a conspirator driven by his persistent belief in the "first principles" of state sovereignty and slavery.




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<sup>158</sup>E. S. Bash, "Manuscript Written by L. P. Milligan Recalls His Trial for Treason in the Sixties," *Huntington Herald-Press*, January 17, 1925. The manuscript is described as being written on legal foolscap and undated, although it referred to Milligan's 1882 run for state senator. Bash repeats the claim that Milligan was arrested for speeches made in the summer of 1864.