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# *The Fight For Life*

## *The University of Toledo, 1900-1909*

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### 1. *The Manual Training School Becomes the Polytechnic School*

**The Paradox of the University's Fight for Life.** The Toledo University of Arts and Trades entered the 20th century in what seemed to be a very strong position, but which was in reality a very weak one. Its weakness consisted in being hitched to the destiny of the popular, but high-school-level Manual Training School.[1] What had to happen before the University could rise to real university statute was for the Manual Training School to be case out from its organization. Strangely fore the University could rise to real university stature was for the Manthis very thing. It believed that the future of the University depended on its retention of a high-school-level curriculum. Therefore, in the following description of the bitter contest of the Toledo factions for the transfer of the Manual Training School to the Board of Education we shall see the University Board of Directors opposing the transfer. In doing so they thought that they were fighting to save the life of the University when in reality, but unwittingly, they were fighting to kill it. When the University finally lost its fight to keep the Manual Training School, it can be said that it had really won a most important decision in its fight for life. The loss of the Manual Training School by the University was to be a gain for both.

**Proposal to Give Classical Courses in the Manual Training School.** The years of Toledo's pride in its Manual Training School suddenly gave way to ones of bitter contention. The trouble began on April 17, 1900 when John W. Dowd, president of the Toledo Board of Education, proposed that the Manual Training School give classical or non-manual instruction to its own students. This, he said, would permit the Manual Training School to assume the entire academic education of those taking its courses. Dowd was supported by Harry W. Ashley of the University Board. Ashley pointed out that this was the way that manual training schools were being set up in other cities. The Toledo system of overlapping administrations, with the University Board in control of courses taken by students of the high school, was wasteful and inefficient. Much jealousy and friction resulted because the Manual Training

School staff and the Central High School staff each thought that the other was trying to get students away from its courses. The Manual Training School was especially irked because the graduating class of 1900, with a total of 126 pupils, had only four who qualified for Manual Training School diplomas. This was said to be a hardship on children of poorer families. It was also claimed that Principal C. G. Ballou of Central High School and Superintendent Vergil G. Curtis of the Manual Training School were continually quarreling over administrative matters. On one occasion Ballou had his stenographer eavesdrop on his conversations with Curtis. There was little coordination of the offerings of the two schools and it was evident that Toledo was not getting full value from the money being spent on education.[2]

**Establishing The Toledo Polytechnic School.** Dowd's proposal met a favorable response. The Board of Education and the University Board of Directors were on very friendly terms at the time, and, on July 24, 1900, a joint meeting was held and a joint committee appointed to work out the details. The report of this committee was favorable, and, on August 6, the University Board announced the establishment of "a school of secondary and college grade to be designated as the Toledo Polytechnic School." The Directors' announcement read:

> *The distinctive character of the school will be the union of the hand and mind training. It will be an institution which combines a thorough academic education with systematic training in drawing, mechanic arts, and domestic science. Its subjects of study and methods of instruction will be chosen solely on account of the superior results which they are adapted to yield. Its chief object will be to give an all-around education, open to the youth of our city every avenue to success and usefulness and at the same time to stimulate high intellectual and moral attainments.*[3]

Superintendent Curtis, with the consent of the Directors, prepared three curricula, two of them differing chiefly in the relative amount of time given to the academic studies and to the mechanic arts, while the third was based on the requirements for admission to the best schools of technology in the country. Such academic work as was offered was chosen with a view of giving a broad but practical training, and included the principal subjects taught in high schools: mathematics, history, English, French, German, Spanish, and the sciences.

The entrance requirements for the new school specified that a student must be a graduate of the eighth grade of the public schools of Toledo, or the graded schools of Lucas and Wood counties, or pass a special entrance examination in arithmetic, English, geography, and United States history. Graduates of high schools and students who had done work in high school, academy, or college were to be admitted to advanced standing. Special students of mature age who, for sufficient reasons, did not wish to take a regular course were to be admitted at the discretion of the superintendent.[4]

## 2. *Polytechnics and Pyrotechnics*

The expectation of the two Boards that the creation of two separate high schools would bring about peaceful relations, was doomed to disappointment. Strong elements in Toledo saw neither sense nor economy in having two independent schools. In practically all other city school systems manual training in the high schools was under the Board of Education. Many saw no reason why Toledo school administration should not be as businesslike as that in any other city. So hot did the discussion of this issue become that the Toledo Polytechnic School was commonly referred to as the Toledo Pyrotechnic School.

**LaFayette Lyttle Leads the Opposition to the University Board.** The leader of the opposition to the dual system was Colonel Lafayette Lyttle of the Board of Education who cast the only dissenting vote against the separation. Lyttle emphasized the point that, in spite of the separation, the Polytechnic School would still be dependent upon Central High School for class room space. This would lead to friction. But in making his points Lyttle became sarcastic and made insinuations that the University Board wanted to take over the powers of the Board of Education. He said:

> *I tell you, the whole scheme is impractical. The manual trustees have not offered to pay us anything for the use of our rooms. I don't see how it will be feasible to have two schools under one roof. There will be friction; you can't help it. You say we would have to have fewer teachers in our schools than now. I don't believe it. We might have smaller classes, but the number of teachers would be the same. Of course, if we want to resign and turn over all our powers to the manual training board, let us do it.*[5]

The sarcasm of Lyttle's allusion to the self dissolution of the Board of Education shows the unwise note of personal animus that was being injected into negotiations which should have been conducted in a more impersonal manner. As a matter of fact the University Board of Directors was willing to dissolve itself, but was unable to do so because it could not be done legally under the University charter. As President Adam Schauss of the University Board said, "We would gladly turn it all over to the Board of Education if it could be done legally, but as it cannot, let us do the best we can to work towards a better and more practical high school."

**Excluding Central High School Students from the Polytechnic School.** But it was not to be; the preparation by Superintendent Curtis to open up the new Polytechnic School in the fall of 1900 gave rise to a new flareup. It was Curtis' belief that the School could produce its best results by requiring that all entering students (ninth graders) should enroll as fulltime students. This would keep out the boys who took courses in blacksmithing "just to see the sparks fly." It would also end the arrangement required by the contracts with the Board of Education in 1885 and 1895 by which the Central High School students could take manual courses. This was in keeping with the University Board's mandate. But it required more classroom space than the Manual Training building had. Hence, the University Board was obliged to petition the Board of Education for the exclusive use of four Central High School rooms plus the occasional use of the auditorium.[6]

The University Board's petition to the Board of Education was the occasion for another display of pyrotechnics by Colonel Lyttle. He claimed that the University Board was afraid that its new Polytechnic School was going to be a failure. Hence it took this method of boosting enrollment. Lyttle said, "You are simply committing hari kari on the high school to bolster up the new polytechnic school . . . They'll be turning themselves into rough riders and lassoing people to drag them into that school, the next thing." When Principal Ballou of the High School was asked if he tried to keep children from entering the Polytechnic School he replied vehemently, "Every word of that insinuation is a lie and whoever says such a thing lied." The upshot of the discussion was a defeat for Lyttle and the agreement by the Board of Education to let the Polytechnic School have the rooms for a rent of one dollar each per month. (The Board of

Education never did, however, send a bill for this rent to the University Board.)[7]

In spite of its victory the way of the Polytechnic School was to be hard indeed. It had obtained its independence, but it needed a competence, in other words, adequate financial support to develop into the great technological school it hoped to be. It was shortly to lose both. In the meantime it kept on trying, first aggressively in seeking an enlargement, then defensively in protecting itself against court action.

**Losing the $10,000 Bond Issue and the Friendship of Albert E. Macomber.** In July, 1901 the University Board sought from the City Council authorization for a bond issue of $10,000 for the purpose of enlarging the old Manual Training building, now being used by the Polytechnic School. The episode was unfortunate for two reasons: the City Council turned down the request and the University lost the support of Albert E. Macomber, Toledo's most ardent supporter of the idea of manual training. Macomber was related to Jesup W. Scott, who was the Toledo pioneer of the manual training idea. It was Macomber and Frank J. Scott, son of the founder of the University, who, with John W. Dowd, had persuaded the City Council in 1884 to accept the Scott trust, and thus make possible a municipal University. As Secretary of the Board of Directors Macomber had prepared all the excellent annual reports of the Manual Training School. He had kept in close touch with the School's problems, and his advice had been sought and followed by all the principals.

