

# The Indiana Seminary Charter of 1820

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Nearly hidden in the narrative of pioneer Indiana is the story of the Indiana Seminary Charter of 1820. The charter's story, however, is not only basic to the foundation narrative of Indiana University but also an important part of the state's early history. When told at all, the story relates that the state constitution, the charter, and the origins of the university proceeded, one from the other, along a clear path of historical development.<sup>1</sup> It is a story that seems direct as well as clear, like so many other narratives with which we explain the past.

Societies construct explanatory narratives from different kinds of stories, based on research, tradition, or imagination. For the past century it has been accepted that in 1806 Parson Mason Locke Weems constructed the story of young George Washington and a cherry tree for the fifth edition of his biography, thus enlivening the narrative to meet competing biographies of the first president. The story was intended to illustrate Washington's lifelong nobility of character, but the artifice reveals Weems rather than Washington.<sup>2</sup> Nonetheless, the tale is often regarded

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<sup>1</sup>Donald F. Carmony, *Indiana, 1816-1850: The Pioneer Era* (Indianapolis, 1998), 396.

<sup>2</sup>Joseph J. Ellis, *His Excellency George Washington* (New York, 2004), 7-8.

as a moral exemplar and a historical possibility. Societies abide such constructions, even in the face of contrary evidence, because they fulfill a purpose, offer an explanation, or privilege one view over another. We may even believe that a good story ought to have happened. And so construction, rather than truth, becomes the daughter of time.<sup>3</sup>

Weems's story led to scholarly skepticism; the story of the seminary charter ultimately became venerable. In the 1880s, when writers first seriously considered Indiana University's past, they found the story of visionary pioneers who created an educational ladder, for which—in Thomas D. Clark's 1970 phrase—the charter represented “the bottom rail.”<sup>4</sup> In this narrative, the 1816 state constitution provided a mandate and the 1820 seminary charter provided legislative authority for a university. In 1828, the legislature raised the seminary to a college, and one decade later the college became Indiana University.

Until the 1880s, however, the university gave little thought to the charter. In its early years, the school was concerned with survival rather than history, for it was not a place of consequence. A lawsuit in the 1850s nearly ended the institution.<sup>5</sup> A fire in 1854 destroyed its one building, along with its library and records. The Civil War reduced enrollment to a mere handful of students. In 1867, the first small state subsidy began a cycle of biennial legislative reviews and biennial fears of removal to the state's bustling capital. Enrollment remained low, about one-quarter that of the Indiana Asbury College (now DePauw University) at Greencastle. As late as the mid-1880s, the institution's future in Bloomington seemed uncertain, and talk of removal continued intermittently until the 1920s.

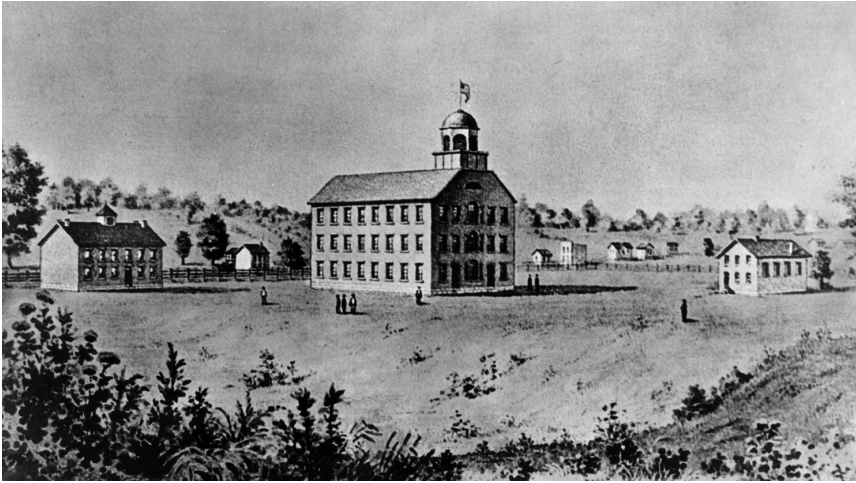
During the mid-1880s, circumstances caused the institution to reinvent itself, and, in the process, to look for its origin. In part this search attempted to secure the institution against the biennial threat of removal. Indiana University in 1880 was in effect a classical college with

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<sup>3</sup>The phrase “Truth is the daughter of time” comes from Aulus Gellius (c. 125-180 CE); *The Attic Nights of Aulus Gellius*, trans. Rev. W. Beloe (3 vols., London, 1795), 2:356-58. Since 1959, Robert Laurent's monumental wall sculpture “Veritas Filia Temporis” has been a feature at Ballantine Hall on the Indiana University campus.

<sup>4</sup>Thomas D. Clark, *Indiana University, Midwestern Pioneer*, vol. 1, *The Early Years* (Bloomington, Ind., 1970), chap. 3.

<sup>5</sup>The suit concerned the university's title to the educational township that Congress had given in 1804 to Vincennes University. For a summary of the suit, see *ibid.*, 183-95.



Indiana University, c. 1840. Known first as a seminary, then as a college, and finally in 1838 as a university, the school still had few buildings and a small student body.

Courtesy Indiana University Archives, Bloomington

a minister-president; one decade later it was a modern university with a scientist-president. Two factors forced this dramatic shift. In summer 1883, a second fire destroyed the grandly designated “scientific building” but left the smaller “literary building” constructed after the 1854 fire. The trustees made a bold decision to move from the site designated in the 1820 charter, one-half mile south of the town square, to a larger site one-half mile to the east.<sup>6</sup> They authorized two modern buildings for scientific teaching—Wylie and Owen Halls—and supplemented them with a small wood-frame building for other classes. The following year the trustees made a second bold decision after unseemly allegations associated the president, the Rev. Dr. Lemuel Moss, and the young female instructor of Greek. He resigned, she was dismissed. Trustees appointed the faculty’s youngest and most popular professor, David Starr Jordan, as Moss’s successor. Jordan was an 1871 zoology graduate in the

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<sup>6</sup>The original property faced Bloomington’s Second Street, where College Avenue originally ended; College Avenue now extends through the old property to First Street. Between College Avenue and Walnut Street is “Seminary Park,” a remnant of the campus; west of College—at this time—a parking lot, supermarket, and fast food restaurant cover the area where two buildings stood prior to the 1883 fire.

first class at Cornell University, one of the modern educational institutions appearing in the United States after the Civil War. Located on the new campus and led by a modern academic with an international scientific reputation, Indiana University was no longer a static classical college but an expanding university.<sup>7</sup>

These events uprooted the institution, and the new campus opened in 1885 without a sense of history. New buildings smelled of fresh lumber and plaster. University students abandoned the old college's traditions. A generation of younger faculty with modern academic training replaced aging classicists, mostly ministers who had taught for decades. Jordan revised the curriculum, turning from the traditional study of mathematics and ancient languages to a modern emphasis on science and modern languages. To some longtime staff, the pace of change was breathtaking, as senior faculty member Theophilus Wylie, nephew of the first Indiana College president Andrew Wylie, wrote in his diary: "New arrangements, new studies, new teachers, new modes of teaching, give me much anxiety."<sup>8</sup> Faced with so much change, the trustees sought to anchor the institution with a foundation date. Looking back into the school's history, the trustees declared that, although the college had not become a university until 1838, the first state constitution had intended the seminary to grow into the state university and, thus, that the Indiana Seminary Charter of 1820 marked the foundation of Indiana University.

