A CAMPUS GROWS

The War of 1817

Teaser to come.
CHAPTER 1

Changing History

In the end, the long labors of Frank H. Culver may not have proven his case beyond a reasonable doubt.

But they do lend weight to the idea that one man can change history.

The history at issue is the earliest history of the University of Michigan.

Frank Culver didn’t just change it. He added 20 years to it. Without his forgotten crusade, today’s University would be planning for a bicentennial celebration in the distant year 2037, not 2017.

Chalk that up to a cranky old legal warrior who couldn’t abide an untruth when he saw one—or, to give his enemies their due, when he thought he saw one. Precisely what was true and untrue in this tangled little tale confounded more than one authority.

But Frank Culver knew what he knew.

“I have not hesitated to denounce the dense ignorance prevailing in the University,” he wrote when the whole thing was over, “but it seemed necessary. There was only one way, and I adopted it, and that was to expose that ignorance.”

We can only guess why Frank Culver conceived his obsession with the University of Michigan’s founding.

In fact, we know little at all about Culver—just that he was born in 1855 in the farm town of Romeo, at the base of Michigan’s Thumb; went to school in Detroit; graduated from U-M in 1875; and spent his law career in Chicago, toiling mostly on behalf of the Grand Trunk Railway.

And he was a lifelong bachelor—a frowning, forbidding fellow, by the evidence of a photograph snapped in old age.

His ardor, it seems, was reserved for his alma mater.

“All drop of blood in him was loyal to Michigan,” said an ally who came to know him late in life. “He would fight at the drop of a hat—and drop it himself.”

When Culver was a student at U-M in the 1870s, the campus was only about 30 years old. People were vaguely that 1837 was the year associated with the University’s birth, it was 1841 before any classes were held.

Ann Arborites of the post-Civil War years felt a parent’s pride in the University. It was the city’s raison d’être and claim to fame, and they had watched it grow.

People with a head for history knew there had been some small, failed experiment with a territorial college in Detroit way back when. But that bothered exactly no one when people got to thinking that an important anniversary was approaching—1887, the 50-year milestone since 1837.

The faculty put the idea to the Regents in 1885—there ought to be “an appropriate celebration of the approaching semi-centennial anniversary of the organization of the University.”

Notice the faculty’s exact word—“organization,” not “founding.”

To a lawyerly mind like Frank Culver’s, those words meant two different things.

But the “Semi-centennial Celebration of the Organization of the University of Michigan” was held with fanfare in the last week of June 1887.

A fiftieth birthday in 1887—this big event fixed the idea in the public mind that U-M had been born in 1837. It was the same year as Michigan’s admission to the Union, a nice twin-ship.

So in the 1890s, someone—no one later could figure out exactly who—decided the University needed a new official seal. And when the seal was designed, there in proud letters was the obvious year to place on such a seal:

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CHAPTER 2

The Year on the Seal

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To Frank Culver, the year inscribed on the new seal was anathema.

He was a corporation lawyer. He knew what a corporation was in a way that most people don’t.

Most people think of a corporation simply as a big commercial enterprise. In fact, Merriam-Webster defines a corporation more precisely as “a body [of persons] formed and authorized by law to act as a single person…and legally endowed with various rights and duties including the capacity of succession.”

That, in Culver’s view, described the University’s core identity. It was the individuals authorized by law—in 1817, not 1837—to establish a university in the territory of Michigan. Their authority passed in time to the body called the Board of Regents of the University of Michigan, which had overseen the creation of a university in Ann Arbor.

So the placing of “1837” on the University’s seal was, in Culver’s view, sheer nonsense.

He apparently voiced his objection to Harry Burns Hutchins, the former dean of the Law School who was U-M’s president from 1909 to 1920.

But Hutchins was neither persuaded nor apparently even much interested.

“Hutchins was a genial gentleman,” Culver remarked later, “unwilling to assume responsibilities.”

There the matter stood until 1920, when a new player joined the argument.

The new man with much to say about the University’s founding was the opinionated Wilfred Shaw, a U-M graduate of 1904, a generation younger than Frank Culver. Shaw was a bright go-getter who had fashioned a career as general secretary of the U-M Alumni Association and editor of the *Michigan Alumnus*, then an influential weekly publication avidly read by graduates.

At the instigation of President Hutchins himself, the Alumni Association had emerged as an independent, vigorous and quite powerful organization that took a vigorous interest in campus news. So Shaw wielded some clout.

In 1920, Shaw published his book, *The University of Michigan*. It was the first comprehensive history written for a broad, 20th-century audience. For the first time, people who cared about U-M were reading a full account of the 1837 version of the founding—in Ann Arbor.

Shaw started his book with the story of the first Board of Regents gathering in Ann Arbor to choose a site for the campus in June 1837.