The parting of the ways came in the course of the City Council's discussion of the Directors' request for the bond issue. The Directors' delegate to the Council's Ways and Means Committee had said that the repayment of the bonds would be secured by a lien on the Scott farm, deeded in trust to the University. Macomber did not like this. He felt that the policy of creating liens upon this trust year after year would, finally, in its disposition at a great sacrifice, and in the utter failure to achieve the benefit purpose contemplated by the donor. He cited the gift by Stephen A. Douglas of 20 acres to Chicago University, which became so burdened by liens that the tract and all its buildings were eventually sold to pay the encumbrances. The city solicitor adopted these views and so informed the City Council, which accordingly refused to authorize the bond issue.[8]

Unfortunately the affair was managed in such a way as to make Ma-

comber and the rest of the Board bitter enemies. It seems that Macomber had originally voted with the Board for the bond issue, and had been appointed a delegate, along with his colleague, John Parsons, to present the matter to the City Council. Macomber did not attend the Council meeting. When Parsons presented the Board's case, he was astounded to learn that Macomber, along with Lyttle, had approached the Council's Ways and Means Committee to advise against authorizing the bond issue. When Parsons reported back to the Board, the members were aghast. Parsons said that if Macomber had read "the original papers in the case" he would have seen that the Scott trust was intended as security. Besides, said Parsons, "there wasn't the slightest doubt about this board being able to take care of itself." Chairman Schauss so far lost his head as to declare, "He doesn't know what kind of men we are. He thinks he is associating with a lot of damn chumps." Macomber rather lamely replied that he changed his mind because he discovered that the Board was insincere in supporting his pet measure of setting up a night school. He also said that he did not go to the Council's Ways and Means Committee because he could not find the room in which they were meeting. Whereupon Schauss fired back, "I think the best thing that you can do now is to resign. By your actions you have demonstrated that you are not an honorable man, and we will place no more reliance in you. You know as well as any living man that your statement about being unable to find the ways and means committee was a falsehood." Never again in the period of his membership on the Board did a motion by Macomber receive a second.[9]

### 3. *Judicial and Legislative Action Against the University*

**The University Board Resists the Efforts to Consolidate the High School System.** These undignified squabbles marked the beginning of the end of the dual control of Toledo's high school system. They led to a movement for the integration of high school education under the single control of the Board of Education. This would eventually make it necessary for friends of the University to turn from the manual training emphasis to the study of ways and means of setting up an institution at the college level. But it was to be a slow process for two reasons: the people of Toledo were more interested in vocational education at the high school level, and the University Board was more interested in self defense than in ridding itself of the Polytechnic School.

**The Rohr Case.** The University found temporary support in the courts. Its charter basis exempted it from attack because of its curriculum. This was shown by the outcome of two law suits. The first of these was the so-called Rohr Case of 1901 in which a group of taxpayers formed a pool to challenge the rule excluding part-time classical students from the ninth grade of the Polytechnic School. Louis N. Rohr, with W. H. A. Reed as counsel, filed a petition in the Lucas County Court of Common Please in which he stated that he wished to have his son, William F. Rohr, a member of the freshman class in Central High School, take courses in manual training. Superintendent Curtis excluded William on the grounds that he was not regularly enrolled in the Polytechnic School. Rohr's petition was filed against the Directors and the superintendent to compel them to admit his son. It was claimed in the petition that the Polytechnic School was intended to be auxiliary or supplementary to the high school. Therefore it was not for the Directors to say that Central High School freshmen must not enter the manual department of the Polytechnic School. The petition also stated that the school was occupying property which, according to the contract made with the Board of Education on April 4, 1885, was to be used for manual training and which should be accessible to all high school pupils.

The Court, however, decided in favor of the University. "It is not clear," said Judge Jason A. Barber on October 18, 1901, "that the provisions of the agreement of 1885 were to give every member of the high school, under any and all circumstances, a right to elect such courses as he shall choose to pursue in the university." Even if the agreement were enforceable in favor of Rohr, the Court did not believe the contract to be still in effect. Thus the Polytechnic School was given absolute authority to decide whom it would admit to its classes. It was also stated that the University was a public school only in the sense that tuition was free to all citizens of Toledo. It is interesting to note that, in spite of this decision, William Rohr was admitted into the Polytechnic School at the beginning of the next semester, and permitted to take such courses as he chose. Three and a half years later he graduated and received diplomas from both Central High School and Toledo University.[10]

**Quo Warranto Proceedings Against the City.** The second suit was a quo warranto proceeding against the City of Toledo challenging the University Board as an agency of the city for departing from the purpose for which it had been organized by its charter. This purpose, it

was claimed through attorney Reed, was to conduct manual training and advanced technical work, and not to duplicate the classical courses. The city ordinance permitting this was alleged to be unconstitutional. The so-called classical courses were claimed to be under the law pertaining to common schools, and the Board of Directors of this "pretended University" was, therefore, usurping the powers of the Board of Education. But the suit was to no avail. On February 1, 1902 Judge George R. Haynes of the Circuit Court decided in favor of the University citing the case of the University of Cincinnati in which the Ohio Supreme Court denied the claim that Cincinnati had no right to receive in trust a school founded by a benefactor and willed to the city. Judge Haynes held that this proved that Toledo could legally hold such a gift, could appoint a University Board of Directors, and delegate to it full management of the institution.[11]

**Transfer of the University to the Board of Education by the State Legislature.** The failure of these suits against the University helped to promote the belief that dual control of the high school system was undesirable. The result was the passage, on April 16, 1902, of an act by the Ohio Legislature abolishing the University Board, and transferring its duties to the Board of Education. The Board of Education was authorized to levy a property tax of three-tenths of a mill per dollar valuation for the support of the University. Everybody seems to have been in favor of the measure except the Board of Education, which had always leaned over backward in being polite to the University Board. The Directors themselves had always been willing to have their Board abolished, but knew that neither the city nor the Board itself had a legal right to do so. The Toledo Charter Commission and the Ways and Means Committee of the City Council had likewise recommended the measure in December, 1901. Hence state representative U. G. Denman had no trouble in getting the Act of April 16 passed.[12]

The transfer of the University to the jurisdiction of the Board of Education did not imperil the life of the Polytechnic School. The Board had always been friendly toward the University, and it continued to be so during the thirteen months of 1902-1903 in which it had control. It subjected the curriculum of the Polytechnic School to serious consideration with a view to discover the best way of integrating it into the school system. While this consideration was going on the Polytechnic School continued as it had been under the University Board. Superintendent

Curtis, continued as its head, and made his reports directly to W. W. Chalmers, City Superintendent of Schools. He became the equivalent of President of the Toledo University.

There were many factions or points of view to be considered, and all were heard. A large group of citizens, led by Lyttle and Macomber, wished to abolish the Polytechnic School, and to reorganize it as a manual training department in Central High School. They held that a duplication of classes and expense was unnecessary. Another group, led by the City Federation of Women's Clubs, adopted a resolution asking the Board of Education to continue the autonomy of the Polytechnic School as it had previously existed. They expressed the opinion in a resolution that, as between the Polytechnic School and the Toledo Central High School, the Polytechnic School was of the most practical use. Toledo, they said, was growing into a great manufacturing center, and the education of youth for self-support should outweigh that of classical study. They also argued that the greatest good to the greatest number demanded that precedence be given to industrial training.[13]

**The "Real University" Group.** There was still a third group which may be called the friends of a "real university." This was led by General J. Kent Hamilton, president of the Board, and his colleague, Julius G. Lamson. At a Board meeting held July 7, 1902, General Hamilton read a carefully prepared statement which showed that, from a legal standpoint, the institution was a university and that the Board of Education held it in trust as such. He pointed out that the tax levy was not for manual training alone, and that the Board should not attempt to circumscribe the usefulness of the school by limiting it to manual training. Lyttle questioned several features of Hamilton's paper and contended that the Board did not have any right to raise taxes for the teaching of higher studies. Lamson agreed with Hamilton's view that the Board had the legal power to set up a "real university." Since it did not have the funds to endow and to carry all the chairs of instruction, he believed that the best thing to do would be to give instruction in a number of higher studies, of which a large number of young people in the city would be glad to avail themselves. Dr. James Donnelly, another new member of the Board, strongly advocated advanced studies, especially biology.[14]

The upshot of the discussion was a rejection of the "real university" point of view, but a compromise between the Macomber-Lyttle group fav-

oring manual training as a department of Central High School, and the group favoring the continued autonomy of the Polytechnic School. The idea of a "real university" was dropped partly as the result of the opposition of Maurice A. Scott, son of the founder, who said that his father had in mind a school for teaching the rudiments of manual training and such advanced technical work as might be found practicable. In this he was supported by Dr. James M. Waddick, a close friend of Jesup W. Scott. Dr. Waddick termed the attempt to create a "real university" the height of folly since it could never be made into a reputable institution.[15]

**The Board of Education's "University" Policy.** The compromise decision involved returning the classical courses to Central High School and the commercial courses to the Polytechnic School. As announced by the Board of Education July 8, 1902, the following were to be the courses of study for the Polytechnic School:

> *Manual Training—Mechanical, architectural, and free hand drawing, wood carving, clay modelling, machine tool work and forging, wood turning and joining, dress-making, cooking, plain sewing.*
>
> *Scientific—Mineralogy, mining, mechanical, electrical, and architectural engineering, physics, advanced chemistry, and bacteriology.*
>
> *Commercial—Stenography, typewriting, book-keeping, and commercial law.*

This decision was arrived at with the ussual display of pyrotechnics. Lyttle, with his usual asperity and sarcasm, said that the term university was a misnomer in every respect, and "should never be used in designating the school." He declared that he was ashamed of the decision to continue the institution and predicted its failure. He suggested that they ought to have "an instructor of Chinese and should bring Aguinaldo over to teach young Toledoans the language spoken by the Filipinos." General Hamilton found it necessary to remark, "I should think that our discussion might be carried on with good humor. We are all working for the interest of the schools. Wise men sometimes change their minds; fools never."[16]

## 4. *The Resumption of Pyrotechnics*

**The University Returned to a Separate Board.** To the consternation of everybody the Supreme Court of Ohio, by declaring in a series of decisions that much of the State legislation pertaining to municipali-

ties was unconstitutional, threw the University of Toledo situation into a turmoil. The Legislature was called into special session and an act passed, on October 22, 1902, providing that, where any city controlled a university, a special board of nine members should be appointed to conduct its affairs.[17] The peculiar thing about this law was the uncertainty as to whether it applied merely to the municipal University of Cincinnati or to all municipal universities. The result of the uncertainty was more litigation and confusion.