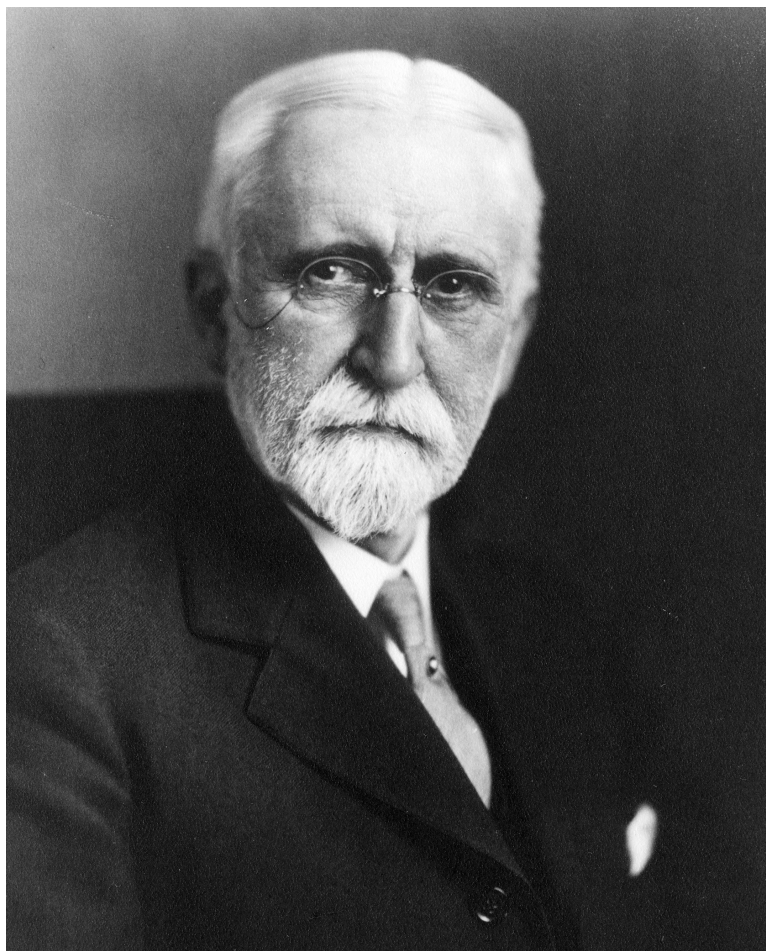
The trustees marked their new sense of the university's history by celebrating the first "foundation day" on January 20, 1889, with an assembly in the old college chapel on the original campus. It included hours of Victorian oratory, and one of the speakers was Judge David D. Banta, trustee and 1855 law graduate, who spoke about "the seminary period." After the first chapel exercises, students and faculty marched to the new campus almost a mile away for more oratory. For the next five years, on each foundation day, Banta carried his story of the institution forward until he reached the Civil War.<sup>9</sup>

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Jordan resigned in 1891 to become first president of Stanford University, another of the modern universities being founded in the United States in the latter part of the century.

<sup>8</sup>Theophilus Wylie Diary, September 6, 1885, Indiana University Archives, Bloomington, Indiana.

<sup>9</sup>David D. Banta, "The Seminary Period," in James Albert Woodburn, *History of Indiana University, 1820-1902* (Bloomington, Ind., 1940), 3-25.



James A. Woodburn, c. 1930. A student and later a faculty member of the university, Woodburn published his history of the school in 1940.

Courtesy Indiana University Archives, Bloomington

The trustees designated Wylie to prepare a historical sketch and collect information on all graduates and faculty to replace information the fires had destroyed. This substantial work was published in 1890. At about the same time, James A. Woodburn, an 1872 graduate and faculty member, published his Johns Hopkins doctoral dissertation on the history of higher education in Indiana. Wylie and Woodburn agreed with their friend Banta that the 1816 state constitution had planted the

“germ” of the university. Banta’s narrative persisted well into the twentieth century. In 1940, Woodburn published a history of the university as far as 1902, but the first six chapters merely reprinted Banta’s foundation-day lectures. Clark, in his three-volume sesquicentennial history, likewise accepted Banta’s judgment.<sup>10</sup>

Wylie and the historians who followed him assumed that the seminary’s primary visionary was Bloomington pioneer and physician David Maxwell. Indeed, he was a lobbyist for the charter, then a trustee and state legislator. It was he who persuaded the legislature in 1828 to charter the seminary as a college and a decade later as a university. Until his death in 1854 he was a presence on the campus. Banta, who remembered him with great respect, must have listened to Maxwell’s version of the foundation narrative many times. Maxwell’s son James succeeded him on the board until his own death in 1891, and it is reasonable to infer that he reiterated his father’s story. The elder Maxwell’s memory was enshrined that same year, when the university’s new library, its third modern building, opened and was named Maxwell Hall. Banta, Wylie, and Woodburn all wrote their histories at a time when the university was under James Maxwell’s watchful eye, and it was perhaps natural that their narratives emphasized his father’s founding role and assumed that constitution, seminary, and university were neatly aligned.

Such assumptions beg questions of the charter’s background and context, as well as of the legislature’s intent. Questions about the early nineteenth-century narrative do not reflect on today’s institution, but as a point of history it is interesting to revisit the narrative and examine its construction.

At the time of statehood in 1816, the Indiana Territory was a wilderness with little need for a university. The population was scattered along the “well-watered valleys” of the Whitewater, Ohio, and lower Wabash; few settlers had pushed into the interior between the forks of the White River, future location of Monroe County and Bloomington. In 1809, Native Americans had relinquished claim to the region south of the “ten o’clock line” that began a few miles from Madison and ran

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<sup>10</sup>Theophilus Wylie, *Indiana University: Its History from 1820, when founded, to 1890* (Indianapolis, 1890); James A. Woodburn, *Higher Education in Indiana*, (Washington, D.C., 1891); Woodburn, *History of Indiana University*; Clark, *Indiana University*, vol. 1, 25.

northwest, as if pointing to ten o'clock. No roads broke the forests, save the buffalo trace between the Falls of the Ohio and Vincennes, which passed some fifty miles south of Bloomington's future site. In 1812, the outbreak of war prevented settlement below the ten o'clock line, and settlers did not venture north toward the line until about 1815. After Indiana became a state, the New Purchase Treaty cleared title to land north of the ten o'clock line, including the land that became part of Monroe County.<sup>11</sup>

Many of the county's settlers had first seen the region around the university's future location while serving as rangers during the War of 1812. One of the four companies commissioned by Territorial Governor William Henry Harrison was under the command of Judge Williamson Dunn; Dunn's brother-in-law, David Maxwell, then in Madison, joined the company as surgeon, and his brother Edward as a ranger. The company mustered at Madison and spent a year building fortifications along the Ohio River. In summer 1813, the companies of Dunn and James Bigger raided Indian villages along the West Fork of the White River. They marched north, probably passing through the area that became Monroe County, and into the central part of the territory, camping near the future site of Indianapolis. In the autumn they went to Fort Harrison on the Wabash to relieve Capt. Zachary Taylor's regulars. Wartime experiences were important, for as one of the rangers wrote: "The soldiers became much attached to each other during their service, and the kindest feeling towards each other seems ever to have existed between them all."<sup>12</sup>

At war's end settlers began moving toward the ten o'clock line. The Parks family from North Carolina, including James Parks Sr., who had been a captain in Bigger's rangers, squatted on the East Fork of the White River in 1815 but failed to purchase land at the auction held at Jeffersonville one year later. The family moved northward, almost to the line, and this time managed to buy land. Among the first purchasers were other rangers from the companies of Dunn and Bigger, including

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<sup>11</sup>Malcolm J. Rohrbough, *The Land Office Business* (New York, 1968), 101-102, 131.

