

Democracy, Empire, and the 1816 Indiana Constitution

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Remarkable for its lack of originality, the Indiana Constitution of 1816 was cobbled together from earlier state constitutions, most notably those of Ohio, Kentucky, Pennsylvania, and Tennessee. According to John D. Barnhart's careful accounting, "the original portions constitute less than ten per cent of the entire document."¹ The familiarity of the constitution's provisions was crucial to its rapid acceptance by a widely scattered and heterogeneous population drawn from all parts of the Union and abroad. That same familiarity reassured wary congressmen that settlers in this geopolitically vulnerable frontier region were ready for statehood. The stability and viability of a federal union that had been sorely tested in the recently concluded war with Britain depended on the patriotic attachments of frontier settlers.

American statesmen were rightly concerned about counteracting the centrifugal forces that jeopardized union. Delegates at Corydon responded to such concerns by forming a new government that met currently recognized constitutional standards and testified to their "American" character. More significantly, they negotiated terms of admission that secured federal

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¹John D. Barnhart, "Sources of Indiana's First Constitution," *Indiana Magazine of History* 39 (March 1943), 55.

interests—particularly in the administration and distribution of public lands—and guaranteed a strong federal presence in the new state. In effect, they exercised sovereignty in order to give it away. “Popular sovereignty” sustained constitutional continuity across regime change, both in the East—where American revolutionaries drafted state constitutions—and in the new western territories or “colonies” that Congress carved out of Indian country. Sovereignty was an enabling and legitimating fiction performed by “subjects” of Crown or Congress as they resumed their original, natural rights and became self-governing “citizens.”² Far from leaving them in an anarchic state of nature, however, the performance of sovereignty by Indiana state-makers offered security and protection through incorporation in the Union. Admission fulfilled Congress’s promise in the 1787 Northwest Ordinance that the new state would come into the Union “on an equal footing with the original States,” but it also meant that Indiana “shall forever remain a part of this Confederacy” and its successor, the “more perfect union” established under the federal Constitution.³

The transition from colony (or territory) to independent state and from subject to citizen authorizes conflicting stories of constitutional development in Revolutionary Anglo-America.⁴ A democratic interpretation emphasizing the role of the “people” in determining their own political destiny was congenial to actors at the time and to subsequent generations of American exceptionalists. In this bottom-up view of the Revolutionaries’ world, the break with Britain unleashed radical changes in popular political psychology: once conceptions of equality and natural rights were clearly articulated in the “common sense” terms of the people’s vernacular, there was no turning back. Ordinary folk were quick to grasp

²Edmund S. Morgan, *Inventing the People: The Rise of Popular Sovereignty in England and America* (New York, 1988).

³Quotations from Articles Five and Four of the Northwest Ordinance reprinted in Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington, Ind., 1987), 64, 63. On “The Significance of the Northwest Ordinance,” see Andrew R. L. Cayton and Peter S. Onuf, *The Midwest and the Nation: Rethinking the History of an American Region* (Bloomington, Ind., 1990), 1-24.

⁴For a good brief overview of Indiana legal and constitutional history that incorporates revisionist perspectives, see David J. Bodenhamer and Randall T. Shepard, “The Narratives and Counter-narratives of Indiana Legal History,” *Indiana Magazine of History* 101 (December 2005), 348-67. The role of law in Indiana has “been progressive and conservative, enlightened and reactionary, influenced by law elsewhere and isolated from the larger national legal culture. Dominant political and economic interests have wielded it to serve their purposes, but its basic thrust has been democratic, not hegemonic. In a state not known for innovation, Indiana law has been cautiously progressive,” 349.

the fundamental principles of republican self-government and Indianans proudly participated in this tradition of popular constitutionalism.⁵ New state constitutions reflected and accommodated the extraordinary democratization of politics in Revolutionary America. What made the people of Indiana remarkable in 1816 was that they were such *unremarkable*, ordinary Americans. The constitution of 1816 demonstrated how Indianans could build so effectively on the achievements of their predecessors as they drafted the most democratic constitution in world history.⁶

My reading of the Indiana Constitution reverses this familiar perspective, focusing instead on empire and union. Discounting the agency of the people and emphasizing continuities in Anglo-American constitutional development, I focus on the imperatives of geopolitics and new-colony and state formation in the history of the British Empire and American federal union. Democracy was not the predicate of radical political and constitutional change, but was instead the ultimate product of Anglo-American imperial expansion. The admission of Indiana and other new states into the American federal union marked the new republican empire's ultimate success in channeling expansive impulses and containing centrifugal tendencies. Under the aegis of the new federal regime, the ongoing process of westward settlement resumed, leading to the ultimate displacement of Native Americans and the appropriation of their lands.

DEMOCRACY

American Revolutionaries constructed a powerful and persuasive narrative to justify defying royal authority and declaring independence. The founding myth of American history, eloquently epitomized in Thomas Jefferson's Declaration of Independence, pivoted on the familiar binary oppositions of revolutionary ideology: power against liberty, freedom against slavery, New World against Old.⁷ Self-governing republican

⁵On the role of the people—or "collective sovereign"—in American constitutionalism, see Christian G. Fritz, *America's Sovereigns: The People and America's Constitutional Tradition Before the Civil War* (New York, 2008).

⁶The standard accounts all emphasize the democratization theme. See John D. Barnhart, *Valley of Democracy: The Frontier versus the Plantation in the Ohio Valley, 1775-1818* (Bloomington, Ind., 1953), 178-96; Barnhart and Dorothy L. Riker, *Indiana to 1816: The Colonial Period* (Indianapolis, Ind., 1971), 412-63; and James H. Madison, *The Indiana Way: A State History* (Bloomington, Ind., 1986), 36-54.

⁷The classic study is Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass., 1967).

citizens defended their natural rights against a corrupt, unrepresentative, and unresponsive imperial regime. In retrospect, these “truths” have seemed “self-evident” to subsequent generations of Americans. But reluctant Revolutionaries had to overcome their own misgivings as well as widespread and persistent resistance to radical change in provincial populations with powerful social, cultural, and economic ties with the metropolis. The patriots’ binaries polarized opinion in order to eliminate the middle ground and force their countrymen to make the fateful choice for or against independence. Choosing to break with Britain made servile subjects into self-governing citizens. These were the primal acts of “consent” and democratic self-creation in American exceptionalist mythology.⁸

The idea of a separate and independent American nation was a belated, unintended result of the *failure* of the original resistance movement to vindicate the rights and constitutional liberties of Anglo-Americans within the Empire and under the Crown. The absence of preexisting “national” ties was reflected in the universality and abstractness of the Revolutionaries’ natural rights claims when they abjured their king and turned to the “powers of the earth” for recognition and support. There was no American nation or people before the Continental Congress declared its existence: the Declaration of Independence, Jefferson later asserted, was “the fundamental act of union of these States.”⁹ The sovereign people were the ultimate source of legitimate authority, and Americans recognized themselves as a people by exercising that authority. Drafting new constitutions defined American national identity.