There was no uncertainty in the mind of "Golden Rule" Mayor Samual M. Jones. On June 1, 1903 he appointed a new University Board of Directors. The new Board met immediately, June 13, 1903, in joint session with the Board of Education. The main problem was finances and, upon conferring with city solicitor U. G. Denman, it was agreed that, although the University was to be under the administration of the Board of Directors, the levying of the three-tenths of a mill tax was subject to the jurisdiction of the Board of Education. The latter Board thereupon voted to instruct the auditor and commissioners of Lucas County to place the levy on the tax duplicate. There followed a temporary challenge of the legality of this procedure by Dr. James N. Waddick who brought a taxpayer's suit for an injunction against the University Board. This, however, was denied on July 15, 1903 by Judge Reynolds R. Kinkade. Therefore upon the advice of assistant city solicitor Charles K. Friedman, the Board of Education turned over to the Directors the moneys belonging to the University.[18]

This action restored dual control of the city's school system and ended the brief period of compromise under the Board of Education, which might well have enabled the Polytechnic School to evolve into a "real university" with that Board's encouragement. The new University Board was now confronted with a fight for its life. It had legal existence as a separate institution, but it did not have the full loyalty of the people of Toledo. The people wanted municipal manual training under the control of the elected Board of Education. They were not yet prepared to support a "real university." They were certainly against a separate Board for the manual training department.

**Attempt to Sell the Scott Farm.** Almost everything the new University Board did was unpopular. The first evidence of this was the wrangle, during the fall of 1903, over selling the Scott farm (now Scott Park) to

provide funds to erect a new building. The Board hoped that the sale of the farm would raise $100,000 of the $150,000 needed. The discussion of the matter before the City Council's Ways and Means Committee generated more heat than light. Macomber lashed into the University as a "rat-hole" into which the city was pouring its money. He dwelt on his favorite theme, that efficiency required manual training to be made a part of the city school system under the Board of Education. President Charles S. Northrup of the University Board was equally harsh in asserting that Macomber and his relative, Frank J. Scott, wanted the farm placed under the Board of Education so that it would revert to the Scott estate. Macomber denounced this as a "wicked insinuation." Scott described how the land was intended by his father for the campus of a great university which would at some distant day come to Toledo. The Directors' proposal was summarily rejected, and the discussion had only seemed to intensify the bitterness.[19]

**More Legislation Against the University.** The Directors were now driven into a fight for running expenses of the University. It managed to finish out the school year of 1903-1904 with the help of the three-fifths of a mill levy allowed by the Board of Education, but, with the approach of the school year of 1904-1905, it became apparent that the Directors would have no levy for the support of the University. A new law had been passed by the Ohio Legislature on April 25, 1904, transferring the power to order the levying of taxes for University purposes from the Board of Education to the City Council. The tax was reduced from three-fifths of a mill to three tenths plus one-twentieth of a mill for the establishment of an "astronomical observatory or for other scientific purposes." It also transferred to the Board of Education the management and administration of the estates and funds of the University. The same act also defined the term "university" in such a way as to leave some doubt as to whether the Polytechnic School was any longer a university. The embarrassing words read;

> *A university supported in whole or part by municipal taxation, is hereby defined as an assemblage of colleges united under one organization or management, affording instruction in the arts, sciences and learned professions, and conferring degrees.*[20]

**Affiliation with the Toledo Medical School.** The University Board had tried to meet this crisis by negotiating a merger with the Toledo Medical College. This was brought about largely through the efforts

of Dr. John S. Pyle, member of the University Board and professor of anatomy and clinical surgery in the Medical College. This College had been founded in 1882 by a group of Toledo physicians and had a building at the corner of Page and Cherry Streets. For some years it had been seeking to affiliate with a well established college, and had approached the authorities of Heidelberg College at Tiffin and those of St. Johns in Toledo without success. Toledo's University predicament in 1904, however, created common ground between it and the Medical College. Hence, on June 25, the Medical College was leased to the University for a nominal rental of $1,000 a year for five years. The rental was large enough to pay the interest on the bonded indebtedness of the college and to care for the insurance and a few other expenses. The college was none too strong, as is shown by the fact that its faculty was serving without compensation. The lease stated, however, that a College of Pharmacy and a College of Dentistry were to be established in connection with the Medical College.[21]

**The Waldron Case.** The Board of Directors having thus raised the institution to "real university" status (in its own estimation) now sought to challenge the constitutionality of the Act of April 25, 1904, transferring the levying power to the City Council and the control of university funds and propery to the Board of Education. It did this by getting engineer Alfred M. Waldron of the University to sue the city for his salary. Waldron had been hired by the University Board, but the city treasurer had refused to issue a warrant, for his salary was dependent on the City Council for the appropriation of the money. It was claimed that there were funds in the city treasury properly applicable to the payment of the account.

The real purpose of the Board was to raise a case to challenge the constitutionality of the Act of April 25, 1904. And in this they were successful. The decision rendered by Judge Haynes of the Circuit Court nullified the effect of the opponents of the University to destroy it. The definition of "university", made by the Act of April 25, was declared to have no bearing on the question of control of a school established by a private donor, and endowed by his property and the property of others to carry out definite purposes in regard to education. Designating such a school as a university was not regarded as a reason for depriving it of the protection of the Constitution of the State, notwithstanding it had not yet atained to the full scope of a university. Judge Haynes said that it was Jesup W. Scott's intention to enable Toledo to have a "real" university

when the time should come when it was able to support one. The judge said:

> *"He lived here when this city was a small village, but he predicted it would be a large prosperous city; and he lived to see the commencement of it, but he did not live to see the fulfillment of it. He laid out and planned for the university. He gave to it property at that time which he valued at* $80,000 *and made provisions for the carrying out of a school that should embody his ideas of a certain class of education that should be given or furnished the youths of this city, or county, or neighborhood.*
>
> *It was small in its inception. He expected there would be future donations. Certain other parties made donations to the fund—not to a very large extent—but they still are donations and remain the property that is embodied in this scheme, this school or university. It was small in its beginning, but I assume Mr. Scott did not expect or could not reasonably expect it would grow to large proportions in a day or in a year but as the city grew and as its means multiplied, he did expect that donations would be made to the school, and that the school would thrive and flourish as a university. Primarily it was given to help the arts and trades. Schools were designed for things of that kind; still provisions were made for branching out in other departments—I should say, here, that although this was a school that had not large means, still it is entitled to the same protection of the law as though it had an endowment of millions.*

Judge Haynes further pointed out that the United States Supreme Court had, by the Dartmouth College Case of 1819, established the principle that college charters were contracts which could not be changed by state legislation.

As for the Legislature's transfer of the management and administration of the estates and funds of the University to the Board of Education, Judge Haynes said that this was a violation of the University charter. It was stated that the property of the Toledo University of Arts and Trades had been turned over to the City of Toledo as a private trust. Property in the hands of corporations or agents was declared to be just as inviolate as if in the custody of the owner himself, and could not be taken from them without consent and against their will. When the trustees of the

Toledo University of Arts and Trades presented their property for a charitable purpose, the newly created corporation which received it was made a perpetual instrument to represent the donors. The Board of Education was held to be as separate and distinct from the city as the Board of County Commissioners. The court did not regard the Board of Education as a corporation which was eligible to hold property or to carry out the management and control of the university. The court was very specific concerning the power of the Board of Education:

> *The school was started as a university.. It was intended to be such. It was established as a private donation, and under the Constitution private property shall ever be held inviolate. The statute recently passed seeks to place the management of the university in a board entirely foreign to the city, and this cannot be done.*[22]

**A University With No Money.** The University's victory was short lived. The Waldron decision merely enabled the University to eke out the school year of 1904-1905 from the funds required to be transferred from the Board of Education to the Board of Directors. The city council, influenced by the Macomber Lyttle faction, was adamant against all entreaties for a levy to help the University. So desperate was the University Board at this opposition that in December, 1904, it passed a resolution that "steps be taken to ascertain if there are any legal methods by which Albert E. Macomber can be restrained from interfering with the Toledo University." In July, 1905 the Directors, after being again rebuffed by the Council, let it be known that the defeat was caused by a "machine move to place the manual training department in the hands of the Board of Education." Mayor Robert H. Finch assured the Board of Directors, "The council may order the University Board to turn over the property to the Board of Education, but that action does not make it necessary for the University Board to do it. I have legal advise on the subject and that is what I have been told."[23]

**Closing the Polytechnic School.** Having survived the school year 1904-1905 the University Board had to be more aggressive in publicizing its impecunious plight. It was approaching the school year of 1905-1906 completely destitute of funds. This meant closing the Polytechnic School. The Directors, therefore, authorized the erection of a sign 9 by 3 feet in size, which appeared in front of the Manual Training School building on

July 10, 1905, to the surprise and amusement of the citizens of the city. The sign read:

> *This Manual Training School closed until the city council provides funds to defray running expenses.. By order of the board of directors.*
>
> *NOTICE—Watch this space for information relating to the university. Bulletin No.* 1.

