

## II

America boomed during the 1830's as canals opened vast new areas for settlement. Utica, Rochester, and Buffalo led the expansion along the Erie Canal which, when finished in 1825, connected Lake Erie with the Atlantic Ocean. With the lake open to commerce, every conceivable landing place along the shore became a center for settlement and speculation. Among the more permanent sites were Cleveland, at the head of the Cuyahoga River; Sandusky, at the head of the Sandusky River, with a landing point on Sandusky Bay; and finally, Toledo, at the head of the Maumee River. Geographically and chronologically during the 1830's, the boom passed through each of these towns in a seemingly unending and inevitable line of western progress.

Speculators vied to make fortunes by buying up land just in front of the settlers. Everyone carried a map and claimed to be an expert at identifying the future metropolises of the West. These would inevitably arise — at a rapids — at a junction of rivers — at a junction of a river and a lake — at any sort of junction. A writer in the *American Review* recalled the situation:

“On all the rivers village plots were found staked out at intervals of two or three miles; not only every inland county, but every remote township, had its village, and often scores of them, in which land was sold by the foot and inch, at prices varying from one hundred to twenty thousand dollars per acre — the land the while worth barely the government price of one dollar and a quarter.”<sup>1</sup>

<sup>1</sup> “Commercial Delusions — Speculations,” reprinted in Charles N. Glaab, *The American City, A Documentary History* (Homewood, Illinois, 1963), 148.

Every plot was to become a city and, although it might lack a single building or settler, would be surveyed into lots, which were sold again and again among speculators throughout the country. This continuous sale created an illusion of growth and prosperity; the illusion ended abruptly during the panic of 1837.

Lysander Spooner came to this booming Ohio country a year before the panic. In 1836 the center of the speculative hurricane was the Maumee River Basin, and Spooner, like many others, went there in search of fortune. At the time, the area had few farmers and virtually no commerce; there was only the Maumee River flowing gently into Lake Erie. Here was a better than average site for speculation; at the time, it was not clear which location would be the dominant metropolis of the area, but a great metropolis was inevitable since a river and a lake joined. By hindsight, we can single out Toledo as the important city at the mouth of the Maumee, but when Spooner arrived there were twelve separate villages along a fifteen mile stretch at the river mouth; many, such as Port Lawrence, Vistula, Manhattan, and others, have long since been abandoned or absorbed into metropolitan Toledo.<sup>2</sup>

Besides the struggle to locate the lake port, there was a contest to find the upriver terminus—where water travel ended and land transportation would begin—such a site would naturally become a great commercial center. A speculator (subsequently disappointed) recalled his visit to the Maumee area in 1835; a land salesman took him up the river. After the boat was grounded, the salesman:

“made his way through a mile and a half of marsh grounds, — *Very rich*, as he said — till we came to a bend in the river where some twenty acres were just being cleared, half of it lying level with the Maumee. ‘This is the spot, gentlemen,’ said he, mounting a log: ‘a most desirable locality. No great city can ever rise between Toledo and this point . . . it is the head of navigation on the Maumee . . .’”<sup>3</sup>

Lysander Spooner joined a friend, Hezekiah Hosmer (later chief justice of Montana Territory), in search of the head of navigation along the Maumee. First they visited an old Count at Toledo who cast their horoscopes. “What a laugh we had,” Hosmer later wrote, “at the appearance of the Old Count.” But they doubtless welcomed the man’s prediction that they would succeed in their ventures as they went upriver. Although the Maumee was reputedly navigable, Hosmer and Spooner walked the eleven miles upriver from Toledo, making their way through mud and forests to

<sup>2</sup> J. W. Weatherford, “The Short Life of Manhattan, Ohio,” *Ohio Historical Quarterly*, LXV (October, 1956), 376–398.

<sup>3</sup> Glaab, *The American City*, 156.