The people of Indiana Territory became “Americans” when their representatives assembled at Corydon to assert their sovereignty and claim equal membership in the Union. The movement toward statehood, codified in the Northwest Ordinance and previously enacted in the new state of Ohio (1803), constituted a ritual reenactment of the American Revolution. Performing that ritual affirmed both the sovereign, self-governing authority of the new state-republic of Indiana and Indianans’ identity as Americans. Delegates at Corydon invoked the Revolutionary language of American nationhood to frame and justify their state-making project.

⁸Peter S. Onuf, “American Exceptionalism and National Identity,” *American Political Thought* 1 (Spring 2012), 77-100; Onuf, “Introduction,” in *State and Citizen: British America and the Early United States*, eds. Peter Thompson and Peter S. Onuf (Charlottesville, Va., 2013), 1-23.

⁹Thomas Jefferson, “Minutes of the Board of Visitors of the University of Virginia, March 4, 1825,” in *Thomas Jefferson Writings*, ed. Merrill D. Peterson (New York, 1984), 479; Peter S. Onuf, “A Declaration of Independence for Diplomatic Historians,” *Diplomatic History* 22 (January 1998), 71-83.

Situating themselves in the new nation's constitutional chronology—the “fortieth” year “of the Independence of the United States”—the convention asserted Indiana’s

right of admission into the General Government, as a member of the union, consistent with the constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty seven, and the law of Congress, entitled “An act to enable the people of the Indiana Territory to form a Constitution and State Government, and for the admission of such state into the union, on an equal footing with the original States” in order to establish Justice, promote the welfare, and secure the blessings of liberty to ourselves and our posterity; do ordain and establish the following constitution or form of Government, and do mutually agree with each other to form ourselves into a free and Independent state, by the name of the State of Indiana.¹⁰

The “right of admission” was the convention’s most problematic claim, for it was grounded in the constitutional authority of the Confederation Congress (in enacting the Northwest Ordinance), the federal Constitution’s provision for territorial government and new state formation (Article 6, Section 3), and subsequent congressional legislation culminating in the Enabling Act of April 19, 1816.¹¹ Indianans only formed themselves “into a free and Independent state” when authorized to do so. But if Indiana’s right to membership in the Union depended on action by Congress and was therefore, strictly speaking, no right at all, Indianans drew a different, empowering lesson from the state-making process. As an independent, self-governing state, Indiana was in a position to enforce fulfillment of Congress’s statehood promise. If Congress blocked admission and persisted in denying Indianans their full rights as American citizens, they would appeal to the same revolutionary right of national self-determination that Jefferson invoked in the Declaration.

No one in the territory seriously contemplated an armed revolt in order to force admission and, now that the northern frontier was secured by

¹⁰Indiana. Constitution, Preamble (1816), in Charles Kettleborough, ed., *Constitution Making in Indiana*, vol. 1, 1780-1851 (Indianapolis, Ind., 1916), 83-84.

¹¹Enabling Act, April 19, 1816, in Kettleborough, *Constitution Making in Indiana*, 1: 73-77.

the Treaty of Ghent (1814) which ended the War of 1812, Indianans could no longer seek alliance with a rival empire. But the language of grievance about a distant and despotic imperial government was deeply embedded in the American political psyche. Proponents of Ohio statehood thus railed against Territorial Governor Arthur St. Clair's "British & princely ideas" and his "monarchic system."¹² In January 1802, Judge William Goforth called "our ordinance Government...a true transcript of our old English Colonial Governments" in a letter to President Jefferson, the leading expert on the subject. St. Clair "is cloathed with all the power of a British Nabob," and like his imperial prototypes, "he has power to convene, prorogue and dissolve our legislature at pleasure, he is unlimited as to the creation of offices, and I beleive his general rule is to fill all the important leading offices with men of his own political Sentiments."¹³ The analogy between the Northwest Territory and the original Revolutionary states was strained at best, though St. Clair played his odious role (on the rare occasions when he was in the territory) to perfection. But appropriating the Revolutionaries' language was—and still is—a compelling way to assert a patriotic American identity.

Indianans drew on this "anti-colonial" tradition. Congress "may have had solid reasons for giving to the Territorial or Coloneal governments the singular monarchial feature they now exhibit," the territorial legislature acknowledged in a July 1816 memorial. But "no palliatives can lessen the evils they endure" under a government so "little reconcilable to the principles which have governed the institutions of the different states of the Union." "Deeply impressed with a sense of their provincial dependence," the memorialists believed their "emancipation" would lead to the same happy "consequences" that followed Ohio statehood, including an "unexampled increase in population."¹⁴ The people of the territory would only attain full and equal rights as American citizens when they were liberated from congressional rule.

A sympathetic congressional committee embraced the premise of the territory's colonial subjugation when responding to a statehood petition

¹²"Meeting at Columbia," *Centinel of the North Western Territory*, February 20, 1796, and "A Friend of the People [Edward Tiffin]," *Scioto Gazette*, September 24, 1801, quoted in Onuf, *Statehood and Union*, 71.

¹³William Goforth to Thomas Jefferson, January 5, 1802, in *Thomas Jefferson Papers Digital Edition*, eds. Barbara Oberg and Jefferson Looney, <http://rotunda.upress.virginia.edu.proxy:its.virginia.edu/founders/default.xqy?keys=TSJN-print-01-36-02-0176#TSJN-01-36-02-0176-kw-0002>.

¹⁴Memorial of the Legislature of the Indiana Territory, enclosed in Jonathan Gibson to Secretary of State Monroe, Jeffersonville, July 6, 1816, in Logan Esarey, ed., *Governors Messages and Letters*, vol. 2, 1812-1816 (*Indiana Historical Collections*, vol. 9, Indianapolis, Ind., 1922), 730-31.

in 1811. “A complete emancipation from a Territorial government is not only desirable,” the committee reported, but “should be granted as soon as it may be compatible with the interest of the United States and the said Territory.”¹⁵ Congress expected settlers to agitate for statehood, taking no offense at being cast in the role that the British imperial government had played in the run-up to the American Revolution. The difference was that the good republicans in Congress, with their superior understanding of the larger interests in play, were orchestrating the “revolution.” The territorial condition was temporary, unlike the colonial bondage under which the original states suffered; “emancipation” from congressional rule meant full incorporation in—not secession from—the federal union.