In a report to the press, Dr. Pyle of the University Board, announced that the reason for the closing was to inform the people that the denial of funds to the school was the work of the opponents of former Mayor Jones, who had appointed the Board. Said Dr. Pyle:

> *We may have to keep the school closed until the people learn that it is the work of a political machine trying to get rid of the Jones anti-machine board. This political machine aims to control the entire school work of Toledo. The Macomber-Scott animus has a different origin and only serves the furtherance of the objects of the machine. The citizens should remember that the university board is trying to provide for the growth of a Toledo higher educational institution, the equal of Cincinnati. We want to hold our university property together as a nucleus for greater work and further donations.*[24]

By appealing to the pride of Toledo citizens in their Polytechnic School the University Board was able to force the City Council and the Board of Education into a compromise for the school year 1905-1906. In so doing they led to a series of negotiations that left feelings between the University and its opponents more bitter than ever. On August 7 the Board of Education proposed that the University Board rent the Polytechnic School building to the Board of Education for the school year so that the latter board could continue the manual training offerings. The University Board countered by offering to provide manual instruction under their own direction for a sum of from $15,000 to $18,000 a year. On September 5, 1905 the Board of Education indignantly refused, claiming the proposed amount to be exorbitant. It even went so far as to notify the University Board that its lease would expire in September, 1906, and that the University would have to vacate the Polytechnic School building by that time. [25]

This was just what the Directors wanted because, according to the

terms of the contract, the Board of Education would have to pay a fair price for the building. The University would thus realize about $40,000 in cash. This encouraged the determined University Directors to "dig in" and wait for public opinion to come to their aid. As J. B. McCullough, of the University Board, said:

> *The vacation of this building does not in any sense mean the disruption of the university. It only means that we change our location. We will continue a course supplementary to the high school course. If this council will not provide the means, we will wait until a council is elected that will.*[26]

The Board of Education conveniently forgot the offer to close out on the lease.

**The Polytechnic School Reopens.** Mayor Finch now intervened. The school year of 1905-1906 had opened, but the Polytechnic School was still closed. On September 22 he called a joint meeting of the two Boards in the office of C. F. Watts, president of the Board of Education. An agreement was worked out whereby the school would open on October 2 under the management of the Directors. The agreement provided that, when the University Director had expended $5,503 for manual training purposes, the Board of Education was to furnish a like amount, and the University Board was positively assured by Mayor Finch that a like sum would be furnished by the City Council.[27]

**A "Hotbed of Radicalism."** This agreement did not bring peace. Indeed it was the prelude to more bitter wrangling than ever, which eventually led to an effort by the City Council to abolish the University. One reason for this was the tossing of a new firebrand into the dispute by the adding of a course in "Labor-Ethics." Mrs. William Mailly was employed to teach this course at $30.00 a month. This was the only course of college rank offered by the university during the year, outside of the work in the College of Medicine and its associated College of Pharmacy. Dr. John S. Pyle was instrumental in persuading the directions to offer this course. The Socialists of the city warmly approved the action, and the conservative elements vigorously opposed it. The course produced loud reverberations in the City Council. It was asserted that the university was becoming a hotbed of radicalism.[28]

**The Fight to Abolish the University.** The University was now defi-

nitely "on the spot." A full campaign by the City Council to abolish the "University" was now under way. Leaders in this movement were John Wickenheiser and Adam Schauss of the City Council and G. Otto Haubold of the Board of Education.

The first object of these gentlemen was to try to uncover financial mismanagement in the University. The occasion for this move was the request of the University Board early in January, 1906, for the funds promised by the City Council and the Board of Education. In response, the Council appointed Wickenheiser and Schauss to investigate the University's finances. A month later, February, 1906, these councilmen reported that the University Board had spent $2,850.58 of the monies of the Polytechnic School for the Toledo Medical School. President John B. Merrill denied this and cited figures to support his view. With much asperity he showed his resentment of the Council's attitude, and took the occasion to declare his belief that the heirs of the Jesup W. Scott estate were trying to discredit the University so that the Scott farm would revert to them. He asserted that he University Board was endeavoring to give Toledo a higher institution of learning and that the allegations recently made against the University in papers and pamphlets, written by Albert E. Macomber, were "lies."[29]

The Council refused to budge; it was opposed to the University, and was determined that this was to be its last year. The University Board retaliated by threatening to close the Polytechnic School again. Only the reluctant appropriation of $2,000 by the Board of Education on February 26 prevented this. By May, however, this gave out and the Board actually did close the School. This forced the City Council to appropriate $2,000 so that the School could reopen and finish the school year.[30] But the Council, in so doing, made it abundantly clear that that was the last money it intended to appropriate for the University Board. At the same time that it baled out the University, the wheels were set in motion for abolishing it by preparing to pass the so-called Wickenheiser Ordinance.

**The Wickenheiser Ordinance.** The Wickenheiser Ordinance contemplated the transfer of the Polytechnic School, (its properties) and its management to the Board of Education. It was based on four assumptions. First it was thought that since the University had been created by the City Ordinance of March 18, 1884 it could be unmade in a similar manner. Second, it was claimed that the acts of the Ohio Legislature took

away the power of the City Council to levy a tax for the maintenance of a university. Third, it was clear that the funds from the Scott tract were insufficient to maintain the Polytechnic School. Fourth, since manual training had become a necessity in the education of the young people of Toledo, it was necessary for the Board of Education to provide it. This all seemed to be the common-sense way to meet the situation in view of the law, the flimsiness of the University's financial backing, and the needs of the city. These findings were part of a special report made early in May by Board of Education member, Charles A. Seiders, who was chairman of a special committee appointed to investigate the State's school and university laws. The opponents of the University had prepared a very effective case. After much acrimonious debate the measure was passed and became law on September 17, 1906.[31]

**The Seizure of the Polytechnic School.** The Board of Education now moved to occupy and administer the Polytechnic School. The University Board denied the constitutionality of the Wickenheiser Ordinance, and refused to yield possession. It was, therefore, necessary for the Board of Education to proceed by stealth. The quarrel reached a climax on October 13, 1906. Seiders, at a meeting of the Board of Education during the previous evening, presented a resolution to open the Polytechnic School on the following Monday morning. City Superintendent of Schools Henry J. Eberth was authorized to secure the necessary teachers for the school. Seiders then implemented his plans by presenting a resolution, which was passed by the Board, instructing their Director, George L. McKesson "to take all the necessary steps to have the Manual Training School ready for the opening up of the school on Monday morning." At four o'clock on the next morning, McKesson, accompanied by three employees of the board, John Pheils, William Bruce, and Frank Gills, entered the Central High School building.

As soon as it was light enough to see, the invading party effected an entrance into the Polytechnic School, crossing over from the attic of the High School building. Once in the building, they proceeded to barricade the outside doors and nail down the windows, in order to prevent an entrance from the outside. McKesson postsed a notice on the front door informing the public that entrance to the Polytechnic School building could be obtained only through the Central High School building. The four men remained in the building day and night until after the Monday

night's session of the Board of Education, to prevent the directors from regaining possession.[32]

**The End of the Polytechnic School Era of the University.** Never again did the University Board of Directors have jurisdiction over the Polytechnic School. The Directors were, of course, taken completely unawares by McKesson's drastic move. They fought the action bitterly through two law suits and were eventually upheld by the Ohio Supreme Court in their title to the building and its equipment. But it was not until July, 1911, that this decision was made final. By that time two developments of vital importance to the University had taken place. The first of these was the continued occupation and administration of the Polytechnic School by the Board of Education, and the incorporation of manual training into the Toledo public school system. The second was the conversion of the University Board to the policy of creating a "real" University and the encouragement given to this policy by the City Council, Toledo philanthropists, and public opinion in general. This will be described subsequently.

**Approaching Real University Stature.** In effect, therefore, the loss of the Polytechnic School was a victory for the University. The loss forced them out of the high school field and into the field of higher education. By the time that the Directors regained legal title to the Polytechnic School building they had reached the beginnings of "real" University stature by having control over three colleges, the Medical College, the Pharmacy College, and the College of Arts and Sciences. Practical plans were under way for the creation of other colleges. This means that when the Polytechnic School building was "returned" to them, they were ready to let the Board of Education retain it in exchange for an abandoned elementary school building, the Illinois Street School, plus a financial payment. These developments will also be described subsequently.

**The Fight for a University Appropriation.** The University Board's immediate task, after losing the Polytechnic School, was to obtain money from the City Council for the support of what was left of the University. This led to a bitter fight which lasted from May, 1907 to June, 1909. The Directors still had the Toledo Medical College and the Pharmacy College. As yet, the University had no College of Arts and Sciences, or, in other words, no cultural courses at the college level. But they had the good will of the Medical School, without which the University would

have disappeared. They also had title to the Scott farm, which the city held in trust according to the old contract of 1884. This meant that the Directors felt justified in expecting the City Council to support the University with tax money.

