The Best Use of a Bicentennial

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It's hard to imagine that people in other nations exhibit the same level of interest as Americans in anniversaries. We are a society that makes much ado about marking our lives around milestones of one sort or another—birthdays, wedding anniversaries, years in a job, and the like. The cards, cakes, and celebrations can be enjoyed for their own sake, but at their best, these celebratory moments can also serve as occasions to ponder the direction of our lives. Turning twenty-one or sixty can prompt us to think through how we want to spend the years ahead. An employment milestone can lead us to evaluate our existing situation and make new plans for our career.

The same might be said about the anniversaries that mark our civic life. We do indeed love throwing big parties when the hundredth or two-hundredth anniversary of statehood or nationhood rolls around. Indiana's sesquicentennial celebration in 1966 featured festivals by the hundreds in communities large and small. Beyond the fairs and festivals, though, the breadth of such activities can sometimes make an anniversary a platform for purposeful change. The Indiana centennial of 1916 helped to cement the socially progressive era in which that observance occurred. Commemoration of the national bicentennial in 1976 led to a higher level of public support for historic preservation. More recently, the 1987 bicentennial of the United States Constitution gave the education community a chance to build public understanding of the nation's founding documents and to

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explore the importance of the rule of law to the success of the American experiment in self-government.

With some planning and a little luck, the 2016 Indiana bicentennial can serve both as a party and as a springboard for thinking about our future. With this latter objective in mind, the Indiana Supreme Court has joined forces with the Indiana Magazine of History to sponsor this issue dedicated to the state's constitutional and legal history. The four essays it contains represent a remarkably varied collection of perspectives from experts in both the academy and the legal profession, and are intended as an early contribution to the public dialogue that we hope the upcoming bicentennial will provoke.

As the contents of this volume will show, the history of Indiana's constitutions throughout the state's nearly two centuries has been one of both contemplation and action. The 1816 document reflected the republican aspirations of a frontier society committed to social justice and civic improvement. The provisions of that constitution abolishing slavery and indentured servitude provided the basis for such landmark Indiana Supreme Court decisions as *Lasselle v. State* and *Case of Mary Clark*, putting Indiana more than a generation ahead of states like Illinois on the leading public issue of the period.

The state's constitution of 1851 is most often associated with Jacksonian democracy's expansion of elections as a way to choose public officials. It certainly accomplished that, but it also set in motion great achievements in public policy. The 1851 constitution mandated a system of free common schools; it prohibited all but casual state debt; it established benchmarks for fair and equal taxation; and it reformed the criminal justice system. These constitutional provisions have been the anvil on which important public questions have been hammered out from the period before the Civil War down through 2015. The 1851 document has been the stuff of Indiana's groundbreaking rules on defense counsel for indigents, on alterations in our procedure for making education “equal” for all students, on revolutionizing the arrangements for assessing property tax, and more.

Yet for all that we know of the state's constitutions, the contributors to this issue have raised—and then answered—a great number of new and important questions.

Was Indiana's founding an act of frontier democratization leading to a compact reflecting the population's aspirations for self-government? Or was it an example of ordinary people following a script fashioned to promote expansion of the American empire established during the Revolutionary period? Peter S. Onuf, the Thomas Jefferson Foundation Profes-
sor Emeritus at the University of Virginia and Senior Research Fellow at Monticello’s Robert H. Smith International Center for Jefferson Studies, argues with elegant force that the latter more accurately describes the impulse and the product of the Corydon convention.

Thomas D. Hamm is Professor of History at Earlham College and serves as curator and archivist for some of the college’s important collections on religion. Hamm lays out the challenge that early Indiana faced in contending with its residents’ conflicting attitudes about the role of religion. The public regarded both the state and the nation as religious polities, while also believing in the separation of church and state. For Hamm, the tension between these two views was often visible in legal and political decisions made about such topics as criminal justice, education, and the regulation of morality.

While the Indiana Constitution and subsequent court decisions are rightly matters of pride, it is also true that like so many other states even in the North, Indiana followed a path that moved back and forth between being protective of blacks and hostile to their interests. Paul Finkelman, scholar-in-residence at the National Constitution Center in Philadelphia and a Senior Fellow at the Penn Program for Democracy, Citizenship, and Constitutionalism at the University of Pennsylvania, has long been a productive scholar on issues of race and constitutional law and has spent time examining the Indiana experience. His contribution to this issue helps place some of the state’s important early legal cases about race in context and adds insights from new material freshly connected to them.

Finally, aside from its continued appearance in classes on Indiana history, the state’s constitution is most often in play in Indiana courtrooms. Few lawyers have experience researching and litigating issues of state constitutional law equal to the work of George T. Patton Jr. of Bose McKinney & Evans LLP. He and his co-author Julianne Sicklesteel, of the Indiana University Maurer School of Law, have highlighted an overlooked resource for interpreting the 1851 constitution: the “Address to the Electors of the State,” by which the convention delegates undertook to describe to voters the meaning and reasoning behind the substantial changes wrought by their proposal for a new charter.

Through such public offerings as its Courts in the Classroom program and its series of Indiana legal history publications, the Indiana Supreme Court has long supported historical and educational undertakings pertinent to Hoosiers’ understanding of the law’s impact on their daily lives. We hope that this issue of the IMH and our subsequent symposium with its contributing authors will continue to enlighten and embolden Indiana
citizens in the same manner. While scholars and investigators from all walks of life have explored Indiana’s constitutional history in print for many generations, we expect that the contributions offered in this volume will provide our own generation with fresh insight and inspiration that will help move us toward a safer, more prosperous, and more decent society.

A Symposium on the Indiana Constitution

With speakers Peter S. Onuf, Thomas D. Hamm, Paul Finkelman, George T. Patton Jr., and Julianne Sicklesteel

Sponsored by the Supreme Court of Indiana
April 29, 2015
Supreme Court Chambers, Indiana State House

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