Perrysburg. At Perrysburg on the south bank, and likewise at Maumee City on the north bank, everyone expected a city to grow because a series of rapids began there and continued for several miles upriver forcing commerce in most cases to cross overland. A series of rapids on the Ohio River had earlier established Louisville; speculators reasoned that the same development must inevitably occur on the Maumee. The belief was that at the upper end of the Maumee Rapids there should be prospects for a great city. Speculators had surveyed and laid out two towns, Providence on the north bank and Gilead on the south, which promised to have a future like Louisville. In 1837, Spooner bought eighty acres on the Maumee; this purchase comprised the whole city of Gilead.<sup>4</sup>

Gilead never became a great city; today renamed Grand Rapids, it has only a few hundred inhabitants. The center of the trading area eventually became nearby Defiance, where the Aglaize River joins the Maumee. But neither Spooner, the old man with the horoscope, nor anyone else were sure in 1837 which site would rise and which would fall. Gilead had an outstanding advantage in its position at the beginning of the rapids, since boats were forced to stop there. From Gilead the river was more or less clear for over one hundred miles upriver until one reached Fort Wayne, Indiana, site of the portage from the Maumee to the Wabash. Moreover, there were islands at Gilead which provided suitable locations for mills — a most important consideration in those days before industrial steam power. All the early New England factories were located on river sites such as Gilead and, in 1838, Spooner wrote that, “Two extensive saw mills, and one flouring mill have already been erected thereon,” and he expected “many others would speedily be erected . . .” (*Spooner vs M’Connell*) How could Spooner fail to become wealthy? In 1836 virtually everyone was succeeding; no one had yet failed. “Do you recollect,” Hosmer later wrote, “how rich you intended to be out of the avails of that wonderful city of Gilead?”<sup>5</sup>

There was an immediate prospect of advantage for Gilead; like every speculator in the West at that time, Spooner had hopes that a canal would touch his site. Such had happened again and again in upstate New York along the Erie Canal, where prosperous cities arose overnight from the mud. Pennsylvania, Ohio, Indiana, Illinois, and other states all hoped to repeat the success of New York. In Ohio, the prospect was to connect Lake Erie and the Ohio River; every city anywhere between those two bodies of water hoped the canal would run through (or better, end in) their town.

<sup>4</sup> Hezekiah Hosmer to Lysander Spooner, November 27, 1861. Spooner Papers, Boston Public Library.

<sup>5</sup> *Ibid.*; Charles E. Slocum, *History of the Maumee River Basin* (Defiance, Ohio, 1905), pp. 456–460 contains a topographical account of site.

The canal prospects for the Maumee Basin were indeed good. As early as 1820, Ohio had established a Board of Canal Commissioners (in 1836 renamed Board of Public Works), which had recommended in 1825 that two canals be built—one from Cleveland to the Muskingham, another from the Maumee to Cincinnati. The northern terminus of what eventually became the Miami and Erie Canal was deliberately left vague, and the act of 1825 which appropriated money for the canal provided only for actual construction from Cincinnati to Dayton. Nonetheless, there was always the possibility that the Miami and Erie Canal might end at Gilead.

An even more immediate prospect existed for Gilead. Indiana had planned another canal from the Wabash to the Maumee River, which received a donation of public land from Congress in 1824. The Wabash and Erie was finished by 1835 to Fort Wayne, at the head of the Maumee River. The site of Gilead was then further enhanced because one could travel by river from Gilead to Fort Wayne, and then pass through the canal to the Wabash River and Mississippi basin.

In the session of 1836–1837, the Ohio legislature provided for the completion of the Wabash and Erie Canal through Ohio. In the Spring of 1837, the canal commissioners determined the route for the Wabash and Erie from the Indiana line to Lake Erie and began letting contracts for construction. In May, the acting commissioner received “proposals” for construction of the canal from Manhattan (then a competitor of Toledo and subsequently eliminated) to the “Head of the Rapids,” i.e. Gilead. In October he received “proposals” for construction from the “Head of the Rapids” to the Indiana line. As a result of these negotiations, Gilead not only did not become a prominent site, but a dam was proposed about three miles upstream to supply backwater to feed the canal. Thus Gilead would be excluded not only from the canal but from the navigation of the Maumee. Defiance, on the other hand, would receive a great boom from the canal which would make the Maumee more navigable, and they would obtain access to the canal. Although the engineers of the Wabash and Erie Canal had made proposals, the actual digging had not begun. Spooner’s Gilead site was by no means defeated; the Wabash and Erie Canal was not finished until 1843 and, in the meantime, pressure could be brought to bear upon the canal commissioners to change the route.<sup>6</sup>

Spooner turned to the law. In the West, the main business of every lawyer was the handling of land claims, titles, and transfers; each lawyer made his money in speculation upon the currency of land titles. Generally,

<sup>6</sup> Lee Newcomer, “Construction of the Wabash and Erie Canal,” *Ohio Archaeological and Historical Quarterly*, XLVI (April, 1937), 199–207; H. S. Knapp, *History of the Maumee Valley* (Toledo, 1872); and Harry N. Scheiber, *Ohio Canal Era, A Case Study of Government and the Economy, 1820–1861* (Athens, Ohio, 1969).

these same lawyers-land speculators became the leading politicians of the state, and the state legislatures spent most of their time handling questions of canal routes, location of county seats or even the state capital, and charters of incorporation for groups speculating in land. Time after time, by-passed cities turned to their state capitals for relief; generally, they got something.