Complaints about “provincial dependence,” the absence of congressional representation, and other perceived disabilities of the territorial regime demonstrated the civic capacity of an emergent electorate that had developed fitfully since the creation of the territory in 1800. In 1804 Governor William Henry Harrison authorized a plebiscite on whether the territory’s freeholders favored the move toward second-stage, representative government according to the promises of the Northwest Ordinance and the congressional statute establishing the Indiana Territory in 1800. Reporting that “a majority of one hundred and thirty Eight Freeholders [were] in favor of the proposed Change of Government,” Harrison called for the election of nine representatives to meet in Vincennes in February 1805.¹⁶ At this point, “Indiana” covered the residue of the original Northwest Territory after the separation of Ohio, including the future territories of Michigan (1805) and Illinois (1809).

It was by no means clear that Indianans were ready to assume the responsibilities of even a limited degree of self-government. Prior to convening in Vincennes, there was no single, coherent political community in the territory: its top-down “colonial” government served federal purposes in a lightly populated and vulnerable frontier region. In its early years, the new legislature did little to encourage political development, instead providing a venue for wary delegates to define, promote, and protect their distinctive and often conflicting interests.¹⁷ As a result, the legislature

¹⁵House Committee’s Report on Petition of 1811 Asking Admission to Union, March 31, 1812, in Kettleborough, *Constitution Making in Indiana*, 1: 66-67.

¹⁶Harrison’s Proclamation of December 5, 1804, in Logan Esarey, ed., *Messages and Letters of William Henry Harrison*, vol. 1 (Indianapolis, Ind., 1922), 112.

¹⁷Barnhart and Riker nonetheless emphasize the “growth of democracy” in this period, *Indiana to 1816*, 345-69.

devoted much of its energy over the next few years to debating Indiana's future dimensions. Only when its boundaries were determined did the path toward statehood become more clearly marked. As security threats diminished along the northern frontier and the pace of settlement quickened, Indianans turned to politics in order to gain concessions from the federal government—and advantage over each other. Controversial efforts by Harrison and a coterie of Virginians to legalize slavery in the territory provided the most powerful spur for political mobilization. Forging “a popular republican ideology that was expressly and unequivocally anti-slavery,” Jonathan Jennings and fellow opponents of legalization took the lead in agitating for statehood.¹⁸

Statehood proponents in Indiana and other new states affirmed their attachment to the Union by identifying themselves with the patriots of 1776 in their struggle against British imperial despotism. Consciously echoing their Revolutionary predecessors, they catalogued grievances against unelected governors, judges, and other federal functionaries. But if Indianans mobilized against the “colonial” rule of congressional appointees, they did so according to a script that Congress had authorized. Congress itself, like the king to whom loyal American subjects had once pledged their allegiance, could “do no wrong.” Indianans might be temporarily dispossessed of their full rights as American citizens, but they could look to Congress for ultimate vindication. Petitioners gratefully acknowledged the “hand of relief” the national legislature had extended to the territory as it authorized new boundaries, created new counties and courts, ameliorated the terms of land sales, and expanded voting rights.¹⁹ Through its continuing engagement with territorial governance, Congress democratized the originally autocratic terms of the Northwest Ordinance, anticipating and enabling expanded popular political participation. The democratization of territorial politics paved the way for admission to the Union, demonstrating the capacity for self-government that was the *sine qua non* of statehood.

If the people of the new state played the leading role in the final act of the statehood drama, “mutually agree[ing] with each other to form ourselves into a free and Independent state,” the stage had been set by Congress, and their well-rehearsed lines were drawn from familiar sources.

¹⁸My discussion of territorial politics relies heavily on John Craig Hammond, *Slavery, Freedom, and Expansion in the Early American West* (Charlottesville, Va., 2007), 96-123, quotation at 113.

¹⁹See the documents collected in Kettleborough, *Constitution Making in Indiana*, vol. 1. For “hand of relief” see House Committee Report, March 31, 1812, *ibid.*, 67.

"WE declare," Indianans thus intoned in the first article of their constitution, "That all men are born equally free and independent, and have certain natural, inherent and unalienable rights; among which are the enjoying and defending life and liberty, and of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety."²⁰ The Declaration of Independence conjured a great national people into existence, even as it recognized the separate state-republics; similarly, the people of Indiana invoked the collective pronoun "WE" to assert simultaneously their independence as a separate state and their membership in the Union. Erasing the four intervening decades, Indianans returned to the beginning of American Revolutionary time and thus perpetuated the "Spirit of 1776."

The history of state-making in Indiana and the northwestern states helps explain why Frederick Jackson Turner, a son of the Old Northwest, could so influentially link the rise of American democracy to the expanding frontiers of settlement. It is certainly true that new western states led the way in expanding suffrage and democratizing civic life, and the frontier offered extraordinary opportunities to enterprising settlers who sought to escape the disparities of wealth and poverty in the long-settled East. The impulse to move westward could be seen as a democratic, people's movement. Pioneering settlers were the real founders of their new states, risking everything in the original, foundational acts of consent that secured their families' future, spurred population growth, and transformed the savage wilderness.²¹

Contemporary commentators invoked naturalistic metaphors to describe the peopling of the West: the "people" were a force of nature and the agents of their own destiny; a rising, irresistible tide of settlement pushed the frontier westward. The people came first, Turner wrote, and institutions followed: "The peculiarity of American institutions is, the fact that they have been compelled to adapt themselves to the changes of an expanding people—to the changes involved in crossing a continent, in winning a wilderness, and in developing at each area of this progress out of the primitive economic and political conditions of the frontier into the complexity of city life." As streams of settlement merged, sectional differences washed away in this most "American" of regions. A seemingly boundless reservoir of "free land" enabled freeholding farmers to recognize

²⁰Ind. Const. art. 1 (1816), in Kettleborough, *Constitution Making in Indiana*, 1: 84-85.

²¹Onuf, *Statehood and Union*, 146-52.

each other as equals, thus transforming the Declaration's universal, natural rights principles into social reality. This "return to primitive conditions," Turner concluded, perpetuated American democracy—at least until the frontier supposedly "closed" in 1890. "American social development has been continually beginning over again on the frontier."²²

The "Turner thesis" has been subjected to unremitting criticism. Land was not "free," and "democratic" social conditions proved evanescent; American institutions were less "peculiar" and much more significant than Turner recognized. Nor was settlement and state-making in the Old Northwest a model for frontier development elsewhere, whether in the slave-owning Southwest or in the vast reaches of the trans-Mississippi region. But Turner's conception of frontier democracy nonetheless resonated—and continues to resonate—in his own native region and beyond because it so powerfully articulated what seems so self-evidently true: free peoples write their own constitutions and make their own history. The delegates who gathered at Corydon in June 1816 to declare Indiana's independence and their new state's "right" to membership in the Union thus enacted the "perennial rebirth" of American democracy. These moments of renewal have enabled Americans to democratize their politics and redefine themselves as a great and inclusive nation—a people of peoples—even as they keep faith with the founders. This progressive master-narrative of American history remains compelling for Americans, even for anti-Turnerians who locate the democratizing dynamic in different places.