“This unpretentious gathering of notables,” Shaw wrote, “was charged with the inauguration of what was to become one of the most significant developments in the history of American education—the establishment and successful maintenance of a University by the people of a State.”

That stated the matter plainly: The University had been established in Ann Arbor in 1837.

Soon after Shaw’s book appeared, Frank Culver—now retired and with plenty of time to follow his nose into the dusty archives of Michigan history—decided to fight Wilfred Shaw and anyone who sided with him.
Culver burrowed into boxes of old documents. He studied land deals and deeds. He prowled library stacks to find forgotten decisions by long-dead Michigan judges.

Then, at gatherings of U-M alumni, he began to argue his central points to anyone who would listen:

• That on August 26, 1817, the Michigan Territory’s legislators passed an act to establish a legal corporation called the Catholepistemiad [pronounced cath-oh-lep-iss-TEEM-ee-add], or University of Michigania. In spite of its unpronounceable name, it was a bona fide public entity duly authorized to create a university. Its leaders were Father Gabriel Richard, the Rev. John Monteith, and Judge Augustus Woodward, appointed to his post by no less than President Thomas Jefferson;

• That some land in Detroit—originally given by Native American tribes and by the federal government in Washington—was conveyed to this new corporation for the purpose of establishing an educational institution. No actual college was founded—only a kind of preparatory high school—but as a legal entity, the University of Michigania was quite real;

• That the authority and holdings of that original corporation passed to its legal successors—that is, a group of trustees set up in 1821. Then, under the constitution of the new state of Michigan, approved by the territory’s voters in 1835, it passed to a Board of Regents who proceeded to organize a functioning university in Ann Arbor;

• That this understanding of the University’s true legal identity and true founding was confirmed by a decision of the Michigan Supreme Court in 1856.

That was a mouthful right there, and there was a good deal more to Culver’s argument. He delivered it all in acid tones and with no great gift for clarity.

But this was the gist of it—the University as a legal entity dated to August 26, 1817.

And he began to win over some allies.

One was another aging lawyer, William L. Jenks, of Port Huron, who published his own account of the Catholepistemiad as the true predecessor of the University in Ann Arbor.

Then there was a judge in California, William Spill, president of the U-M alumni club of Pasadena, and a sharp attorney in Grand Rapids, Shelby Schurz.

In 1925, this little band and a few others got themselves appointed the Alumni Association’s Committee on History and Tradition, with Jenks as their chair. They were authorized to do more research and make a report at some later date.

No one else seems to have thought much about it, not even the leaders of the Alumni Association. It was just a few history buffs trying to stir up a tempest in a teapot and not even succeeding at that.

Then, while Culver continued to amass evidence, the stakes rose.

In 1927, the new, young president of the University, Clarence Cook Little, announced a grand and ambitious Ten-Year Program to raise millions for the University. It would conclude, fittingly, in the University’s centennial year:

1937.
Little was a force to be reckoned with. Among his many schemes for change, the Ten Year Program had plenty of friends. It was a big and popular project for the alumni to get behind. It raised the prospect of new wealth to fund all manner of prestigious schemes for expansion. And it was just plain fun to plan for a huge centennial shindig in 1937.

So it was naturally a little irritating for President Little when he went to pump up the Chicago alumni in 1928, and there was old Frank Culver, passing out copies of his self-published pamphlet, “The Founding of the University of Michigan”—with the ominous date “1817” explained and defended in detail.

The Chicago alumni apparently looked on Culver and the Committee on History and Tradition with amused tolerance. But they said, all right, Frank, you fellows on that committee have done a lot of work—let’s put it up to the regents.

That made it serious business.

Because if Culver was right about 1817, then President Little’s intention to wrap up his Ten-Year Project with a centennial celebration in 1937 was going to look a little silly.
To people around Ann Arbor, if anything looked silly, it was the idea that the University of Michigan had been founded in Detroit in 1817.

Loyalty to 1837 was a natural and powerful sentiment, especially among those who remembered the great James Burrill Angell presiding at the half-centennial in 1887.

The most determined foe of 1817 was Regent Lucius Lee Hubbard of Houghton, who swung a large weight on the board. He had been a stalwart on the Board of Regents since 1911, and he regarded the 1817 business as absolute bunk.

But there it was on the agenda of the regents’ first monthly meeting in the fall of 1928. Not Frank Culver but William Jenks, chair of the alumni Committee on History and Tradition, was picked to present the case for 1817.

Armed with a detailed brief, Jenks argued the case with florid intensity. He was met with little more than stolid stares.

President Little remarked—just unofficially, he said—that perhaps the University’s seal could have both years on it—1837 and 1817.

But the regents took no action. Jenks and his committee should study the matter further, they said, possibly in hopes the committee would simply go away.