<sup>12</sup>William Wesley Woollen, *Biographical and Historical Sketches* (Indianapolis, 1883), 401-402; "Reminiscences of Col. John Ketcham," in Logan Esarey, ed., *Governors Messages and Letters, Messages and Letters of William Henry Harrison* (2 vols., Indianapolis, 1922), 1:274-87. For Fort Harrison (Terre Haute) during the war, see John D. Barnhart and Dorothy L. Riker, *Indiana to 1816, The Colonial Period* (Indianapolis, 1971), 396-401.



Bigger's brother William, who purchased land southwest of the future site of Bloomington, and his brother James, who purchased land to the northwest. John Ketcham, a sergeant in Bigger's rangers, and John W. Lee, a private in Dunn's rangers, both bought land, and other buyers may have been related to rangers. Another purchaser, James Borland, bought land in several townships and later in Bloomington. Of those days Parks recalled that contacts between the first settlers and Native Americans were friendly, that the land produced corn, and that the woods yielded deer and turkeys.<sup>13</sup>

As of 1816, after the territory's population had met the 60,000 minimum required under the 1787 Northwest Ordinance for statehood, Parks and his fellow rangers found themselves residents of the new state of Indiana. The Land Ordinance of 1785 had included a proviso that one mile-square section of each township's thirty-six be reserved for support of public schools.<sup>14</sup> Two years later, the drafters of the Northwest Ordinance iterated the purpose: "[R]eligion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." The sentiment was Thomas Jefferson's, even if the future founder of the University of Virginia did not write this particular expression. At the same time, in 1787, Congress agreed to a second form of grant, which resulted from a land speculator's strategy rather than congressional policy. The result, nonetheless, had implications for the entire Northwest Territory. Manasseh Cutler represented the Ohio Company and was engaged in negotiations with Congress over his company's land purchase. He was a Yale graduate, an all-round polymath known to members of Congress, a visionary. He demanded and received two townships, which he required to be located at the center of the company's purchase, for support of a university. By 1795 the company began to survey the townships; in 1801 the town of Athens, Ohio Territory, was laid out. And in 1802, the territorial legislature chartered Cutler's university: "[T]he Congress of the United States did make a grant of two townships

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<sup>13</sup>Charles Blanchard, ed., *Counties of Morgan, Monroe, and Brown, Indiana* (Chicago, 1884), 372-73; Forest M. Hall, *Historic Treasures* (Bloomington, Ind., 1922), 23.

<sup>14</sup>These would eventually become township common schools, but not until the 1850s did Indiana begin to see fulfillment of this objective. See Carmony, *Indiana, 1816-1850*, 369-94, for progress in the 1830s and 1840s; Emma Lou Thornbrough, *Indiana in the Civil War Era 1850-1880* (Indianapolis, 1965), 461-74, on the 1850s.



of land, within the purchase made by the Ohio Company of Associates, for the encouragement and support of an university therein." After Ohio became a state, the new legislature passed a charter with similar wording, which remains the charter for Ohio University.<sup>15</sup> Thus, the Land Ordinance provided section grants for common schools throughout the Northwest Territory as a matter of policy; Cutler's bargaining obtained a specific grant in the Ohio purchase as a matter of strategy.

As we consider the expectations for schooling held by territorial and early state legislators, it is important to note the imprecise use of the terms "seminary" and "academy" in the Early Republic. In the early nineteenth century, both words referred to private schools below the collegiate and above the public common school levels.<sup>16</sup> Anyone establishing a college or university called the institution a college or university, not a seminary. In the 1820s, several academies and seminaries—most of them short-lived—appeared in southern Indiana towns.<sup>17</sup> They were not collegiate institutions. Howard Peckham has explained that they were "a characteristically American catchall school that enrolled such students as [they] could attract and taught them such subjects of the English or Latin-grammar curriculum as seemed appropriate."<sup>18</sup> The ostensible purpose of these schools was to prepare students to attend one of a handful of American colleges.<sup>19</sup> The Indiana Seminary Charter's most ardent proponent, David Maxwell, wrote in 1821, four years before the first dozen boys enrolled, that the seminary was to be a "humble" school where "the elementary parts of an education can be had."<sup>20</sup>

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<sup>15</sup>Thomas N. Hoover, *The History of Ohio University* (Athens, Ohio, 1954), 10-19.

<sup>16</sup>The nineteenth-century definition is more narrow than that of the sixteenth century, with its broader implication of a place of instruction. See "Seminary," *Oxford English Dictionary* (2nd edition, 1989). In the 1870s the Johns Hopkins University began offering a special course in philology called a "seminary," which quickly evolved into a "seminar."

<sup>17</sup>Donald Carmony has written that in Indiana "secondary education was mainly at seminaries and academies or at similar institutions with various names." Carmony, *Indiana, 1816-1850*, 394. In the last half of the nineteenth century, public "high schools" began to fulfill this purpose. William J. Reese, *The Origins of the American High School* (New Haven, Conn., 1995), 30.

<sup>18</sup>Quoted in Lawrence A. Cremin, *American Education: The National Experience, 1783-1876* (New York, 1980), 389, 400.

<sup>19</sup>In the 1820s, young Hoosiers and Michiganders in search of a college education had few choices close to home: Ohio University, Athens; Transylvania University, Lexington, Kentucky; Jefferson and Washington Colleges in Pennsylvania; Hamilton College, Clinton, New York; Union College, Schenectady. Howard H. Peckham, *The Making of the University of Michigan, 1817-1992* (New York, 1992), 9.

<sup>20</sup>Indiana, *Journal of the House of Representatives* (1821), 106.