EXPANDING UNION

The myth of frontier democracy was not simply the retrospective construction of regional patriots. Jefferson and his Republican allies envisioned an expanding union in which new states would play a vital role in the ultimate success of the new nation's republican experiment. Looking forward, republican expansionists wrote the script for new state formation. They did not await the spontaneous mobilization of "natural republicans" on the far frontier: the "merciless savages" of Jefferson's Declaration modeled the primitive forms of social organization that prevailed in a state of nature, beyond the pale of civilization and the institu-

²²Frederick Jackson Turner, "The Significance of the Frontier in American History" (a paper originally delivered to the American Historical Association in 1893), in *The Frontier in American History* (New York, 1921), 2. See also Barnhart's discussion of Turner's relevance to the Ohio Valley in *Valley of Democracy*, 224-34.

tions—governments, courts, churches, and the myriad associations of civil society—that shaped the character of good republican citizens. Nor did proponents of an expanding union have any illusions about the character or loyalties of the lawless, semi-savage frontiersmen whose encroachments on their Indian neighbors embroiled the frontier in constant warfare.²³ The challenge for policy-makers was to foster the patriotic “attachments” of orderly, land-owning, law-abiding settlers to the Union. Settlers’ willingness to follow Congress’s state-making script *made* them “democratic,” offering opportunities to assert and demonstrate civic capacity in ways that strengthened the Union.

President Jefferson congratulated his “fellow-citizens of Indiana” on attaining the second stage of territorial government in 1805. Indianans were not the “subjects” of the Union, but fellow Americans, entering “on the threshold of self-government” and looking forward to the “early attainment [of] all it’s valuable prerogatives.” That threshold faced in two directions, eastward toward full incorporation in the Union, and westward, where Indianans would participate equally in the benefits of further expansion. Jefferson exulted in the recent “addition of a country so extensive, so fertile, as Louisiana, to the great republican family of this hemisphere.” The Louisiana Purchase transformed “strangers” and potential enemies into “neighbors, brethren & children,” securing “the blessings of civil & religious freedom to millions yet unborn.” Destined for statehood when they achieved political maturity, or the collective “age of consent,” the peoples of Indiana and Louisiana territories were already family members. “By enlarging the empire of liberty,” Jefferson concluded, “we multiply it’s auxiliaries, & provide new sources of renovation, should it’s principles, at any time, degenerate, in those portions of our country which gave them birth.”²⁴

The family trope justified Congress’s temporary paternal rule of its territorial children. Jefferson was also making a flattering prediction about the role future new states would play in the expanding union. As these rising young republics came of age, they would “provide new sources of renovation” for their older counterparts. The Spirit of 1776 might wane,

²³Onuf, *Statehood and Union*, 1-20.

²⁴Thomas Jefferson to the President of the Territorial Legislature, December 28, 1805, in Clarence Edwin Carter, ed., *Territorial Papers of the United States*, vol. 7, *The Territory of Indiana* (Washington, D.C., 1939), 329.

or “degenerate,” as Jefferson believed was the case in New England.²⁵ New state creation represented a renewal of first principles and the practical implementation of Jefferson’s conception of generational sovereignty. When the author of the Declaration proclaimed that “the earth belongs in usufruct to the living,” he urged each rising generation to liberate itself from the dead hand of the past by drafting a new constitution.²⁶ Expansion across space guaranteed progress through time.²⁷ When Indianans drafted their own constitution, they would show the way forward for old states as well as future new states. Political enlightenment would move from west to east, reversing conventional ideas about the progress of civilization.

Jefferson’s celebration of frontier “democracy” anticipated the Turner thesis. But unlike Turner and his progressive heirs, Jefferson had no illusions about the “genius” of frontier people for self-government or the transformative power of free land. His conceptual framework was instead national—or imperial—and he was most interested in the geopolitical question of how new settlements would be incorporated in the Union. The genius of the territorial system was to foster attachments to the Union that would grow stronger—through federal spending, political patronage, market relations, and the “familial” bonds Jefferson emphasized—as Congress relaxed its “colonial” grip. Indianans were “free” to determine their own political future when there was only one choice. By crossing the threshold to statehood and self-government, they would be fully incorporated into the Union as members of Jefferson’s “great republican family.” Democracy and American national identity were thus indistinguishable—as patriotic Americans have always imagined.²⁸ Yet this outcome was hardly natural or spontaneous. The progress of democracy in America was instead a function of successful federal state-building. Territories and new states were instruments of a decentralized and extraordinarily effective republican empire, built on the attachments that republican institutions fostered.²⁹

²⁵Peter S. Onuf, *Jefferson’s Empire: The Language of American Nationhood* (Charlottesville, Va., 2000), 121-29.

²⁶Thomas Jefferson to James Madison, September 6, 1789, in Oberg and Looney, *The Papers of Thomas Jefferson Digital Edition*.

²⁷Drew R. McCoy, *The Elusive Republic: Political Economy in Jeffersonian America* (Chapel Hill, N.C., 1980).

²⁸Armin Mattes, *Citizens of a Common Intellectual Homeland: The Transatlantic Context of the Origins of American Democracy and Nationhood, 1775-1840* (Charlottesville, Va., 2015).

²⁹Brian Balogh, *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America* (New York, 2009).

The expanding federal union defied conventional republican logic. Enlightenment political science taught that republics should be small and homogeneous: virtuous, disinterested citizens had to participate actively in a robust civic life in order to preserve their liberties, while large and heterogeneous polities could only survive through the exercise of coercive force over fearful subjects.³⁰ The doubtful loyalties of semi-barbarous settlers in frontier regions did not bode well for their republican future. Resistance to statehood movements thus focused on their civic underdevelopment, emphasizing invidious comparisons with more populous and civilized eastern counterparts. On the eve of Indiana's statehood, Thomas Posey, the last territorial governor, struck familiar chords when he urged delay. "We have numbers sufficient," Posey told Secretary of State James Monroe, but "that is all we can boast of": there were few qualified men "to fill the respective stations, and offices of government," and the great majority of Indiana settlers were too poor to contribute much "if anything to the support of a state."³¹

Monroe and his fellow Jeffersonian expansionists rejected such prudent calculations. The problem for federal state-builders was not that impoverished and ignorant frontier settlers lacked the civic capacity, or virtue, to govern themselves, but rather that they might pursue their interests outside of the Union. The early American frontier suffered from too much political activity, not too little. In the decade after independence, enterprising land speculators and separatists challenged the jurisdiction of states with extensive western claims, organizing would-be new states that looked to the United States or its imperial rivals for recognition and protection.³² The solution to this jurisdictional confusion anticipated and complemented the movement toward a "more perfect union" among the thirteen original Revolutionary states. The large, landed states gained secure boundaries by ceding their western claims to the United States and empowering Congress to administer the new national domain. The federal government could then directly exercise monopoly control in the land market through its own land office or indirectly through favored private companies; political energies that threatened to subvert the Union would

³⁰Montesquieu, *The Spirit of the Laws*, trans. and eds. Anne M. Cohler, Basia Carolyn Miller, and Harold M. Stone (Cambridge, Mass., 1989), part I, chap. 9, p. 28: "Just as there must be *virtue* in a republic and *honor* in a monarchy, there must be FEAR in a despotic government."