Now Wilfred Shaw, author of the definitive history of U-M and editor of the Michigan Alumnus, weighed in.

He gave the Culver group its due, even if his tone was patronizing.

“It probably makes very little difference whether the University was born in 1817 or in 1837,” Shaw wrote. The “protagonists of 1817” had made a pretty good case, and after all, “the first educational experiment in Detroit, the Catholepistemiad, carries a name and romantic background that is almost too good to be true.”

Shaw acknowledged the key point for 1817—that the Michigan Supreme Court had indeed determined the University’s “corporate existence” dated to 1817. But “it is equally true that there was never anything approaching a college or university until 1837, when the newly elected Board of Regents got down to business in Ann Arbor…”

Back came Bill Jenks to the regents’ meeting in October. Once again, he said it was 1817 and only 1817 that belonged on the University seal.

But now the U-M board members, heeding Lucius Hubbard, put Jenks in his place.

They passed Hubbard’s resolution affirming that “until further action of this Board, and in accord with the established practice of the educational staff of the University and body corporate, the date 1837 on seals, diplomas, catalogs, and other literature issued by the University or its authority, shall continue to be understood as the date of organization of the University…”

According to an alumni leader who attended the meeting, he “never saw a man so thunderstruck and nonplussed as Jenks after he had made his earnest appeal to the Regents and they turned around and passed that resolution.”

Wilfred Shaw then heaped scorn on 1817 with a snickering portrait of the Catholepistemiad and its “ridiculous termininology” in the Alumnus.

Jenks, Culver, and the rest of the pro-1817 men were livid.

“Hell’s bells,” Judge Spill sputtered when he got news of the defeat, “1837 isn’t a date! It’s a disease – an obsession… an incurable mania.”
CHAPTER 7
“Shall We Destroy Their Idealism?”

That was surely the pot calling the kettle black.

To anyone else, the Regents’ decision would have seemed the final word. In fact, it only whetted the appetite for war among the pro-1817 men. They let it be known they’d only begun to fight.

So Regent Hubbard, sick in bed over the 1928 holidays, put pen to paper to defend 1837. When he got too ill to finish, he turned his manuscript over to Wilfred Shaw for polishing and fact-checking. Shaw put it in the *Alumnus*.

“Why not state the case in plain English, so that everyone can get the just meaning of the facts?” Hubbard demanded. “There was prior to 1837…no university in Michigan other than in contemplation—in embryo.”

Hubbard declared—implausibly—that “there is certainly no statement on the seal as to when the University was founded.” The year “1837” on the seal just referred to “the date of organization.”

Hubbard persuaded himself that he was defending the good name of none other than James Burrill Angell…or whoever it was who put “1837” on the seal:

“Were they not within their rights when they thus signalized 1837 as the beginning of a new era of higher education for Michigan, and commemorated that date on the seal of the newly born ‘University’? Shall we destroy their high idealism?”
Any impartial observer could now see that in their own ways, both sides were right.

As a corporate entity, the University had been founded in 1817. As an actual institution of higher education, it had been organized in 1837.

But the combatants were at the shouting stage, and neither side could imagine giving in to a compromise. It was going to be one year or the other.

Accused of “destroying idealism” by Lucius Hubbard, the pro-1817 forces struck back in kind.

Their next thrust—a powerful one—came from the sharpest advocate on their team, Shelby Schurtz.

In a retort to Regent Hubbard in the Alumnus, Schurtz laid out the argument like a first-class litigator in front of a jury. He was simpler and clearer than Frank Culver had ever been. And he ended with a sneering jab at President Little’s Ten-Year Program.

“The advocates of 1837 would blot out the first twenty years of the history of the University,” Schurtz wrote. “Why? We do not know. We cannot even venture a guess.” Was it because Father Richard, a Catholic, and John Monteith, a Protestant, had “shared the professorships of that 1817 University of Michigan so wonderfully well?”

“Or do the advocates of 1837 fear that adopting 1817 upon the seal of the University may possibly interfere with the ‘Ten-Year Program’ and the big ‘pow-wow’ planned for 1937?”

Schurtz must have sensed a shift in the political wind.

For one thing, C.C. Little was suddenly toast.

In January 1929, under assault from all sides—from the faculty over his curriculum shake-up; from the students over his ban on cars; from the alumni over his fight to control the new Michigan League; and from regents, his bosses, who didn’t like the way Little was handling William Cook’s massive gift of a new home for the Law School—Little said he was quitting.

No one seemed heartbroken, and the luster was off the president’s Ten-Year Program.

Then Wilfred Shaw took a leave of absence from the Alumnus to do a job for the Carnegie Foundation. That deprived 1837 of its steadiest drum-beater.

At a football dinner that spring, Frank Culver picked up a rumor: The regents were thinking about overturning their decision on the founding date.