Territorial and early state legislators used various terms to describe the institution that each had in mind. Indiana's 1815 statehood petition confusingly requested an educational land grant, such as had been made in Ohio for "a reserve of one entire township, for the support of a college, to be located at some suitable place, on the United States lands in this Territory." Subsequent documents refer only to a seminary. Petitioners explained their request in prevailing Jeffersonian terms: "[T]he promotion of useful Knowledge, is the best Guarantee to our civil institutions."<sup>21</sup> Such talk had appeared in the Land Ordinance in support of township common schools. Other midwestern state constitutions supported education in differing terms. Ohio's 1803 Constitution declared that, "religion, morality and knowledge being essentially necessary to good government and the happiness of mankind, schools and the means of instructions shall forever be encouraged by legislative provision not inconsistent with the rights of conscience" (article 8, section 3). In contrast, Michigan's 1835 Constitution was more pragmatically Jacksonian: "The Legislature shall encourage by all suitable means, the promotion of Intellectual, Scientifical and Agricultural improvement" (article 10, section 2).<sup>22</sup>

The Indiana Enabling Act, which became law on April 19, 1816, provided that an entire township "shall be designated by the President ... for the use of a seminary of learning," thus altering the proposed institution to a non-collegiate grade.<sup>23</sup> The arrangement of a grant to support education was in fact the second made to Indiana, for Congress in 1804 granted to Indiana and Michigan Territories one university township based on the Ohio pattern. Revenues from the sale of land in the Indiana township, in Gibson County twenty-five miles south of Vincennes, were to support an institution in Knox County, which was chartered as Vincennes University. Its charter argued that the "independence, happiness and energy of every republic" required that "the

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<sup>21</sup>Louis B. Ewbank and Dorothy L. Riker, eds., *The Laws of Indiana Territory, 1809-1816* (Indianapolis, 1934), 813.

<sup>22</sup>Ohio's 1803 Constitution can be found in "Ohio History Central: An Online Encyclopedia of Ohio History" at <http://www.ohiohistory.org/portal/research.html>; Michigan's 1835 Constitution is online at <http://www.legislature.mi.gov/documents/historical/miconstitution1835.htm> (both accessed July 29, 2010).

<sup>23</sup>Clarence Edwin Carter, ed., *Territorial Papers of the United States*, vol. 8, *The Territory of Indiana, 1810-1816* (Washington, D.C., 1939), 407.

knowledge which is requisite for a magistrate and elector, should be widely diffused." Despite its name and ambition, the school operated as a grammar school for a few years; by 1820 its charter was in abeyance and the future of the Gibson County township lay in question, leading to a decade-long lawsuit.<sup>24</sup>

The constitutional convention met at Corydon near the Falls of the Ohio, and the first resolution before the body declared "that it is expedient, at this time, to proceed to form a constitution and state government."<sup>25</sup> After spending the day on other business, the resolution was tabled late in the afternoon; the next day it passed by a vote of thirty-four to eight. One of the eight dissenters was David Maxwell, who in later years nonetheless became identified with the reserved educational township. He and the other dissenters came from the counties of Knox and Jefferson, where in 1814 the territorial legislature had chartered the profitable Vincennes and Madison banks. Perhaps they were concerned about statehood's impact on their banks, while at the same time accepting the view that state charters could support local development.<sup>26</sup>

The constitutional convention proceeded to designate a reserved township in a manner contrary to the enabling act, which specifically had placed authority in the hands of the President of the United States. On June 19, John Johnson of Knox County—who voted against the convention's initial resolution—made a motion "[t]hat Jonathan Lindley, Benjamin Parke, and James Noble, be appointed to designate ... a township the most proper to be reserved for the state, for the use of a seminary of learning, and ... to request the President to reserve the same."<sup>27</sup> The use of the term seminary followed from the enabling act. Johnson was a trustee of Vincennes University and a federalist ally of Parke and former Governor Harrison. Parke, also a Vincennes trustee, was Harrison's wartime aide and a one-time proponent of slavery in the terri-

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<sup>24</sup>Robert Constantine, ed., "Minutes of the Board of Trustees for Vincennes University [December 6, 1806-September 12, 1807]," *Indiana Magazine of History*, 54 (December 1958); Barnhart and Riker, *Indiana to 1816*, 376-78; Carmony, *Indiana, 1816-1850*, 396; Peckham, *University of Michigan*, 5.

<sup>25</sup>Donald F. Carmony, ed., "Journal of the Convention of the Indiana Territory, 1816," *Indiana Magazine of History*, 61 (June 1965), 92.

<sup>26</sup>The constitution's tenth article allowed a future legislature to charter a state bank, but for the time being the banks at Vincennes and Madison were continued with charters granted by the territorial legislature. Barnhart and Riker, *Indiana to 1816*, 457.

<sup>27</sup>Carmony, ed., "Journal of the Convention," 122.

tory, and would soon be a negotiator for the New Purchase. He had probably met Maxwell during the war, and during the convention both men usually voted in the negative with the federalist minority.<sup>28</sup> These individuals were also land speculators. Two years after the convention, Parke became Monroe County's sales agent and a speculator in Bloomington town lots. Lindley was an early land purchaser in Monroe County, a speculator in several counties, and a promoter of nearby Paoli in Orange County.

Lindley, Parke, and Noble immediately designated the reserved land: township eight, range one west of the second meridian (T8 R1), in the region that two years later would be organized as Monroe County. On the same day, the committee members began the process of obtaining official approval for the reserve. They wrote to the registers of the Vincennes land office, John Badollet and Nathaniel Ewing, who were in Corydon because Badollet was a member of the convention. The next day, Badollet and Ewing wrote to President James Madison and Secretary of the Treasury Alexander Dallas in Washington. On July 15, Josiah Meigs at the general land office replied that Dallas had directed him "to inform you that the President ... has approved of the designation, you will therefore reserve that township for the use of a seminary of learning."<sup>29</sup>

The convention's education committee acted separately and, in their drafted Article IX, projected a statewide system of public education. The article was the work of Badollet, the committee's visionary chairman, who used New Hampshire's constitution as his precedent. Although Maxwell was not involved in drafting the article, his granddaughter Louise would later describe him as "an active participant in the framing of a constitution," a man to whom "vision had come," and of whom "it is known from his subsequent life that Article IX lay nearest to his heart."<sup>30</sup>

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<sup>28</sup>See Constantine, ed., "Minutes of the Board of Trustees," 348; J. P. Dunn, ed., *Slavery Petitions and Papers (Indiana Historical Publications, vol. 2, no. 12, Indianapolis, 1894)*, 477, 509. Parke had apparently reversed his position by the time of statehood. See Carmony, ed., "Journal of the Convention," 124.

<sup>29</sup>Josiah Meigs to John Badollet and Nathaniel Ewing, July 15, 1816, in Carter, ed., *Territorial Papers*, vol. 8, *Indiana*, 437. When Banta wrote his 1889 lecture, he constructed a narrative in which President Madison personally pondered the 1812 surveyor's notes and selected the site for the university; according to Banta, the enabling act and the presidential selection formed "the germ of Indiana University." In fact, Madison merely signed off on the commissioners' selection. Banta, "The Seminary Period," in Woodburn, *History of Indiana University*, 3-25.

<sup>30</sup>Louise Maxwell, "Sketch of Dr. David H. Maxwell," *Indiana Magazine of History*, 8 (September 1912), 104; reprinted in Florence Wilson Houston, et al., *Maxwell History and Genealogy* (Indianapolis, 1916), 95.

This is an unwarranted construction: the convention's record does not support such a claim for a delegate who consistently voted in the negative, and Maxwell sat on the committee on general provisions.