**Pyle and Tucker Lead the Fight.** But the City Council was still unfriendly, and it was only by vigilant and persistent pressure that tax money was eventually obtained. The two men most responsible for this pressure were Dr. John S. Pyle and William H. Tucker, Toledo Postmaster. Early in May, 1907 Dr. Pyle requested Mayor Brand Whitlock to appoint a new Board of Directors; all but one (Dr. Pyle) of the Board had resigned or moved away from the city. Mayor Whitlock responded by appointing nine directors including Pyle, Tucker and Harry W. Ashley. The new Board met on May 8, 1907, appointed Tucker president and requested the City Council to appropriate the maximum amount allowed by law for the support and maintenance of the University. Nothing was done. A year later the fight was resumed when the Board again asked for tax money. The Ways and Means Committee of the City Council responded by recommending an appropriation of $8,000[33]

This was the signal for a bitter debate with President Tucker leading for the University. He described to the Council the plans for the enlargement of the University. He said:

> *We are glad to get anything. What we wanted was to place the university before the public as a living institution, and make it a school of which the city would be proud. The city finance committee recognized us as representing a part of Toledo—the Toledo University. Of course this levy will not give us much money with which to establish the new branches, but after a school is started, it is almost self-supporting, if properly managed.*

Immediately the opponents, led by Macomber and Lyttle, resumed their opposition to the University. Macomber said the money was needed for the Public Library, and should not be wasted on a discredited Medical College. Lyttle spoke and wrote in like manner, but with his usual asperity. He sneered at this "wretched pretense of a university," and said that, instead of helping the poorer classes, it would be a useless increase of their tax burden. What was needed, he claimed, was a good high school, not a "fake university." To this, President Tucker replied in a letter to

the *Blade*. Alluding to the fact that Lyttle was a member of the Lyttle and Wyman Harness Company, he said:

> *He evidently knows more about horse saddles than he does about universities, for he is way off on the law and the facts in the case . . . He should wake out of this Rip Van Winkle slumber and sit up to take notice . . . I do not propose to be bluffed out of or deterred from performing my sworn duty, even though all the knockers in the city break loose. As a member of the university board, I may fake, but I am trying hard not to be a peanut, crank, or mollycoddle.*[34]

**The Victory of the "University" and of Josie the Elephant.** Tucker and his embattled Board lost in 1908, but returned to the fray in 1909, and this time emerged the victors. The usual request for tax money was made, and the usual rejection by the Council followed. Then came a stroke of luck that saved the University's life. Dr. Pyle had been reading the Council's appropriation resolution closely, and suddenly noticed an item of $2,400 for the purchase of an elephant named Josie, for the Toledo Zoo. He jumped to his feet and rebuked the councilmen for preferring an elephant to a university. Supported by petitions from the citizenry, Dr. Pyle's move was successful. The councilmen were in a most awkward position, and so $2,400 was appropriated. Josie and Dr. Pyle had saved the day.[35]

The sum of $2,400 was not much money, but it was a beginning. It enabled the Board of Directors to engage Dr. Jerome H. Raymond, of the University of Chicago, as first president of Toledo University. It also enabled Dr. Raymond to begin the long, hard task of building a real university. Never again was the University to lack a city appropriation.

The Toledo *Times* commented fittingly on the appropriation:

> *To be sure the amount which will accrue to the university through this particular move of the council will not be large, but such action is an indication of the proper attitude and shows a worthy desire to help along a cause which is deserving a loyal support and financial aid.*
>
> *It is to be hoped that at some future time—not too far off—the city will see fit further to lend its aid to the upbuilding of an educational institution of which Toledo may already be proud.*[36]

FOOTNOTES

1. See Frank R. Hickerson, "University of Toledo: Manual Training School Era, 1884-1900," *Northwest Ohio Quarterly* (April 1948), vol. 20, pp. 97-117.
2. Toledo *Times,* April 17, 1900; Toledo *Bee,* July 22, 24, 1900; Minutes of the Board of Education, vol. 15, p. 206.
3. Toledo *Bee,* August 8, 1900.
4. *Ibid.;* Minutes of Board of Education, vol. 15, p. 223.
5. Toledo *Bee,* August 8, 1900.
6. Minutes of the Board of Education, vol. 15, p. 247.
7. Ibid., vol. 15, p. 246, 247, vol. 18, p. 113; Toledo *Bee,* September 9, 1900.
8. *Ibid.,* July 7, 23, 1901; interview by author with Jonathan F. Rogers, March 5, 1940.
9. *Ibid.;* Toledo *Bee,* July 21, 1901.
10. Interview by author with William F. Rohr, January 31, 1940; Lucas County Recorder's Office, vol. D of Leases, pp. 153-156; Toledo *Bee,* September 12, 18, 1901; Louis H. Rohr *vs* Directors of Toledo University, Lucas County Court of Common Pleas, Journal of Motions and Orders, vol. 121, p. 554, vol. 123, p. 41; Lucas County Circuit Court Records, vol. 14, pp. 228-243.
11. Ohio, Ex. Rel. Attorney General, Plaintiff 1541 *vs* Toledo, Lucas County Circuit Court Records, p. 208.
12. Toledo *Times,* Oct. 19, 1901, March 4, 1902; private papers of Albert E. Macomber, March 4, 1902; *General and Local Laws of Ohio,* 75th Assembly, vol. 95, pp. 518-519.
13. Toledo *Blade,* June 7, 1902.
14. Minutes of the Board of Education, vol. 17, p. 129; interview by author with Julius G. Lamson, June 7, 1940.
15. Toledo *News,* July 29, 1902.
16. Minutes of the Board of Education, vol. 17, p. 129, 192; Toledo *Blade,* July 8, September 2, 1902.
17. *General and Local Acts of Ohio,* 75th Assembly, vol. 96, p. 91.
18. Minutes of the Board of Education, vol. 18, pp. 41-42, 74-75; interview by author with U. G. Denman, February 7, 1940; Toledo *News-Bee,* July 16, 1900; Toledo *Blade,* October 24, 1903; James M. Waddick *vs* Directors of Toledo University etc., Lucas County Court of Common Pleas, vol. 16, p. 110ff.
19. Toledo *Blade,* November 5, 1903.
20. *General and Local Acts of Ohio,* 76th Assembly, vol. 97, pp. 541-545.
21. Frank R. Hickerson, "The Toledo Medical College," *Northwest Ohio Quarterly* (October, 1947), vol. 19, pp. 168-185; Minutes of the Trustees of the Toledo Medical College, pp. 224-226.
22. Ohio, Ex. Rel. Alfred M. Waldron *vs* Toledo, *Ohio Circuit Court Reports,* (new series), vol. 5, pp. 277-291.
23. Minutes of the Board of Directors of Toledo University, vol. 1, pp. 22-23.
24. Interview by author with Dr. John S. Pyle, June 5, 1940; Toledo *News-Bee,* July 10, 1905.
25. Minutes of the Board of Education, vol. 19, p. 280, 297; Minutes of the Board of Directors of Toledo University, vol. 1, pp. 29-33.
26. Toledo *News-Bee,* May 29, 1905.
27. Interview by author with Dr. John S. Pyle, March 8, 1940; Toledo *News-Bee,* September 22, 1905; Minutes of the Board of Education, vol. 19, p. 320; Journal of the Common Council of Toledo, vol. Y, p. 528.
28. Minutes of the Board of Directors of Toledo University, vol. 1, p. 41; Toledo *News-Bee,* October 10, 1905; interview by author with J. F. Wickenheiser, March 17, 1940.
29. Minutes of the Board of Directors of Toledo University, vol. 1, p. 50; Min-

utes of the Board of Education, vol. 20, p. 62; Toledo *Blade,* January 20, Feb. 6, 1906.

30. Minutes of the Board of Directors of Toledo University, vol. 1, pp. 533, 58, 77.
31. Toledo *Blade,* May 8, 1906; Toledo *News-Bee,* May 8, 1906; Journal of the Common Council of Toledo, vol. 13, pp. 279-280.
32. Minutes of the Board of Education, vol. 20, p. 250; interview by author with George L. McKesson, June 5, 1940; Die Toledo *Express,* October 13, 1906; Toledo *News-Bee,* October 13, 1906; Toledo *Blade,* October 15, 1906; interview by author with Alfred Waldron, June 3, 1940.
33. Interview with Dr. John S. Pyle, February 5, 1908; Minutes of the Board of Directors of Toledo University, vol. 1, p. 109.
34. Toledo *Times,* June 11, 1908; Toledo *Blade,* June 4, 15, 16, 26, 29, July 1, 1908.
35. Interview with Dr. John S. Pyle, June 5, 1940; Toledo *News-Bee,* June 15, 1909; Toledo *Blade,* June 15, 1909.
36. Toledo *Times,* June 21, 1909.

# *George Croghan in the War of 1812*

By Thomas W. Parsons

## 1. *The Kentucky War Hawk*

"My men are brave, my officers know their duty, be under no apprehension as to the result of the contest."[1] Thus wrote Major George Croghan, the twenty-one year old commander of Fort Stephenson, to his father on July 21, 1813, at a time when attack by an overwhelming force of British and Indians under the able leadership of General Hugh Proctor was momentarily expected. These were not merely words of assurance from a loyal son to his father, but the deep convictions of a soldier's confidence both in the strength of his country and in himself. As the American army of the Northwest had suffered nothing but defeat since the outbreak of the war, Croghan's confidence was based, not on past performance, but on spirit alone. It was men with the same spirit and objective as that of Croghan—the War Hawks of Kentucky—who had forced Congress to declare war on Great Britain in June, 1812 and seemed determined to fight it through to victory and the conquest of Canada. Although Congress ostensibly declared war on Britain to protect our shipping interests, it was not the votes of New England, the seat of our maritime trade that demanded war but rather the votes of the congressmen from the states west of the Alleghenies led by Henry Clay of Kentucky. The pioneers of the West welcomed an encounter with the British in order to remove forever the menace of Indian attacks on the outlying communities, for it was the British, they felt, who instigated the attacks. Then, too, it was the people of the states west of the Alleghenies who demanded room to expand both north and west.[2]

George Croghan was typical of the young War Hawks of Kentucky. His father was a native of Ireland who came to Pennsylvania before the Revolution to join his uncle, George Croghan, the famous Indian agent. After serving with the American Army during the Revolution, he married the sister of George Rogers Clark and moved to an estate known as Locust Grove near Louisville. Here George was born in 1791. After graduating from William and Mary college, the young man began the study of law but soon gave that pursuit up to join the army as a private in 1811. Not long thereafter he received a commission as captain and was sent to the western frontier in Indiana to join General William