³¹Thomas Posey to James Monroe, January 25, 1816, in Esarey, *Governors Messages and Letters*, 715. For similar arguments in Ohio, see Onuf, *Statehood and Union*, 69-70.

³²Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775-1787* (Philadelphia, Pa., 1983).

be channeled toward statehood according to the terms of the Northwest Ordinance.

The Constitution created a federal fiscal-military regime that promised to preserve peace among the states and protect the new nation's frontiers against imperial rivals and their Indian auxiliaries. In the ratification controversy, Federalists argued that collective security was the necessary precondition for the survival and success of the new nation's experiment in republican government.³³ "Empire" was the predicate of "liberty." Frontier disorder showed how the release of political energy in a "state of nature"—an unstable terrain where sovereign authority was contested—subverted property rights and the rule of law and thus made republicanism impossible. A "peace pact" that included future states and thus resolved the sovereignty question would channel frontier energies and aspirations toward normal politics, the routine competition for relative advantage in a stable environment where the rules of the game were well established.³⁴ Civic life was thus analogous to market participation. If, as Enlightenment theorists claimed, reciprocally beneficial market exchanges promoted the progress of civilization by diffusing information and fostering trust—producing what we call "social capital"—political participation in a well-constituted republic would produce virtuous citizens.³⁵

To be well-constituted, the new state-republic of Indiana would have to be grounded in the sovereignty of the people. But before the "people" could exercise their sovereign will, as they did at Corydon, they had to know who they were. They had to know what rights they brought with them into their new state and could effectively assert to the world and against each other; they had to know the precise boundaries of the country they claimed as their own; they had to know the benefits and burdens of incorporation into the Union as citizens of Indiana and of the United States. All of these questions had been resolved or were being negotiated under congressional auspices *before* the delegates at Corydon could perform the theoretically original act of self-constituting sovereignty. Most importantly, by following the familiar state-making script, Indianans affirmed their

³³Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York, 2003).

³⁴David C. Hendrickson, *Peace Pact: The Lost World of the American Founding* (Lawrence, Kans., 2003). On the sovereignty issue, see also Patrick N. Griffin, *America's Revolution* (New York, 2012).

³⁵Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism Before its Triumph* (Princeton, N.J., 1977).

attachment to the Union. When they ritually reenacted the Declaration of Independence, they did not seek to overthrow the rule of a distant and despotic imperial government but instead pledged fealty to and sought incorporation in Jefferson's "empire of liberty." During the last phase of territorial rule, Indiana had been represented in Congress by the popular party leader Jonathan Jennings, a non-voting delegate. Now the former "colony" would be fully represented in Washington, D.C., the new imperial metropolis: indeed, with two senators, it would be *over*-represented until statehood worked its demographic magic and Indiana's population equaled that of some of its predecessors.

REPUBLICAN EMPIRE

The territorial history of Indiana was shaped by the geopolitics of republican empire.³⁶ Successive Republican administrations sought to consolidate federal authority across the northern frontier, eliminating British presence and influence in the vast region nominally under U.S. jurisdiction according to the 1783 Treaty of Paris and dispossessing Indians. The federal government invested heavily in a series of Indian wars, including Governor Harrison's "victory" at Tippecanoe in 1811. Pan-Indian resistance collapsed in the wake of the Battle of the Thames in 1814 and British betrayal of their Indian allies at the Treaty of Ghent.³⁷ A strong federal presence protected new settlements in the territory; federal spending promoted market activity; and military campaigns fostered road-building and infrastructural development. Indiana's expanding frontier, like that of states and colonies to the east, depended on the strong and very visible hand of sovereign authority. Without military protection, access to markets, and secure land titles, settlement could not be sustained.³⁸

The committee of the U.S. House of Representatives that reported in favor of dividing the Northwest Territory and creating Indiana in March 1800 emphasized security issues. The northern frontier was "exposed... to foreign nations, whose agents can find sufficient interest in exciting or

³⁶See "Thomas Jefferson and the Expanding Union," in Peter S. Onuf, *The Mind of Thomas Jefferson* (Charlottesville, Va., 2007), 109-20.

³⁷Alan Taylor, *The Civil War of 1812: American Citizens, British Subjects, Irish Rebels, and Indian Allies* (New York, 2010); Adam Jortner, *The Gods of Prophetstown: The Battle of Tippecanoe and the Holy War for the American Frontier* (New York, 2012).

³⁸William H. Bergmann, *The American National State and the Early West* (New York, 2012).

fomenting insurrection or discontent.”³⁹ Domination of the fur trade by British capital and the far-flung trading networks of the Northwest and Hudson Bay companies exacerbated centrifugal tendencies on the American side of a permeable international border. Notwithstanding John Jay’s success in negotiating the removal of British forts from American territory in the eponymous treaty of 1795, the controversial accord also secured Canadian traders’ free movement across the border and perpetuated British influence in the region.⁴⁰

As long as Indians successfully held back the settlement frontier and the Northwest remained lightly populated, the United States could not effectively counter British influence. Congress understood that securing the frontier depended on promoting expanded settlement: a strong military presence facilitated the population growth that enabled and sustained effective governance. Congress needed settlers to govern the Northwest, and settlers needed to be governed. And as long as settlements remained small, poor, and vulnerable, Congress would have to carry the costs of their government. Distance presented “barriers almost insuperable” to “the exercise of the functions of government, which always presupposes a knowledge of the condition of the several parts and the practicability of seasonable communication among the several organs.” Feeling “so little the cherishing hand of their proper Government, or so little dread of its energy,” the “attachment” of frontier settlers was rendered “perfectly uncertain and ambiguous.”⁴¹

An important step toward overcoming distance was to divide and subdivide the territory, bringing government to the people and making its “cherishing hand” more visible. Early settlers wanted to be governed, not to govern themselves. Representation and taxation, as all good Americans knew, were inextricably linked: forgoing representation therefore would enable territorial citizens to avoid taxation. Indianans in Michigan and Illinois thus asked Congress to create new territories in their areas and so return them to first-stage, unrepresentative government.⁴² Similar concerns

³⁹Committee Report to House of Representatives, March 3, 1800, in Kettleborough, *Constitution Making in Indiana*, 1: 40.