In its final form, the constitution's education article was complex. It gave a future general assembly "the duty ... as soon as circumstances will permit, to provide by law for a general system of education, ascending in a regular gradation, from township schools to a state university, wherein tuition shall be gratis, and equally open to all." The convention also reflected the prevailing rationale for public education: "Knowledge and learning" were "essential to the preservation of a free government, and spreading the opportunities and advantages of education through the various parts of the country [was] highly conducive to this end." The document also recommended that the legislature encourage "the promotion and improvement of arts, sciences, commerce, manufactures, and natural history."<sup>31</sup> One can infer from the phrase "ascending in a regular gradation" that the convention assumed future legislatures would first establish township schools—public schools—throughout "the various parts" of the state. The original draft of the constitution said nothing about a seminary, but the convention members made amendments. Article IX had read that "no lands granted for the use of schools, shall be sold by the authority of this state, prior to" an unnamed year. The convention delegates filled in "1820," and the article was "further amended, by adding, after the word 'schools,' these words, 'or seminaries of learning.'"<sup>32</sup>

At first, Gov. Jonathan Jennings supported the convention's mandate in Jeffersonian terms. In his first message to the state legislature on November 7, 1816, he proclaimed the "dissemination of useful knowledge" to be "indispensably necessary as a support to morals and as a restraint to vice" and urged "the plan of education as prescribed by the constitution." A year later he asked specifically for "a system of common schools throughout the inhabited portion of our state" so that all citizens might be able to educate their children "to estimate the value of our free institutions."<sup>33</sup>

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<sup>31</sup>Carmony, ed., "Journal of the Convention," 142-43; Barnhart and Riker, *Indiana to 1816*, 456.

<sup>32</sup>Carmony, ed., "Journal of the Convention," 146; Constitution of 1816, Article IX, in Charles Kettleborough, *Constitution Making in Indiana: A Source Book of Constitutional Documents with Historical Introduction and Critical Notes*, vol. 1, 1780-1851, (Indianapolis, 1916), 113.

<sup>33</sup>Logan Esarey, ed., *Governors Messages and Letters, Messages and Papers of Jonathan Jennings, Ratliff Boon, William Hendricks* (Indianapolis, 1924), 34, 42.

In January 1818, the legislature organized Monroe County, as far north as the ten o'clock line, and Governor Jennings appointed John W. Lee as sheriff.<sup>34</sup> Commissioners (who had been named in the act forming the county) repurchased a quarter section of land from David Rogers for \$1,200 because it was "the most eligible and convenient place" for the county seat.<sup>35</sup> On April 10, they laid out the town, which they named Bloomington, and land in the vicinity began to increase in value. In October, special commissioners Jonathan Jennings, Benjamin Parke, and Lewis Cass concluded the agreements by which native tribes relinquished claim to the central part of Indiana north of the ten o'clock line, agreements collectively known as the New Purchase. After the Purchase opened for settlement, a small area was added to Monroe County in 1821, squaring off its northern border. The Purchase created a problem for land speculators, for settlers were bound to prefer Indiana's northern expanses of flat, fertile land rather than Monroe County's broken landscape<sup>36</sup>

With Bloomington established, the county commissioners appointed Parke as agent to sell town lots. The county seat lay only one-half-mile north of the seminary township that he had helped select two years earlier. Parke advertised the first sale—to take place June 22, 1818—in newspapers at Vincennes, Madison, Cincinnati, and Louisville. Frontier agents generally spoke in superlative terms, and Parke proved no exception when he wrote of Bloomington:

[I]ts situation is handsome, high and healthy, in a settlement of land of the finest quality and springs of the best water in this State. In a commercial point of view the prospect is truly pleasing, at a period not far distant, the surplus produce of this county must be great, and can be conveyed by means of Salt Creek (which runs within 6 or 7 miles of this place) into the [White River's] east fork, at a distance of 12 miles.... It is believed ... that the seat of [state] Government will be here; and what place can be held in equal estimation with this for the State university, which promises health to keep pace with education.<sup>37</sup>

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<sup>34</sup>Blanchard, *Monroe County*, 372.

<sup>35</sup>*Ibid.*, 373-74.

<sup>36</sup>*Ibid.*, 381-82.

<sup>37</sup>[Vincennes, Indiana] *Western Sun and General Advertiser*, May 16, 1818.

The town lay atop rolling strata of limestone, higher and less prone to malaria than the land along riverbanks but an area of thin soil and inadequate water. Parke had to be familiar with the prairies surrounding Vincennes and would have realized that Monroe County's broken landscape was not comparable. Its terrain was too rugged for roads to carry heavy grain wagons. The unnavigable Salt Creek was miles distant and emptied into the East Fork of the White River, a usually shallow and unreliable tributary to the Wabash. The curious references to the state capital and "the State University" suggest that Parke and others may have discussed amongst themselves forward notions of the town's future. Nonetheless, Parke's sale of Bloomington lots was a success. Receipts totaled \$14,326.85, an "enormous sum," buyers perhaps encouraged by the commissioners having authorized Parke to provide a barrel of whiskey for the convenience of bidders.<sup>38</sup> Although Parke speculated in town lots, after the Vincennes bank collapsed he retired to Salem, twenty miles north of the Falls of the Ohio, ignoring "handsome, high and healthy" Bloomington.

One of the land purchasers was Edward Maxwell of Madison, brother of David, for whom he may have made a purchase. In 1818, Edward moved to the lot he purchased at Bloomington but within the year was residing again in Madison. His interest in the town was probably due to his acquaintance with wartime rangers who were taking up land. David moved his family a year later, arriving in May 1819. The historical record yields no reason as to why the Madison banker, ranger, and general naysayer during the constitutional convention, left the Ohio River commercial town for the frontier settlement of Bloomington.<sup>39</sup>

At this point, David Maxwell begins to dominate the story of the charter. A native of Kentucky, as a young man he had studied medicine in Danville with the well-known Ephraim McDowell.<sup>40</sup> In 1809 he emigrated with his new wife and a female slave to the Indiana Territory and settled a blufftop homestead in Jefferson County overlooking the Ohio.<sup>41</sup>