Henry Harrison's army in the engagement with the Indians at Tippecanoe.[3]

Not once during the course of the war do his letters reveal a deflection from the spirit of the War Hawks. Typical of the war-born confidence of the ambitious young officer is the letter he wrote to his father on November 15, 1812, after assuming command of Fort Winchester at what is now Defiance: "I assure you my particular situation has been such as to render it almost impossible for me to spare a few moments since the command of this garrison was given to me, for I have been constantly employed with my men in adding to the conveniences and strength of the place. The main body of the army is about five miles below so that I can expect no aid from them in case of attack which is not to be dreaded. Could you have heard the many compliments which the General (*James Winchester*) has paid me for my exertions, it would make you at least proud of the good conduct of your son."[4] In a letter dated January 8, 1813, at Fort Winchester Croghan, writing of the death of a friend in battle, said: "But such is the fate of wars like ours. They go forth in the morning as to enjoy sports. When evening comes, the youthful warrior is a clod of clay."[5]

## 2. *The Days of Disaster*

Protected by a string of five flimsy undermanned forts — Detroit, Wayne, Dearborn, Madison, and Mackinac — and their garrisons, the Northwest in 1812 was definitely unprepared for hostilities. The forts at Detroit and Mackinac were remote and directly facing British territory; the others were within the United States but were surrounded by hostile Indian tribes. The key to the entire upper lake region, Fort Mackinac on the straits of Mackinac between Lake Michigan and Lake Huron, was garrisoned by less than sixty regulars, commanded by a lieutenant of the artillery, Porter Hanks. Fort Dearborn on Lake Michigan in what is now Chicago had a force of fifty-four regulars under Captain Nathan Heald. The western fringe of American territory was protected by Fort Madison at the Des Moines rapids of the Mississippi River with a complement of less than forty men commanded by two lieutenants.[6] On the other hand the British in Canada were somewhat better prepared despite the fact that at the outbreak of hostilities there were only 4500 troops in all Canada. The governor of Upper Canada, Isaac Brock, was a trained soldier

and, having anticipated the opening of hostilities, was prepared to make the best use of what forces were available.

After the declaration of war, June 18, 1812, the unpreparedness of the Americans soon became apparent. On July 17, Mackinac fell into the hands of the British without a blow. News of the outbreak of the conflict was very slow in reaching the far-flung American forts; on the other hand, General Isaac Brock had informed all officers under his command with dispatch. On the morning of July 17 the American commander at Mackinac, having received no word of the outbreak of hostilities, was greatly surprised to find the fort surrounded by six or seven hundred British and Indians from near-by Fort St. Joseph. As the British forces had hauled a number of cannon to the heights immediately above the fort during the night there was no choice but to surrender. Thus, without the firing of a single shot, this important post was transferred from the Americans to the British at the very beginning of the contest.[7]

Next came the massacre of the Fort Dearborn garrison. General William Hull, the American commander at Detroit and of the frontier forces at the time, ordered Captain Heald, the commander of Fort Dearborn, to evacuate the post due to lack of provisions and to retire with his men to Fort Wayne in Indiana. He was further ordered to distribute the provisions of the post to near-by friendly Indians, destroy all surplus arms and ammunition, and burn the buildings before leaving. Although in reality the fort contained ample provisions to withstand a siege, Captain Heald felt that the order was mandatory and proceeded to comply. If the order had been carried out immediately, in all probability the garrison would have reached Fort Wayne safely, but six days delay in complying with the order was sufficient for the hostile Indians of the area to gather in overwhelming numbers. Within a few miles of the burning fort the unsuspecting garrison was attacked by the Indians and the whole American force was soon killed or captured; of those captured, many were tortured to death. Eighteen of the soldiers and most of the women were eventually delivered by the British into American hands.[8]

What were the American forces farther east doing during this disappointing period? On May 25, 1812, the Ohio militia had been turned over to General William Hull, governor of Michigan Territory. Although Hull had served creditably in the Revolutionary War, his selection for command was most unfortunate. Proceeding northward from Dayton

via Urbana and Fort Findlay with an army of 3,000, he reached the foot of the rapids of the Maumee, on June 30, where a schooner was loaded with supplies, including the muster rolls of Hull's force, for Detroit. On her way the schooner fell into British hands and thus the British gained valuable information as to the exact number of the American forces.[9] On July 12, soon after his arrival in Detroit, General Hull crossed the Detroit River into Canada with the immediate objective of securing Fort Malden. Due to the presence of British men-of-war in the Detroit River, Hull could not take the less difficult road along the lake but was forced to cut his way through the swamps. This was a slow discouraging task which enabled the British to send relief forces to Malden. News of the increased strength of the British forces at Malden plus word of the fall of Fort Mackinac alarmed General Hull to such an extent that he ordered withdrawal to Detroit. Having control of the Detroit River, Brock was able to invade Michigan south of Detroit and thus cut Hull's supply lines. Besieged by the British and their Indian cohorts Hull surrendered on August 16. The humiliation of the surrender of Hull's force of 2500 to 800 British regulars and 600 Indians was a stinging blow to the pride of the frontiersmen.[10]

If the spirits of most Americans were dampened by Hull's surrender not so were those of the determined young officer from Kentucky. He rallied to the support of the new western commanders, Generals Harrison and Winchester. He participated in the campaign to raise the siege of Fort Wayne which the Indians had invested after Hull's defeat. And he joined with enthusiasm in Winchester's preparations for the recapture of Detroit.

"Detroit by Christmas" was the objective of the ambitious plan of General Winchester and his staff at Fort Wayne. It was planned to assemble three armies of approximately ten thousand troops in the Maumee Valley by October 15. Winchester's army from Fort Wayne was to be joined at the foot of the rapids by two armies—one under General Edward Tupper which was to reach the rapids from Cincinnati via Urbana, Fort McArthur, and Fort Findlay—and the other under General Harrison which was to reach the rapids via Franklintown (Columbus) and Fremont. All three armies would then move on to Detroit. Like many of the plans of men, this campaign was doomed to failure because Winchester and his staff did not consider all of the factors that would beset his army: over-extended supply lines, undisplined troops,

poorly trained officers, and the wrath of a northern fall and winter in a trackless wilderness.[11]

General Winchester reached old Fort Defiance at the forks of the Au Glaize and the Maumee Rivers on October 1, and immediately began the task of rebuilding the fort (renamed Fort Winchester) and replenishing his supplies. Firmly believing that Detroit could be taken by Christmas, Winchester pushed on towards his objective, only a little over one hundred miles away, in the early part of November leaving George Croghan, now a Major, in command of a small garrison at Fort Winchester. Due to the late fall rains and early winter snows it took his army two months of strenuous and discouraging toil to reach the foot of the rapids of the Maumee. Despite the fact that his supply lines to Fort Wayne and Cincinnati were greatly over-extended, that his troops were in poor condition from the exertions of the winter march, and that Harrison had not yet arrived, Winchester confidently pressed on towards Detroit, hoping to capture Malden by a quick move across the ice of the Detroit River while the British fleet was still immobilized.[12] Reflecting the spirit of Winchester's army, on January 17, 1813, Major Croghan wrote to his father from Fort Winchester: "The strength of Detroit is small, being defended by only one company and eight pieces of cannon. The Indians have generally dispersed except for three hundred at Malden. The Prophet was most certainly killed in the attack on Fort Harrison last fall. There is plenty of corn on the rapids to serve our men for three months. Malden will be ours in three weeks after the right wing joins the left wing at the rapids. We are all in good health and spirits."[13]

But his optimism was not justified. Arriving at Frenchtown on the River Raisin on January 17, 1813, a forward detachment of Winchester's army of five hundred and fifty men defeated the British and Indians there. On the night of the twentieth Winchester reached Frenchtown with two hundred and fifty more men. Although the defenses of the little fort on the River Raisin were inadequate, Winchester did nothing to strengthen his position—possibly because he expected re-enforcements from Harrison who was only about twenty-five miles away. In his neglect to bolster the defenses Winchester seriously under-estimated the capacities of his opponents, for during the night of January 21, a British and Indian army under General Proctor crossed the ice from Fort Malden, but eighteen miles away, and surprised the Americans with an attack at daybreak. Unprepared and attacked by a superior force, the Americans

fought hopelessly. Six hundred were captured and two hundred and ninety killed. Most of the casualties were not sustained on the battle field but were the result of a merciless attack by the Indians on the helpless American prisoners after their removal to Fort Malden. A stinging blow to the American cause, the defeat of Winchester at Frenchtown and the massacre of the prisoners at Malden increased the bitterness in the hearts of Croghan and his fellow frontiersmen towards the British and Indians just as the massacre of the garrison at Fort Dearborn had done.[14]

The prospect of an early victory over the enemy vanished with the defeat of Winchester's army. Nevertheless on January 24, 1813, Croghan confidently wrote to his father from Fort Winchester: "We were victorious for but a moment. The left wing commanded by General Winchester has been entirely defeated: nine-tenths of them are either killed or prisoners in the hands of the merciless savages. It is said that General Winchester, Colonel Allen, and many other officers were killed. We learned this from some men who escaped from the carnage. Everything with them as to the particular persons killed is surmise. I am determined to defend this place till the last extremity. Be not alarmed for my safety. I have force enough to make a desperate stand."