⁴⁰Lawrence Hatter, “The Montreal Moment: British-Canada, the United States, and Western Empire, 1763-1825” (Ph.D. diss., University of Virginia, 2010).

⁴¹Committee Report to House of Representatives, March 3, 1800, in Kettleborough, *Constitution Making in Indiana*, 1: 40.

⁴²Donald F. Carmony, “Fiscal Objection to Statehood in Indiana,” *Indiana Magazine of History* 42 (December 1946), 311-21.

prompted dissenters in what remained of Indiana to oppose moving from second-stage territorial government to statehood in 1811. "Under the existing Government of the Territory," tax-averse petitioners insisted, "we enjoy nearly all the blessings and benefits of a State Government without the fourth of its expence."⁴³ Similar objections surfaced five years later. "A state government," one newspaper writer claimed, would "cost us above thirty thousand dollars, in addition to the enormous expences that must accumulate to support a great increase of offices."⁴⁴

Resistance to the progress of democracy in Indiana did not reflect the prevalence of "aristocratic" or reactionary sentiments. Indianans who favored statehood were also tax-averse, as the subsequent history of the new state made clear: unlike their conservative opponents, however, they calculated that statehood would lead to the rapid growth of an increasingly prosperous population.⁴⁵ They also calculated that continued federal spending in the territory would prime the economic development pump, enabling the new state to avoid the high taxes that would deter future settlers. Divisions on statehood pivoted on its timing, not its ultimate desirability, and prospects for development shaped the debate. Proto-partisan divisions over the legalization of slavery, federal spending, and federal land policy drew Indianans into politics and spurred the progress of democracy in the territory. For statehood advocates this broadening political participation, culminating in decisive victories at the polls and the drafting of a state constitution, marked the triumph of democracy: Indianans thus demonstrated a capacity for self-government that commanded the respect and recognition of their fellow Americans. But the real significance of the controversies leading up to statehood was to negotiate Indiana's place in the expanding federal union and the federal government's role in the state's ongoing development. The statehood dynamic countered the centrifugal tendencies of unregulated settlement and unsanctioned separatist movements on a lightly settled, poorly governed, and geopolitically vulnerable frontier. If Indianans achieved their independence as a self-governing republic when they drafted their constitution in June 1816, they forfeited that independence when they gained admission to the Union and were incorporated in the American empire of liberty.

⁴³Dissent on statehood, signed by James Dill and Peter Jones, Dec. 12, 1811, excerpted in Carmony, "Fiscal Objection to Statehood in Indiana," 315.

⁴⁴"A Farmer of Knox County," *Vincennes Western Sun*, April 20, 1816, *ibid.*, 318.

⁴⁵Donald F. Carmony, *Indiana, 1816-1850: The Pioneer Era* (Indianapolis, Ind., 1998), 1-44.

NORTHWEST ORDINANCE

Indianans moved toward statehood under the aegis of the Northwest Ordinance, adopted by the Confederation Congress on July 13, 1787. The Ordinance shaped the history of new state formation, the expansion of the empire of liberty, and the rise of democracy on the American frontier. By holding out the promise of future statehood, Congress could justify the creation of a new “colonial” system that established its effective authority over a vast hinterland of imperial dimensions. The Ordinance served as a charter for settlers of the national domain and citizens of future new states. Though celebrated as the liberal republican antithesis to the supposedly despotic British colonial regime that the American Revolutionaries overthrew, the Ordinance’s most important legacy was to resume a process of colonization that dated back to the first English settlements in North America. The Ordinance thus bore faint resemblance to the constitutions drafted by the colonies that broke with Britain and declared themselves independent states. The closest analog was instead the colonial charters granted by English and then British monarchs in order to promote investment and settlement in new colonies.⁴⁶

Congress drew on old imperial precedents in developing a new system of territorial governance. As policy-makers resumed the process of colonization that the imperial crisis had interrupted, they sought to secure the new nation’s boundaries, to pacify and displace Indians, and to sell public lands—formerly claimed by the Crown—in order to generate desperately needed revenue. The pre-1763 imperial constitution and its broad distribution of power provided a template for the expanding federal union.⁴⁷ As the king’s successor, Congress would take on a heavy financial burden to promote and protect vulnerable settlements on the Union’s distant frontiers before it could recoup its investment. Following imperial precedent, Congress sought to minimize routine administrative costs, devolving authority to increasingly autonomous, decentralized, and self-financing territorial or “colonial” jurisdictions.

⁴⁶My interpretation is indebted to Christopher Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580-1865* (New York, 2010). See also Jack Ericson Eblen, *The First and Second United States Empires: Governors and Territorial Government, 1784-1912* (Pittsburgh, Pa., 1968); and Peter S. Onuf, “Territories and Statehood,” in *Encyclopedia of American Political History*, ed. Jack P. Greene, 3 vols. (New York, 1984), 3:1283-1304.

⁴⁷Andrew McLaughlin, “The Background of American Federalism,” *American Political Science Review* 12 (May 1918), 215-40.

The old British Empire and the new federal union differed most conspicuously on the political future of dependent colonies or territories. Congress was determined to avoid the misguided Crown policies that had destroyed the Empire. After 1763, King George III turned against his American subjects, denying that they had any constitutional rights within their colonies or the empire as a whole. The colonizing genius of the old empire was predicated on the promises made to colonizing subjects in royal charters and in the constitutional understandings that evolved through the centuries. Efforts to reform and centralize colonial governance challenged these understandings and thus subverted the patriotic attachments that sustained and enriched the Empire. Fulfilling the promise that short-sighted British policy-makers had betrayed, the United States would incorporate new state-republics into its expanding union on fully equal terms. The Northwest Ordinance thus followed the script of British imperial history up to 1763, at least as American patriots understood it, but then provided for a happy, non-revolutionary ending. Settlers who colonized the new national domain could rely on Congress to make good on the promise of statehood and incorporation in the Union held out by the Ordinance's compact articles.