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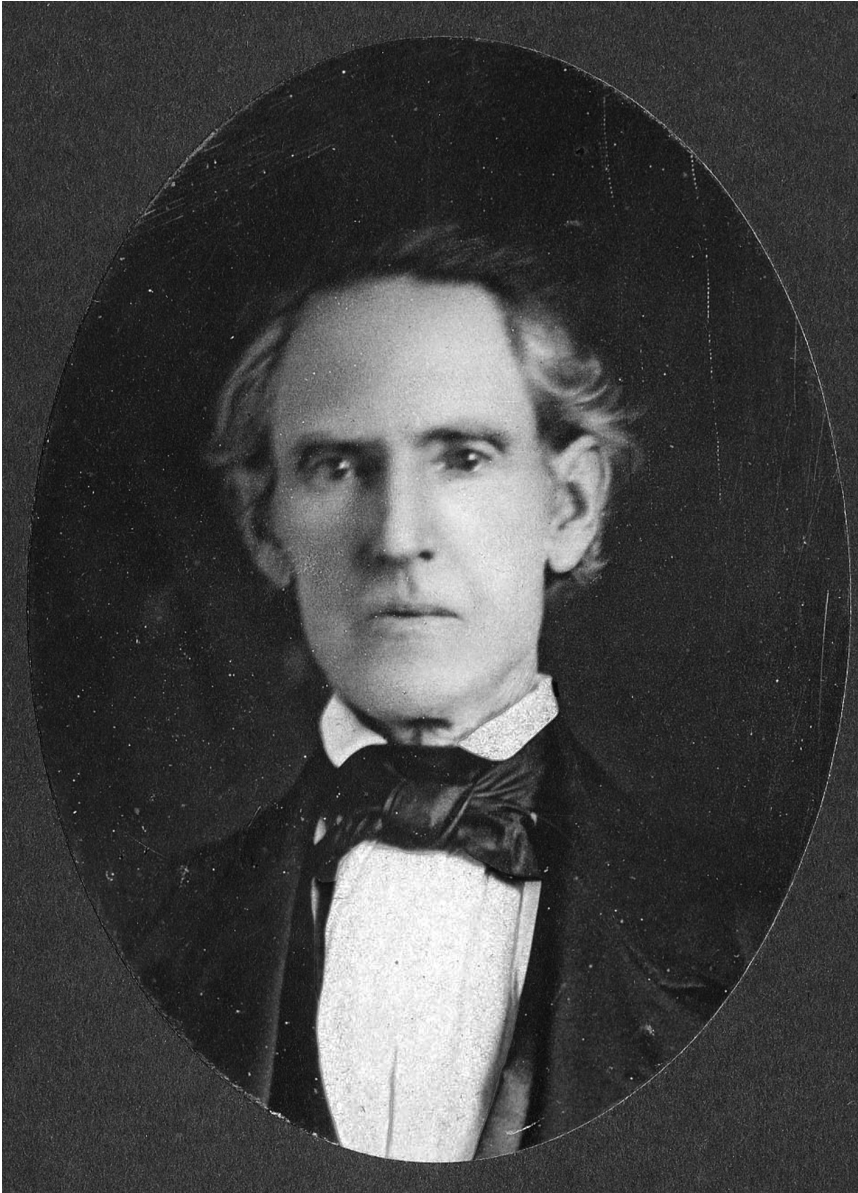
<sup>38</sup>Blanchard, *Monroe County*, 453.

<sup>39</sup>Houston, et al., *Maxwell History and Genealogy*, 96.

<sup>40</sup>On McDowell, see Madge E. Pickard and R. Carlyle Buley, *The Midwest Pioneer: His Ills, Cures, and Doctors* (New York, 1946), 115-16; Maxwell does not appear in this survey.

<sup>41</sup>As a member of the constitutional convention, Maxwell voted against a resolution "that no alteration of this constitution ought ever to take place, so as to introduce slavery or involuntary servitude in this state, otherwise than for the punishment of crimes." Carmony, ed., "Journal of the Convention," 124.





David H. Maxwell, c. 1850. Both a trustee and a president of the school, Maxwell was also the primary early proponent of the theory that the founders of the Bloomington seminary had always intended that it evolve into a college and then into a university.

Courtesy Indiana University Archives, Bloomington

He later moved to Madison, a few miles away, but apparently practiced little medicine there. When a smallpox epidemic struck Madison in the winter of 1817-1818, and residents met to devise "some means to protect the citizens against the contagious influence of the small pox," Maxwell took no part in the meeting nor did he serve on the committee elected to manage the crisis.<sup>42</sup>

Maxwell left Madison without advertising that he was closing a practice, although other physicians routinely published such announcements to encourage settlement of accounts.<sup>43</sup> His silence may be attributed to another one of his business interests. In 1814, the territorial legislature had chartered banks at Vincennes and Madison, and Maxwell purchased shares in Madison's Farmers and Mechanics Bank.<sup>44</sup> The legislature revised the law in 1817 and allowed the Madison bank to become a branch of the Vincennes bank, now a "state bank." Pioneer Indiana did not require many banks—there was little circulating currency and even less commerce.<sup>45</sup> The law "commissioned" Maxwell and two others to take subscriptions for the Madison branch, and they opened the books on April 1, 1817, at the Farmers and Mechanics Bank office.<sup>46</sup> The bank already had difficulty making specie payments, a problem across the country and a symptom of the approaching nationwide financial panic. Nonetheless, the following summer the banks in Madison and Vincennes paid eight-percent dividends to shareholders.<sup>47</sup> When the spreading panic reached the Ohio Valley, Madison was one of the least depressed places in Indiana and its bank did not collapse (although Parke's Vincennes bank did). Nonetheless, Maxwell was summoned before the Madison township justice of the peace in September 1818, although the summons does not indicate the reason.<sup>48</sup> He closed his

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<sup>42</sup>[Madison] *Indiana Republican*, January 31, 1818.

<sup>43</sup>For an example, see *ibid.*

<sup>44</sup>Receipts for bank stocks, October 1, 1814, and May 4, 1816, box 1, 1811-1837, Maxwell Manuscripts, Lilly Library, Indiana University, Bloomington.

<sup>45</sup>Logan Esarey, "The First Indiana Banks," *Indiana Magazine of History*, 6 (December 1910), 146-47; Carmony, *Indiana, 1816-1850*, 17-24.

<sup>46</sup>*Indiana Republican*, April 5, 1817.

<sup>47</sup>*Ibid.*, March 6, and July 10, 1817.

<sup>48</sup>Summons, September 25, 1818, Maxwell Mss. Maxwell's papers are not extensive, thus it is interesting that he preserved this summons.

affairs and removed to Monroe County, where his brother had so recently purchased a town lot.

What Maxwell found at Bloomington in May 1819 was a year-old settlement quite unlike Madison. The population may have been one hundred and fifty. During the 1820s, there were few stores, no roads, and occasional mail deliveries to Vincennes. Only a portion of the county was suitable for agriculture. If some woodland-based businesses developed, the village nevertheless failed to become a commercial location, even into the 1830s, due to the lack of transportation links to the national economy.<sup>49</sup> Upon arrival, Maxwell helped organize a Presbyterian church, and he resumed his medical practice but not banking.

In his late nineteenth-century history of the county, Charles Blanchard remarked on Bloomington's "phenomenal" settlement and growth and asked why in June 1818 lots should have sold "very high, considering the unsettled condition of the country." He suggested "it was known that Bloomington was destined to be a great educational center," perhaps expanding upon the salesman's gambit in Parke's advertisement.<sup>50</sup> This is where Maxwell enters the story, for he unofficially attended the December 1819-January 1820 legislative session at Corydon, specifically to lobby for an educational institution. Banta wrote that the new county did not have its own representative and that "the people determined to have an agent from Bloomington on the ground—a member of the Third House, if you will." This was another of the judge's ahistorical constructions, for he imagined "the people" selected Maxwell, although he admitted there was "no record ... not even a tradition ... of any meeting."<sup>51</sup> Maxwell had lived in the town only a few months but apparently had the confidence of its leaders, some of them wartime rangers, and they may have considered the educational-center notion among themselves. Thomas D. Clark, Indiana University's sesquicentennial historian, astutely observed of Maxwell's

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<sup>49</sup>Bloomington did not have a connection with the southern Indiana region, let alone the nation, until after 1853, when the north-south New Albany and Salem Railroad built its single-track, accident-prone line through Monroe County towards its terminus at Michigan City, which proprietors estimated would become the metropolis of the Great Lakes. At the end of the century, the line was known as "the Monon." There was no direct railroad to Indianapolis until 1907.