Spooner, however, was not in a strong political position; for one thing, Gilead was virtually uninhabited. Rather than seek aid from state authorities, Spooner turned to the federal district court in Columbus, where he sought an injunction against the building of any dams across the Maumee. Since he had not been admitted to the Federal court, Spooner was represented by Swayne and Brown, a prominent Ohio firm of lawyers, politicians, and land-speculators. Payment for their services was fixed largely in Gilead land lots.

In the case of *Spooner vs M'Connell, et al*, the litigants argue that Ohio could not legally obstruct the Maumee River with a dam. Whether the argument belonged to Swayne & Brown, or to Spooner is unclear, but it has the unmistakable mark of Spooner's legal reasoning. As in most of his writings, an act of the government is found to be unconstitutional.

Basically, his position rested on two points: (1) the grant in the Northwest Ordinance retained all navigable streams for the federal government, and (2) the Supreme Court decision, *Gibbons vs Ogden* (1824), had established that the federal government had exclusive control over interstate commerce and navigation. An injunction, therefore, was sought against the Board of Public Works to prevent their obstruction of the Maumee River with a dam. Although an individual could not sue a state (Eleventh Amendment), Spooner attempted to circumvent this prohibition by seeking an injunction against the individual members of the Board. Justice John McLean, sitting as judge of the 7th Circuit, granted an injunction until the whole court could consider the case. In the January term (1839), the Supreme Court removed the injunction and dismissed Spooner's appeal.

The injunction was probably intended to force the Board of Public Works to include Gilead in the route of the canal. By delaying construction, the injunction might provide enough nuisance value for that purpose, and indeed, the dam's construction was delayed several years.

While these legal arguments were being heard in court, the whole area suffered a blow from which it did not recover for decades. The Panic of 1837 had struck first in the East, as bank after bank went under, but its paralyzing effects were only slowly felt in Ohio. Speculation and canal plans (which in large part were responsible for the Eastern failures) continued until 1839, when everyone went under. Some states went bankrupt (such as Illinois and Michigan), and Ohio in 1839 suspended all work on their canals. Even after recovery, the era of canal speculation faded because

railroads were then pushing forward and would eventually replace the canals. Gilead, like many another paper town, disappeared, and even those towns which succeeded, like nearby Defiance, never quite rose to their promised grandeur. In 1843, the Wabash & Erie canal opened and passed through Defiance; and, in 1845, the Miami and Erie joined the Wabash at Defiance. This grand juncture could have as well been at Gilead; but, even so, Defiance never became the great city envisioned. In 1825 Defiance had less than twenty residents; in 1840, less than a thousand, in 1850 less than seven thousand, and even today less than fifteen thousand. In the whole Maumee Valley, only Toledo, and perhaps Fort Wayne, came anywhere near equalling the dreams of their projectors.<sup>7</sup>

Spoooner lost everything at Gilead, but the loss was not really great. Everyone lost, which made the sting of defeat more sufferable, and Spoooner had little to begin with. The lands were purchased largely with very small down payments and very large promises to pay; everything was mortgaged; even down payments were made with mortgages. And before President Jackson issued the Specie Circular in July of 1836, government land could be bought with bank notes based only on these mortgages. But even bank notes were scarce; in the Maumee Valley there was no chartered bank until 1834, and it was the only one in the area. Most people got along without bank notes or specie; they simply gambled on each other's promissory notes. When the whole system collapsed, in the Spring of 1839 in the Maumee Valley, everyone had virtually what they began with — nothing.

Lysander Spoooner returned to his father's farm in Athol, where he was living in July of 1840. In his experiences he had found a new understanding of the subtleties of finance and banking. Quickly, he undertook to convert the world to a new banking system that would prevent such catastrophes as the Panic of 1837.

<sup>7</sup> *Ibid.*; Reginald C. McGrane, *The Panic of 1837* (Chicago, 1924), 123f.