Congress gained title to the trans-Ohio region and effective control over territorial expansion through the cession of state western land claims, including most notably from Virginia on March 1, 1784.⁴⁸ Congress proceeded to draft a territorial government ordinance, adopted on April 23, 1784, and to establish a framework for land sales in a companion ordinance of May 20, 1785. The government ordinance, drafted primarily by Thomas Jefferson, sketched boundaries for fourteen new states—ten in the Northwest—that were promised admission to the Union on terms of full equality when their populations reached that of the least populous state. But because Congress did not exercise effective authority in the region and settlers were reluctant to risk moving to a volatile frontier, the 1784 Ordinance proved to be a dead letter. Only when Congress committed resources to governing the national domain and securing settlers' property rights under the Northwest Ordinance was it possible to sell federal lands.⁴⁹

The Ordinance's ungainly form reflected a mix of immediate policy imperatives and long-term aspirations for the future of the trans-Ohio

⁴⁸Onuf, *Origins of the Federal Republic*, 75-102.

⁴⁹Onuf, *Statehood and Union*, 1-66.

region.⁵⁰ After proclaiming the district be organized “for the purposes of temporary government” and providing for its possible future division, the Ordinance focused on provisions for the inheritance of “estates, both of resident and nonresident proprietors.” The purchase of lands in the territory came first in the Ordinance: the rule of law preceded settlement, just as the surveys prescribed by the land ordinance defined property lines in advance. The Ordinance then outlined the evolution of territorial government from the direct rule of congressionally-appointed officials to the election of a territorial legislature when the governor was satisfied that there were “five thousand free male inhabitants of full age in the district,” and finally, when the population reached 60,000, to statehood and admission to the Union. Secure in their land titles, Congress’s subjects now claimed the rights of citizens.

That transformation was anticipated in Ordinance provisions designed to extend “the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected” and that “shall be considered as articles of compact between the original states and the people and states in the said territory, and forever remain unalterable, unless by common consent.” The first three articles constituted a bill of rights for the territory, which guaranteed religious freedom, habeas corpus, trial by jury, as well as other legal protections, and that also encouraged education and “good faith” toward Indians in order to preserve “peace and friendship with them” and the orderly cession of their lands. The fifth article promised admission of three to five new states to the Union “on an equal footing with the original states in all respects whatever,” with predefined boundaries subject to congressional alteration whenever any one of those states “shall have sixty thousand free inhabitants”; the famous sixth article decreed “there shall be neither slavery nor involuntary servitude in the said territory.”

However the new states formed in the Northwest would not be free, as the original states had been, to determine their own political destiny. The fifth article stipulated that these new states “shall forever remain a part” of the Union and be equally and proportionally responsible for federal debts and current expenses. Most importantly, their legislatures “shall never interfere with the primary disposal of the soil by the United States,” nor would federal land be subjected to territorial or state taxes or non-resident proprietors be taxed higher than residents. Finally, the free trade regime that the Constitution created within the original Union would extend to

⁵⁰Quotations from the Ordinance are taken from *ibid.*, 60-64.

the new states: “the navigable waters leading into the Mississippi and St. Lawrence...shall be common highways, and forever free.”

The compact articles looked toward the future, articulating fundamental principles of the new nation’s federal republican regime that stood in stark contrast to the Ordinance’s provisions for temporary territorial government. Yet the figure of the rights-conscious citizen who looms so large in the compact articles harks back to the anxious and insecure landowner of the Ordinance’s opening paragraphs. The promises of those articles would only be fulfilled as prospective new states developed the capacity to write their own laws and claim an equal standing in the Union. As territorial subjects became American citizens, they recapitulated the original states’ colonial history. Revolutionaries had invoked the royal charters that created their colonies as “constitutions” that limited royal authority; now settlers in the Northwest gained land titles from a “sovereign” Congress within embryonic proto-states that Congress had created in the Northwest Ordinance.

The Northwest Ordinance articulated the “fundamental principles” on which the Indiana Constitution of 1816 was predicated, but there was nothing constitutional about the Ordinance itself. The Ordinance would not have had any standing at all if it had not been reenacted by the new federal Congress in 1789; it would not have served as a template for future territorial governments, had it not been reenacted in the organic laws of future territories, including Indiana in 1800. The boundary provisions of the fifth article did not remain “unalterable,” as Indiana’s shrinking borders demonstrated. By this time the Ordinance no longer had any practical significance for territorial governance or new state admission. The Northwest Ordinance’s legacy was nonetheless enduring. State-makers in Indiana and the other northwestern states celebrated the Ordinance as a great charter that laid the foundations for the region’s extraordinary development and for their own aspirations and achievements. As Indianans declared their independence in 1816 and self-consciously echoed the Revolutionaries of 1776, they also claimed their right to incorporation in the American empire of liberty according to the promises set forth in the “constitution of the United States” and “the ordinance of Congress.”⁵¹

The Indiana Constitution codified the expansion of popular political participation that Congress authorized in successive modifications of the Ordinance’s original prescriptions for territorial government. But demo-

⁵¹Ind. Const., Preamble (1816), in Kettleborough, *Constitution Making in Indiana*, 1: 84.

cratic agitation against allegedly unresponsive and autocratic territorial governments did not signify repudiation of the Ordinance. To the contrary, the promises of the Ordinance's compact articles loomed large in the debate over indentured servitude and slavery that played such a crucial role in democratizing territorial politics. Proslavery "Virginia aristocrats" argued to Congress and their fellow Indianans that the abrogation of Article Six of the Northwest Ordinance would attract southern planters to the territory, spurring its development. Surely, they reasoned, Congress had the authority to discard this and any other Ordinance provision, particularly if the people favored the change.⁵² Jonathan Jennings and his allies in the ascendant "popular party" countered that Article Six's promise was forever binding on all parties: once free settlers took up Congress's offer, purchased lands, and moved to the territory the slavery ban constituted a higher law, sacred and inviolable.⁵³

The democratization of territorial politics set the stage for statehood and incorporation in the Union. When Indianans petitioned Congress to authorize a state constitution, they proclaimed their "attachment to the fundamental principles of legislation, prescribed by congress in their ordinance for the government of this territory."⁵⁴ Congress responded in kind with its Enabling Act, stipulating that the new state's constitution "shall be republican," as Article IV, Section III of the federal Constitution required, "and not repugnant to those articles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, which are declared to be irrevocable between the original states, and the people and states of the territory northwest of the river Ohio."⁵⁵ This reaffirmation of the Northwest Ordinance's compact articles culminated in an irrevocable ban on slavery in the Indiana Constitution: "as the holding any part of the human Creation in slavery, or involuntary servitude, can only originate in usurpation and tyranny, no alteration of this constitution shall ever take

⁵²The claim that the Ordinance's compact articles had no constitutional standing was a rhetorical staple for slavery proponents. See, for instance, a 1796 petition to the U.S. Senate, claiming that the compact articles "were made *ex parte* by the original States only" and would not have been endorsed by a majority of the settlers in the territory at the time, including many slaveowners in Vincennes and other French settlements. Jacob Piatt Dunn, *Slavery Petitions and Papers*, Indiana Historical Society Publications, vol. 2, no.12 (Indianapolis, Ind., 1894), 5-6.