<sup>50</sup>Blanchard, *Monroe County*, 455-57.

<sup>51</sup>Banta, "Seminary Period," in Woodburn, *History of Indiana University*, 7.

attendance at the legislature: "Laws and public policy decisions were one part conscientious efforts at statesmanship and two parts pressure and personal nudgings by shrewd and self-interested lobbyists." Maxwell understood that locating a state-chartered institution in Monroe County would be, as Clark also noted, "a tremendous advantage to those owning property in this area."<sup>52</sup> The sentiment was a common one, of course. Timothy L. Smith observes that many nineteenth-century colleges, even those grounded in idealism, combined "the desire for learning with the town-booster's interest in the sale of 'city' lots and nearby farmlands."<sup>53</sup>

Governor Jennings played an important role in creating the seminary as an institution apart from Vincennes, for the legislature had the option of supporting the moribund Vincennes University with the new township. A dozen years earlier, as a new arrival in the territory, Jennings had been appointed clerk to the Vincennes trustees. Factions on the university board divided between federalists, such as Governor Harrison and Parke, and republicans, such as Badollet and Ewing. Jennings was a republican whom Harrison had maneuvered out of office, and he was thereafter hostile to the governor and to the Vincennes university. The squabble between the two men had consequences as the years passed, when Jennings became the territory's congressional delegate, then president of the constitutional convention, and finally the state's first governor. Dorothy Riker, making careful use of terms, has concluded that "the later location of the state seminary at Bloomington instead of at Vincennes may have resulted from this animosity."<sup>54</sup>

Parke's association with Governor Jennings in 1820 was probably a pragmatic one. As a member of the Vincennes University board, Parke, along with other trustees, had unsuccessfully sought congressional approval to sell the reserved Gibson County township and deposit the proceeds in the Vincennes bank—in which board members happened to own stock. When their bank failed in the panic of 1819, Parke was

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<sup>52</sup>Clark, *Indiana University*, vol. 1, 29.

<sup>53</sup>A proponent for placing the Illinois State Normal University at the town of Bloomington, Illinois, in 1857 said simply "that an educational institution was the best bait for the prospective purchaser of town lots." Quoted in Timothy L. Smith, "Uncommon Schools: Christian Colleges and Social Idealism in Midwestern America, 1820-1950," in *The History of Education in the Middle West* (Indianapolis, 1978), 24-30.

<sup>54</sup>Dorothy Riker, "Jonathan Jennings," *Indiana Magazine of History*, 28 (September 1932), 227.

already associated with the reserved township in Monroe County and probably saw advantages in a seminary charter.<sup>55</sup>

Speculation and politics, as the phrase has it, were inextricably intertwined. Jennings's address to the legislature on December 7, 1819, suggests Maxwell's influence. The governor's addresses to prior sessions had urged enactment of the constitution's mandate to establish common schools, an obvious need, but in 1819 he emphasized a remotely located seminary, a less obvious need. Other matters in that panic year might have seemed more important than a state seminary. The governor described "the situation of the country at large" as "embarrassed" and implied that the state "required more of the fostering interposition of legislative support." Yet he recommended the seminary as a legislative priority. In terms reflecting Maxwell's views, he recommended that "the seminary township, situated in Monroe County, would afford a site combining the advantages of fertility of soil with a healthy climate, as well as a position sufficiently central to the various sections of the State." Here was another construction of historical truth: the township was to provide funds for an educational institution but was not required to be that institution's site. Perhaps revealing the reasoning behind the recommendation, the governor candidly noted that "the location of such institution upon or near such lands, would ... greatly enhance their value."<sup>56</sup>

Shortly after Jennings's address, Rep. Samuel Chambers of Orange County, whose district included Monroe County, presented "the petition of Addison Smith, and others, praying that the State University may be located in the county of Monroe."<sup>57</sup> Previous accounts of the seminary's origins have not mentioned the petition, but Chambers's involvement indicates that, contrary to Banta's assertion, Monroe County's interests were well represented. During the session, Chambers introduced a bill "for the relief of certain lessors in Monroe county," and he amended another bill to establish a road from New Albany to Bloomington and Terre Haute.<sup>58</sup> Smith's original petition does not survive, so the signers'

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<sup>55</sup>Constantine, ed., "Minutes of the Board of Trustees," 313-64; Carmony, *Indiana, 1816-1850*, 20.

<sup>56</sup>Esarey, ed., *Governors Messages and Letters, Messages and Papers of Jonathan Jennings, Ratliff Boon, William Hendricks*, 73, 78.

<sup>57</sup>*Indiana, Journal of the House of Representatives* (Corydon, 1820), 48.

<sup>58</sup>*Ibid.*, 203, 314.

names are not known, but Smith was a man of parts, a Bloomington landowner and its sales agent at the time. The petition represented landowners who realized that the legislature could locate an institution anywhere in the state and use the Monroe County township for its maintenance. Instead, they sought by law to locate the institution on the reserved township next to Bloomington.<sup>59</sup>

The bill moved through the house of representatives, where Maxwell's brother-in-law, Judge Dunn, presided as speaker. The house resolved to refer to a committee "so much of the Governor's message as related to a general system of education, and the reserved township of land in Monroe county." On December 31, 1819, the committee reported that it had written a bill "to establish a State Seminary"—not, it should be noted, a university, as mentioned in Parke's advertisement and Smith's petition. On January 14, 1820, the house passed the bill, eighteen to nine.<sup>60</sup>

The bill encountered difficulty in the senate, and the delayed vote resulted in a tie. Presiding officer Lt. Gov. Ratliff Boon, whom Jennings influenced, voted with the ayes. Passed with a one-vote margin and signed by the governor, the law was hardly a ringing endorsement for a seminary in the wilderness. Maxwell and friends, however, now had authority to place the institution on the reserved township as a support for the development of Bloomington.<sup>61</sup>

The charter to establish an Indiana seminary contained no preamble comparable to the Ohio statutes of 1804 and 1809 establishing Ohio and Miami Universities. Those statutes had declared that "institutions for the liberal education of youth, are essential to the progress of arts and sciences."<sup>62</sup> The Indiana constitution contained a rationale for a general system of education—eventually including a university—but the lack of a philosophical preamble implied an absence of familiarity with American colleges. Cutler and others in Ohio were college men; Maxwell and his fellow 1820 Indiana trustees were not.

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<sup>59</sup>Carmony claimed that the township was placed "at the edge of the infant village of Bloomington," but in fact Bloomington in 1818 was placed at the edge of the township selected two years earlier. Carmony, *Indiana, 1816-1850*, 396.

<sup>60</sup>Indiana, *Journal of the House of Representatives* (1820), 183, 294.

<sup>61</sup>Indiana, *Journal of the Senate* (Corydon, 1820), 196, 199-201, 226, 243.

<sup>62</sup>*Acts of the State of Ohio, Second Session of the General Assembly* (1901; Chillicothe, Ohio, 1803), 193.