With the defeat of Winchester, General Harrison withdrew his forces to the more secure regions of the upper waters of the Portage River about eighteen miles east of the Maumee. All of the American fortifications north of the Maumee were destroyed, and preparations were made to withstand the invasion of the Maumee Valley which would inevitably come in the spring. Early in February 1813 American engineers began the construction of a new fort, named Fort Meigs after Ohio's governor, Return Jonathan Meigs, on the south bank of the Maumee at the foot of the rapids. By the time the British and Indians laid siege to the new fort on April 28, 1813, it was prepared to withstand the shock. After days and nights of bombardment the British withdrew, having found the new fort too strong to be taken by assault; due to insufficient supplies for both their Indian allies and themselves, the British were in no position to continue the siege indefinitely. General Proctor laid siege once more to Fort Meigs from July 21 to 28, 1813, but again met with failure.[15]

### 3. *The Hero of Fort Stephenson*

In order to placate his Indian allies with victory after two unsuccessful

attempts to take Fort Meigs, Proctor pushed on to Fort Stephenson, located on a hill a few hundred yards from the Sandusky River in what is now Fremont. This fort, poorly constructed, protected by one small cannan and less than two hundred men, should have been an easy prey for the British and Indian forces. Possibly it would have been, had the commanding officer of the garrison not been Major George Croghan, who acted as if obsessed with the necessity of making up for all the earlier American disasters. General Harrison deemed the garrison's position there so untenable that he ordered Croghan to withdraw up the Sandusky River to Fort Seneca, but Croghan rashly refused. In words that were soon to become the watchword of the hour, he replied, "We have determined to maintain this place and by heaven we will."[16]

How amazing was the spirit of this man soon to be attacked by a force superior both in numbers and training! Had the fort been taken by the British the name of George Croghan would have been scarcely mentioned in history. But such was not to happen. Croghan, shifting his men from position to position, moving the single cannon (Old Betsy) to various emplacements from which the most effective destruction could be wrought on the enemy, so skillfully deceived his adversaries as to the strength of his force that they withdrew after two days of constant attacks (August 1-2).

Because of his victory against overwhelming odds in an engagement in defiance of the orders of the commanding general of the western armies, Croghan became a hero.[1] A week before the battle, Croghan had written to his father with the patriotic and self-confident zeal which accounted to a large degree for his success against the British: "I am left at this post to defend to the last man. I have just sent away all the women and children with the sick of the garrison that I may be able to act without incumbrance. Be satisfied that I shall do my duty. The example set me by my Revolutionary kindred is before me. Let me die rather than prove myself unworthy of their memory. Should the enemy bring cannon (as he will no doubt) I must do as others have done before."[17]

The defeat of the British at Fort Stephenson had far reaching repercussions in the future strength of the British. Heretofore the English had enjoyed the full support of the Indians, but with their ignominous defeat at little Fort Stephenson after being twice repulsed from Fort Meigs their power over the Indians was broken. In the early British

campaigns the Indians fronted most of the attacks on American positions; henceforth it was the British who would bear the brunt of the attacks.

Croghan was now the hero of the West. His was the first success after a dismal series of defeats. For his efforts he was promoted to lieutenant-colonel to take effect on the day of his victory—August 2, 1813. In a letter to his father written at Fort Stephenson on August 23, 1813, he stated: "I have just gotten a very elegant sword presented by the ladies of Chillicothe. From the good people of Cleveland on the lake I have received many presents, such as wine, cheese, sugar, etc. I fear my success at this post will excite expectations which I must some day disappoint."[18] In a letter dated September 11, 1813, he told his father of his promotion. "I am not worthy of so high a command, but since my government has gone so far as to give it to me I pledge myself to use my best endeavours to become worthy of it."[19]

### 4. *Helping Perry and Harrison to Victory*

The victory at Fort Stephenson was heart-warming to the American cause, but it did not necessarily mean that the tide of victory was to swing our way. This decision was to be made, not on land, but on the waters of Lake Erie by the naval forces of Commander Oliver Hazard Perry. Since the outbreak of the war there had been little justification for carrying the war north into enemy territory with the control of the lakes, particularly Lake Erie, in British hands. Hull had failed in his attack on Malden due to the presence of British warships in the Detroit River; later he surrendered because his supply lines were cut by the British through their control of the lakes. However the tide began to turn when American victories on the Niagara peninsula in June, 1813 caused the British to withdraw from Fort Erie opposite Buffalo. This permitted the five recently constructed American naval vessels at Black Rock to make a dash to join Perry at Presqu' Isle, Pennsylvania. It was a cause of much rejoicing to the American forces; the inevitable encounter between the two fleets was eagerly awaited.[20]

The dark days of the first year of the war, the defeat of Winchester, and the defense of Fort Stephenson had a maturing effect on young Croghan. Writing to his father from Fort Stephenson on August 23, 1813, Croghan acknowledged for the first time the importance of the control of the lakes to the American cause and expressed the current anxiety

concerning the outcome of the anticipated encounter: "I have just returned from a visit to our fleet which is now lying off Sandusky Bay about thirty miles distant from this. A few days will now determine in whose hands the command of the lakes is to remain. If Commodore Perry be successful, Malden will fall without a blow. Should the strength of the enemy prevail our plan of operations must be changed and an attempt made to establish headquarters in Detroit."[21] From Fort Stephenson on September 11, 1813, he again wrote: "We shall, in a few days, have a trial of strength with the enemy. Governor Shelby is expected in a day or two. Several gentlemen have just gotten up from Sandusky Bay who state that they have very distinctly heard a heavy firing in that direction last evening which lasted fully two hours. Success to Perry. Should the enemy prevail and gain complete possession of the lakes, how much blood and treasure will be lost before things can be brought to bear so favorable an aspect as at present!"[22] The gentlemen referred to by Croghan were correct. They had heard gunfire, for Perry had met the British fleet on September 10, and delivered the control of the lakes into our hands. The message of victory he sent to General Harrison at his post on the Sandusky River has since become known to all Americans: "Dear General—We have met the enemy and they are ours—two ships, two brigs, one schooner, and a sloop."

With the control of the lakes now in our hands and the power of the British over their Indian allies definitely broken, the war in the Northwest was, to all intents and purposes, over. Malden and Detroit were abandoned without a struggle during the last part of September, 1813 when suddenly confronted with the combined American Northwest Army which had been easily transported across the lake by Perry's fleet. Proctor with the British army and the remnants of his Indian allies hurried eastward hoping to find security in the Niagara peninsula. On October 5, near Moravian Town—seventy-five miles from Detroit, he was overtaken by Harrison's army and defeated although Proctor, himself, escaped with a few of his men.[23] With the defeat of Proctor the campaign in the Northwest was over except for minor operations.

### 5. *The Battle-Scarred Veterans*

Two years of service with the American frontier forces taught the hero of Fort Stephenson much concerning the strength and weaknesses of the American military system of the period which was destined to carry him

far in the miitary service of the nation. Croghan was, indeed, fortunate, for his rash patriotic fervor had carried him to the heights of military glory; the same spark which in other officers in our western armies, had led to foolish blunders, defeat, and to death. In the letters to his father during the first part of the war, he wrote of the expectation of glorious victories and the final defeat of the British in a few short months.

But by the spring of 1814 in spite of the victories of Put-in-Bay and the Thames he was much less keen about the conquest of Canada. The failure of westerners to enlist and to keep the army up to the power necessary for invasion discouraged him. He was willing to call the whole thing off—there was a limit to the heroics of warfare. Writing while commander of Detroit on March 16, 1814, he said: "Recruiting will, I hope, go on rapidly. If the inducements held out at this time to encourage enlistments have not the desired effect, we might as well spare the effusion of blood, give up prosecuting the war, and determine on making a peace. To carry on the war as it has been conducted heretofore is nonsense. We gain nothing by it. It is but carrying to slaughter the few choice spirits who have boldly adventured in the service of their country to oppose them to the superior force and tried discipline of the enemy. But I must further observe that until we can select some better generals, our numbers can not avail us anything."[24]

This definitely was not the rash self-confident patriotic George Croghan of the first days of the war. He was now a mature battle-tested and even war-tired soldier—an officer who realized the many mistakes that were made during the first two years of the war by the American forces in the Northwest because of poor leadership. But what Croghan did not realize was that, to a large extent, the war in the Northwest was won by the rash self-confident men of the American army despite poor leadership.

FOOTNOTES

1. This and the following letters by Croghan are in the Draper Manuscript Collection, Croghan Papers, Volume 3, in the State Historical Society of Wisconsin.
2. Eugene Roseboom and Francis P. Weisenburger, *A History of Ohio* (New York, 1934), p. 124.
3. Charles Sumner Van Tassel, *Picturesque Northwestern Ohio* (Bowling Green, Ohio, 1901), p. 61.
4. Draper Collection.
5. *Ibid.*
6. Louise Phelps Kellogg, *The British Regime in Wisconsin and the Northwest*

(Madison, Wisconsin, 1935), pp. 283-284.
7. *Ibid,* p. 284.
8. *Ibid.,* pp. 286-287.
9. Randolph C. Downes, *The Conquest* (Toledo, 1948), p. 76; Roseboom and Weissenburger *op. cit.,* p. 126.
10. Kellogg, *op. cit.,* p. 288.
11. Downes, *op. cit.,* p. 72.
12. *Ibid.,* p. 76.
13. Draper Collection.
14. Downes, *op. cit.,* p. 76.
15. *Ibid.,* pp. 78, 82.
16. *Ibid.,* p. 82.
17. Draper Collection.
18. *Ibid.*
19. *Ibid.*
20. Downes, *op. cit.,* p. 83.
21. Draper Collection.
22. *Ibid.*
23. Downes, *op. cit.,* p. 85.
24. Draper Collection.