⁵³Onuf, *Statehood and Union*, 109-32; Hammond, *Slavery, Freedom, and Expansion*, 76-149.

⁵⁴Memorial to Congress Asking Admission to Union, December 11, 1815, in Kettleborough, *Constitution Making in Indiana*, 1: 72.

⁵⁵Enabling Act, April 19, 1816, *ibid.*, 1: 75.

place so as to introduce slavery or involuntary servitude in this State.”⁵⁶ Proslavery agitators had argued that the sovereign state would be free to legalize slavery or do anything else it wanted once the shackles of colonial subjection under the Northwest Ordinance were thrown off. But Indians now solemnly asserted that they would submit to this fundamental limitation on their independence, just as they acknowledged limits to their sovereignty under the government of the United States.

UNION AND DISUNION

The Indiana Constitution, as its historians have argued, marked an epoch in the history of American democracy. But democracy was not the spontaneous expression of the people’s natural genius for self-government. To the contrary, Indiana and other new states *became* democratic according to the outlines of a script authored by the Confederation Congress in the Northwest Ordinance and progressively revised by succeeding congresses. Congress’s immediate concerns were geopolitical—to assert the new nation’s sovereignty and to gain the respect and recognition of imperial rivals. To do so, policy-makers recognized, it would be necessary to contain and reverse the centrifugal energies unleashed by the vacuum of legitimate authority in a vast and vulnerable frontier hinterland. Congress thus sought to recombine the “fragments of Empire” and create a “more perfect union” by securing the rights of settlers who extended the empire’s boundaries and promoted its prosperity and power.⁵⁷ Empire came first, democracy followed.

The Northwest Ordinance’s inducements to the orderly settlement of the national domain—secure land titles, the slavery ban, and the ultimate promise of statehood—preserved the American empire and enabled its expansion. Like a colonial charter, the Ordinance guaranteed fundamental rights to colonists while creating political spaces and territorial jurisdictions within which they could develop and exercise civic competence. Expanding popular participation reflected movement through the stages of temporary territorial government sketched out in the Ordinance and progressively elaborated by Congress as it recalibrated the dynamic rela-

⁵⁶Ind. Const., art. 8, sec. 1 (1816), *ibid.*, 1: 111-12. The language of Ordinance Article Six is repeated in the constitution’s slavery ban in art. 11, *ibid.*, 1: 117.

⁵⁷George Washington to Henry Lee Jr., September 22, 1788, in *The Papers of George Washington Digital Edition*, ed. Theodore J. Crackel et al., <http://rotunda.upress.virginia.edu.proxy.its.virginia.edu/founders/GEWN-04-06-02-0469>.

tionship between federal center and territorial periphery. The progress of democracy that Frederick Jackson Turner and his disciples celebrated was less a story of the people's empowerment than a measure of their integration into the complex and interdependent economic and political networks that sustained union across ever-expanding spaces. The people could be trusted to govern themselves only when their energies were pointed in the right direction. In order to escape the disabilities of territorial government, Indianans thus sought statehood and admission to the Union—and all the opportunities that participation in national politics and national markets offered the enterprising. Where the British Empire had failed, its American successor would succeed. Congress would harness the centrifugal tendencies that the Revolution unleashed, setting in motion a process of new-state creation and jurisdictional replication that extended the American empire of liberty across the continent.

The British Empire had been destroyed by irresolvable disagreements over whether the sovereign authority of king-in-parliament was or could be in any way limited by the rights Americans claimed under their colonial constitutions or as loyal subjects of the British king. Frustrated Anglo-American patriots sought equality in the empire, and their ambitions would be realized in the federal Constitution's "more perfect union." Liberated from the despotic rule of a distant metropolis, the American empire would unleash the energies of enterprising colonizers along an expanding frontier. Americans established a federal constitutional framework that succeeded in resolving the problems that led to the British Empire's collapse. This was the "empire for liberty" that state-makers in the Northwest celebrated as they asserted their claims as American citizens and gained admission to the Union.

Indianans followed Congress's script as they began to govern themselves and prepare the way for admission to the Union. Yet the exercise of democratic rights at critical moments in the state-making process also set Indiana and other Ordinance states on a distinctive course as free states that would ultimately destroy the new American empire for liberty. The emergence of what Jefferson called a "geographical line, coinciding with a marked principle, moral and political," dividing North from South—and Indiana from Kentucky—subverted the American empire's manifest destiny to conquer western space.⁵⁸ Provisions for territorial government and new state creation sustained a dynamic, expanding union between East and

⁵⁸Thomas Jefferson to John Holmes, April 22, 1820, in Peterson, *Jefferson Writings*, 1434.

West, but could not bridge the growing chasm between North and South. Increasingly bitter controversies over political economy, constitutional interpretation, and the future of slavery threatened to destroy the Union. As Jefferson intimated, the peculiar institution raised fundamental “moral” questions about the character and future of the Union.

Conflicting visions of the nation’s future, following the westward trajectory of the deepening divide between freedom and slavery, generated conflicting national identities. Turner’s “frontier democracy” reflected the distinctive circumstances of Indiana and other free states on slavery’s frontier. The boisterous, spread-eagle nationalism of frontier regions took on an increasingly sectional character as Northwesterners looked back through their own history to the nation’s origins. Native son Isaac Naylor thus attributed Indiana’s “astonishing progress and prosperity” to the Ordinance’s slavery ban. “The *remote* cause” of Indiana’s ascendancy “is the 6th article of the Ordinance of ’87, prohibiting slavery,” he explained, “the proximate cause is, free men, free thought, free speech, a free press, and free labor.”⁵⁹

Indiana was a great American success story, demonstrating the progressive genius of a democratic, self-governing people. Yet there were other “democratic” success stories unfolding to the South, in slavery’s expanding empire. It would take a great Civil War to make Indiana’s story the story that Frederick Jackson Turner would tell about America. And Turner’s inspiring chronicle of democracy’s ascent would in turn obscure another story that transcended sectional differences and was more deeply imbedded in the Anglo-American past. This was the story of imperial expansion and the violent dispossession of Indian peoples. It was the story of the emergence of the United States as a world power.



⁵⁹Isaac Naylor, “Pioneer Life in Clark County,” unpublished manuscript at Indiana Historical Society, cited in Onuf, *Statehood and Union*, 145. This theme is more fully developed in chap.7, “From Constitution to Higher Law,” *ibid.*, 133-52. See also Hammond, *Slavery, Freedom, and Expansion*, 146-47.