In private letters to each other, the pro-1817 conspirators sharpened their knives for the kill.

“One thing is very sure about our committee,” Judge Spill chortled, “and that is that we are the most persistent, insistent and stick-to-it bunch that some of these folks have encountered in many a day.”
Now, in a letter sent to each of the regents, Shelby Schurtz honed the argument for 1817 to its sharpest edge. It was technical, but it was telling.

Schurtz drew a clear distinction between the University as a “body corporate” and “the universitas litterarum,’ or school as a school, composed of the teaching staff and student body…

“Universitas Michiganensium means just one thing legally, technically, and accurately,” he wrote, “i.e., it means the public legal Corporation commonly known as the University of Michigan, but whose legal titles have been ‘University of Michigania,’ ‘trustees of the University of Michigan,’ and now ‘Board of Regents of the University of Michigan.’ The seal of the University of Michigan is solely the seal of the corporation; the diplomas and degrees conferred are solely given by the Corporation, and not by the school as a school…”

“However varying the universitas litterarum, or school as a school, may have been during these 112 years, it is a fact that the universitas, the ‘University of Michigan,’ the public legal corporation, the only legal entity of that name, the degree-conferring body, the only body entitled to a name and a seal, has had a continuous existence ever since August 26, 1817.

“This,” Schurtz concluded, “should explain why 1817 is the only correct date to have upon the University seal.”

Schurtz mailed his letters. Then he and Culver and the others waited.

On May 24, 1929, the regents convened. On the matter of the seal, there was apparently only a little discussion. It was noted that William Warner Bishop, librarian of the University, had passed along one of a number of documents proving the founding had occurred in Detroit in 1817. This apparently provided a bit of cover for the regents’ abrupt change of heart.

“The whole thing was just about as casual as action on a Sabbatical leave,” one report said.

The minutes of the meeting read simply:

Resolved, That beginning with the next fiscal year, July 1, 1929, the seal of the University be altered by changing the date thereon of the University’s founding from 1837 to 1817.

Only Regent Hubbard voted no.
There was some chuckling in the press.

“I of M Plans Centennial and It’s Just 20 Years Late,” headlined the Detroit News. “Plans for a great centennial celebration, set for 1937, are now ridiculous for the reason that the hundredth anniversary of the university occurred in 1917 without anyone being conscious of the fact.”

The editorial in the Alumnus—it was unsigned, though the tone was Wilfred Shaw’s—was wry and disapproving.

“Early in the day [U-M] was a sprightly adult of something like 90 years of age,” the writer said. “But by nightfall the ravages of inflicted age had taken their toll and it was a doddering old man of something around one hundred and twelve... Those of Michigan’s alumni who love to celebrate have been dealt a rather brutal blow. There’s no chance now to observe—without injunction—the University’s centennial.”

In Chicago, the University of Michigan Club passed its own resolution:

* * *

Frank Culver was not granted as many extra years as he won for his alma mater. He lived until 1934—not quite long enough to see Wilfred Shaw, who returned to Ann Arbor for many years of honorable service at the Alumni Association, raise the white flag of surrender.

In the summer of 1937, shortly after the event titled “The Celebration of the Centennial of the Establishment of the University of Michigan in Ann Arbor,” Shaw put together a published booklet of the proceedings. In his introduction, he referred once again to the original Board of Regents’ first meeting in the village of Ann Arbor in June 1837, when they selected the site of the campus.

At that meeting, Shaw noted, “activities began out of which emerged the institution of the present. To celebrate this action by the State and the first steps toward the organization of the University in Ann Arbor, the 1937 Celebration was planned.

“It was not to be taken, however, as a celebration of the actual founding of the University. That had taken place 20 years before in Detroit in the establishment of the Catholepistemiad, or University, of Michigania, which first formulated the system of public education in which the later University was to become the pioneer.”

—James Tobin

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Sources included the Frank H. Culver collection in the papers of the University of Michigan Alumni Association, Bentley Historical Library; “A Chronology of University of Michigan Seals,” Bentley Historical Library, http://bentley.umich.edu/legacy-support/seals/seal1817.php; Frank Culver, “The Founding of the University of Michigan,” 1927; Culver, “Supplement: The Founding of the University of Michigan,” 1928; Culver, “The Truth About the Founding of the University of Michigan,” undated; Shelby B. Schurtz, “Brief in Support of August 26, 1817 as the Foundation Date of the University of Michigan,” 1928; “Michigan Corrects Its Seal: A Reprint of the Briefs, Arguments and Records Whereby the Board of Regents of the University of Michigan Officially Recognized the University’s Foundation Date, August 26, 1817, and Corrected Its Seal,” 1930; Michigan Alumnus; Wilfred Shaw, The University of Michigan, 1920.

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