# *Major Amos Spafford*

By Cecil D. Smith

Additional light has been thrown upon the life record of Major Amos Spafford, first resident of Wood County, Ohio, by a recent letter from the Connecticut Historical Society. The data based on a volume published in Boston in 1888 and entitled "Descendants of John Spafford and Elizabeth Scott," by Dr. Jeremiah Spafford. Evidently the name was originally spelled with two "o's" and not with an "a". Somehow the change was made in the trek of part of the family to Ohio.

Amos Spafford was born April 11, 1753 at Sharon, Litchfield County, Connecticut. He married Olive Barlow of Granville, Hamden County, Massachusetts, on July 3, 1773. She was three years younger than he, having been born on August 26, 1756. At Granville their first two children were born: Samuel, July 15, 1775; and Anna, Dec. 24, 1780. Some time before 1785 they moved to Orwell, Addison County, Vermont, where five more children were born: Chloe, Jan. 26, 1785; Guy, born Nov. 26, 1786 and died May 4, 1790; Adolphus, born Jan. 16, 1792 and drowned in Lake Erie April 19, 1808; Aurora, born Jan. 29, 1794; and Jarvis, born Feb. 1796 and died the next year.

In 1804 Amos Spafford moved with his family to Ohio and became the first settler to build a cabin on the banks of the Maumee at the foot of the rapids near what is now Fort Meigs Park. On the plain below the site of the Fort he helped to establish the settlement which became known as Orleans of the North. At the head of navigation for Lake Erie and the Maumee, where pioneer settlers had to leave their vessels and proceed west by land, Orleans hoped to become a rival for New Orleans on the Mississippi.

The victory of General Wayne at Fallen Timbers in 1794 had opened Northwestern Ohio to settlers. But the War of 1812 made it possible for the Indians to drive the settlers out. So Amos Spafford fled with his family to Huron County, looking back to see his cabin in flames as he sailed down the Maumee to safety. They returned in 1815, at the close of the war and settled again at Orleans. They constructed a cabin out of the rough timbers from scows which General Harrison had used to float supplies down the Maumee to Fort Meigs. Amos was appointed Collector of the Port of Orleans and the first postmaster at Orleans. His position en-

titled him to the naming of the new town site laid out by the federal government in 1816 on higher ground to the east. He selected Perrysburg in honor of Commodore Perry's brilliant victory over the British Fleet on Lake Erie.

Amos was given the rank of Major for his service in the War of 1812. Continued threats from the Indians and some ambuscades led him to organize a militia among the returning settlers. As the pioneer settler in Wood County, which then included what is now Lucas County, he was given the first land grant from the government, out of the twelve-mile tract ceded by the Indians in the Treaty of Greenville of 1795. This land lay directly south of the site of Orleans. His youngest living son, Aurora, erected a large square frame house on the bluff above the site of Orleans, which still stands just west of the Fort Meigs road on Route 65.

As the first Methodists in this part of the Maumee Valley, the Spaffords made their home the center for occasional services by itinerant preachers. When the First Methodist Church in Perrysburg was organized in 1820, Aurora became its class leader. This was the first Methodist society to be organized in the Maumee Valley. It was at first a preaching point on the Detroit Circuit, but later became the head of a circuit and district.

The Spafford burial ground was located on the bluff above Orleans just west of Fort Meigs Park, at the juncture of Fort Meigs Road with Route 65. This is doubtless the burial place of Amos and Olive Spafford. The record says they were buried at Waynesfield, Wood County, Ohio. The name of Waynesfield was given to the territory around Perrysburg and north of the Maumee, in honor of General Wayne. The name is preserved in Waynesfield Township of Lucas County, though the territory is much reduced in size.

George Mills, who came to Perrysburg in 1840 at the age of 18 from Canada, told Dr. D. R. Canfield in person that in his early youth there were a lot of grave stones on this site. In later years they crumbled and fell, or were removed. At first the road went around the cemetery, but later the Fort Meigs road was cut directly through the site. In recent years a pipeline dug through the site uncovered remains of wooden caskets. Since this was known as the Spafford burial ground, and no other cemetery was located in this section at that early day, there seems little question

that this is the site of the burial of this pioneer couple. The Major died August 5, 1816; and his wife, Olive on Jan. 18, 1823.

The oldest son, Samuel, married Catherine Mabee at Northfield, Ontario County, New York on Jan. 7, 1802. In 1815 they emigrated to Perrysburg, where he became proprietor of an inn overlooking the Maumee River. This was the largest frame buiding between Buffalo and St. Louis and was well located for the settlers treking westward. This building, made over into an apartment house, still stands on Front Street. Samuel and Catherine had twelve children. Their descendants include a number residing in northwest Ohio. Samuel died on Dec. 24, 1831, and his wife on Sept. 14, 1854. Both are buried at Fort Meigs Cemetery.

Aurora succeeded to the management of the inn and was given the honorary title of "Judge" because of his influence in the community.

The son, Aurora, and his wife, the former Mrs. Mary Rolph Jones, had to get their wedding license at Urbana, as the first couple to be so licensed in this part of the State. They are both buried in Ft. Meigs cemetery, with markers suitable to the "Judge" who became the outstanding citizen of Perrysburg in the years when it was the county seat of Wood (and Lucas) County.

On the occasion of the 125th anniversary of the Perrysburg Methodist Church in 1945, a wreath was placed on the probable site of the burial of Amos and Olive Spafford. In view of their pioneer service to this community, a suitable marker should be placed at their burial place. An appropriate time for this recognition would be in 1950 when this "Mother Church of Methodism in the Maumee Valley" celebrates its 130th anniversary.

# *The President's Page*

## The Writ of Habeas Corpus

THE WRIT of Habeas Corpus (that you have the body) was among the earliest contributions to personal liberty known to the English Common Law, and the most famous Writ in that law.

This Writ, and Writs of similar import available prior thereto but under different names, were anciently issued by English courts commanding the officer who had custody of a prisoner to produce him before the Court to the end that inquiry might be made as to the legality of his imprisonment.

Previously individuals had been cast into prison without a formal charge or hearing and detained indefinitely incommunicado, without privilege of a trial. This practice prevails in Russsia today, which is just about 600 years behind the English legal system.

Russia flounders in the Dark Ages in so far as the personal liberty of her citizens is concerned. This is also true of her inability to recognize the obligation of contract.

An illustration of the meaning of Liberty is given by Montesquieu, in his "Spirit of the Laws":

> "In governments, that is, in societies directed by laws, liberty can consist only in the power of doing what we ought to will and in not being constrained to do what we ought not to will. We must have continually present to our minds the difference between *independence* and *liberty*. Liberty is a right of doing whatever the laws permit, *and if a citizen could do what they forbid, he would no longer be possessed of liberty, because all his fellow citizens would enjoy the same power.*"

In England, prior to the year 1679, the right of personal liberty did not depend on any statute. However, it was the birthright of every free man, and Writs in the nature of the Writ of Habeas Corpus had been issued for centuries prior to 1679.

During those times, the power of the English Parliament was undefined and in dispute. Judges held office only during the king's pleasure. Thus individual rights were repeatedly ignored or violated by judges fearful of the king.

In 1625 Charles I dissolved Parliament and attempted to rule without it. Those who refused to meet the king's demands, and they were mostly demands for money, were by the king's orders committed to prison pursuant to a warrant which recited "by special command of the king." Upon returns to Writs seeking to discharge the Defendants, it was reported that the accused was charged with no particular offense in the Warrant for his arrest.

The judges, in awe of the king, held that such a Warrant was valid by the laws of England. It thus became apparent that every law from the time of Magna Charta (1215) designed to protect the liberties of Englishmen, would become a nullity since an insertion in a Warrant of the words, "by special command of the king" was becoming a matter of form and preventing due process of law. This situation was the beginning of a series of events whereby Charles I lost his head in 1649.

England's first Habeas Corpus Law in statutory form was enacted by Parliament in 1679 during the reign of Charles II, and was passed mainly to prevent abuses by the King and evasions of duty by Judges and other officials. The Act gave no new rights but furnished a definite means of enforcing those which had existed previously for hundreds of years. While this Act was a definitive one, it afforded relief only to those charged with crime.

In the reign of George III, England's king at the time of our Revolutionary War, the first Act was supplemented by an Act applicable to cases involving loss of liberty for offenses other than crimes. England's Habeas Corpus Acts did not provide in express terms for their extension to the American Colonies, but all subsequent legislation in the American States has been based upon them.

The Delegates to the Convention which framed our Federal Constitution were of course quite familiar with the rough road travelled by the Writ of Habeas Corpus through the centuries in England, and regarded its privilege as one of the "dearest birthrights of Britons." They were therefore quite aware of the necessity of guaranteeing the privilege under the Constitution. This guaranty appears in Article I of that document. The only instances in which the privilege of the Writ can be suspended are in cases of rebellion or invasion, and then only "when the public safety may require it."

As Abou ben Adhem led the list of names of those who loved the Lord, so the privilege of the Writ of Habeas Corpus leads the list of guarantees of personal liberty in our Constitution.