The Indiana Seminary Charter, without defining a seminary or declaring its purpose, did enumerate procedures. Section one stipulated that “Charles Dewey, Jonathan Lindley, David H. Maxwell, John W. Jenkins, Jonathan Nichols, and William Lowe, be...appointed trustees.” Unfortunately, at least three of the trustees were in probable conflict of interest with their responsibility to select a site for the benefit of the entire state: Lindley possessed Monroe County interests, Maxwell owned lots in the county, and Jonathan Nichols was town surveyor and speculator. Section two required trustees to “meet at Bloomington” and then “repair to the reserved township ... for the use of a seminary of learning, and proceed to select an eligible and convenient site.” The act now required that the institution be built on the reserved township, even though the township’s purpose had originally been to raise revenue through sales and rents for the institution’s benefit. Section five authorized “a suitable building” to be supplied by revenues from the reserved township.<sup>63</sup>

In June 1820, the trustees met at Bloomington, established but two years earlier, to select the seminary site.<sup>64</sup> Two members were absent and the board postponed the decision. In July they reconvened, one member absent, and “proceeded forthwith to the reserved township,” a short stroll south of the village. As they reported to the legislature, they did not examine the entire township but merely designated the two half-sections “most contiguous to Bloomington.” The so-called “seminary township” T8 R1 adjoins Bloomington’s T9 R1, about four hundred yards directly south of the town square. The trustees did not select a single complete section but two half sections near the village’s southern boundary. In a final action, they appointed another ranger and landowner, James Borland, as agent and surveyor for the seminary. They described the site as “on a beautiful eminence, and convenient to an excellent spring of water, the only one on the section selected that could with convenience answer the purposes of the seminary.”<sup>65</sup> The eminence was merely a rise along a creek, which over the years flooded about half of

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<sup>63</sup>*Laws of the State of Indiana* (Jeffersonville, 1820), 82.

<sup>64</sup>Lisa C. Tolbert indicates that in Tennessee, colleges were planted in well-established towns. Tolbert, *Constructing Townscapes: Space and Society in Antebellum Tennessee* (Chapel Hill, N. C., 1999), 143-51, 178-84. See also Diane Shaw, *City Building on the Eastern Frontier: Sorting the New Nineteenth-Century City* (Baltimore, Md., 2004), 11-13.

<sup>65</sup>*Indiana, Journal of the House of Representatives* (Corydon, 1821), 105-106.



the site—one reason to move to a new location in 1885. Another three or four hundred yards east and west stood small hills, impressive sites on which buildings might have been erected; the Indiana College's first president, Wylie, built a fine house on one of the hillsides that overlooked town and campus. Banta excused the trustees for not selecting a better site, explaining that the summer landscape was "enveloped in shaggy thickets of green."<sup>66</sup>

At this point Maxwell revealed his political guile. His trustees' report began by quoting the constitution's ninth article: the state should establish "a general system of education, ascending in regular gradation, from township schools to a state university." A member of the constitutional convention but not of the education committee, Maxwell nevertheless proceeded to deconstruct that committee's work and alter its meaning. He wrote: "[T]he constitution of our state contemplates this institution as gradually rising from the humble grade of a seminary, in which the elementary parts of an education can be had, to that of a full grown university, in which everything appertaining to science shall be taught."<sup>67</sup> The constitution had not, as we have seen, contemplated the seminary charter; the seminary charter had not contemplated the university. Maxwell had, in the phrase of a later time, pulled a fast one.

In 1822, the legislature received a report from David Caswell of the committee "to prepare a bill for a regular system of education." The report, which makes clear that the legislature did not contemplate the seminary's rise to a university, is "one of the truly fascinating documents in American social and cultural history," according to Clark.<sup>68</sup> It is as thoughtful, long-range, and bereft of speculative concerns as Maxwell's report is narrow and self-serving. Caswell directed most of his extensive report to the development of township common schools throughout the state. His committee proposed a statewide system in accord with Article IX of the constitution, and township schools were the obvious need. Not until the end of the long report did Caswell mention the word university: "With regard to an University for the state, your committee recom-

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<sup>66</sup>Banta, "The Seminary Period," in Woodburn, *History of Indiana University*, 11. Banta was, of course, involved in selecting the site of the new campus in 1883. The university maintains the Wylie House as a museum.

<sup>67</sup>Indiana, *Journal of the House of Representatives* (1821), 106.

<sup>68</sup>Clark, *Indiana University*, vol. 1, 25-26.

mend the passage of a law for establishing it, to be known by the name of the *University of Indiana*, and that a board of trustees be selected with great care, and appointed by law to superintend its interest.” The state’s two existing “college townships” in Gibson and Monroe Counties, he continued, would support the future institution. Caswell’s committee projected a system of education consistent with the constitution’s mandate, beginning with township common schools and eventually including a state university that the legislature would charter as a university and place in the hands of qualified trustees.<sup>69</sup> The report does not draw the seminary into the proposed system but ignores it entirely.

By 1828, only three years after the seminary began teaching a dozen boys, David Maxwell could persuade legislators that the 1816 constitution had contemplated both the 1820 seminary charter and the school’s rise to a collegiate institution. His narrative inserted the institution into the very origins of the state and linked constitution, seminary, and college into a seamless development. His narrative also made a university in Bloomington seem inevitable, and its later removal to Indianapolis unthinkable. Much in the spirit of Parson Weems, Maxwell constructed a story that privileged his narrative, and in turn his narrative truth became the daughter of time.

When Banta searched for Indiana University’s origins in the late 1880s, he remembered Maxwell’s narrative, which he further arranged to say that the legislature (not the constitutional convention) had planted the germ for the university. He elaborated that President Madison personally selected the reserved township in 1816, thus disguising the forward role of the committee of the constitutional convention. Banta may not have believed it necessary to promote Caswell’s work, for he had almost certainly heard the prevailing story during his student days from Maxwell himself, and later, for decades, from Maxwell’s son James.

Maxwell’s narrative of necessity ignored the Caswell report, but in 1822 most legislators doubtlessly believed that, as the report outlined, a future legislature would locate the University of Indiana in newly planned Indianapolis, which in 1825 became the seat of government. For nearly a century Bloomington feared the legislature would move the university to the capital, loading it on so many railway flatcars and haul-

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<sup>69</sup>Indiana, *Journal of the House of Representatives* (New Albany, 1822), 128-49.

ing it away, as someone in the 1880s speculated. Indeed, Alexander Ralston's 1821 mile-square plan for Indianapolis platted locations for the statehouse, county courthouse, public market, governor's mansion, and state university. Carmony observed that it was "remarkable ... how closely Indianapolis developed much as platted," but he curiously omitted the university square from the list of elements in Ralston's design.<sup>70</sup> Today, nearly two hundred years later, the square is University Park, an otherwise obscurely named green space and a quiet reminder of those pioneers who thought carefully about the state's educational future.

Thereby, as some historians like to say, hangs another story.<sup>71</sup>



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<sup>70</sup>Carmony, *Indiana, 1816-1850*, 110, 114. No governor lived in the house built in Governor's Circle, which later became Monument Circle.

<sup>71</sup>For example, Ellis, *His Excellency George Washington*, 275.