

THE ESTABLISHMENT OF CONSTITUTIONAL
GOVERNMENT IN EARLY VERMONT

by

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A THESIS

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THE ESTABLISHMENT OF CONSTITUTIONAL
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ABSTRACT

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Purpose

It was the purpose of this thesis to investigate the methods employed by the Vermont area land speculators in their successful attempt to establish Vermont as a separate state. Special consideration has been given to (1) the separatist attempt to build support in the divided sections of eastern and western Vermont and the reasons for its success or failure in these areas; (2) the separatist attempt to gain recognition from the Continental Congress; and (3) the Vermont Constitution of 1777 which was extremely important in gaining the support of the people for separation.

Methods

The methods used to obtain data for this thesis were (1) personal research in original materials at the University of Vermont Library and the Vermont Historical Society; (2) the examination of published primary material from the above named facilities and other sources; and

(3) the examination of published secondary materials obtained from numerous sources.

Findings

From the evidence presented in this thesis the following conclusions appear to be in order:

1. The land speculators found an existing base of power in western Vermont where New York government had already been repudiated.

2. Eastern Vermont was nominally under New York control until it became evident through its new constitution that New York intended to perpetuate its pre-war social, political, and economic institutions.

3. After 1777, recognition from the Continental Congress was no longer crucial to the establishment of Vermont as an independent state.

4. The people in eastern Vermont were initially fearful of military isolation from the remainder of the states if they endorsed the separatist movement.

5. The Vermont Constitution of 1777, due to its very pronounced liberal nature, was extremely popular with the Vermonters. Given favorable circumstances for its implementation, the separatist constitution was readily accepted

in lieu of the more conservative New York constitution.

6. There was very definite opposition to the perpetuation of pre-war New York institutions throughout Vermont indicating dissatisfaction with New York's aristocracy-dominated society and government.

Approved:

Supervising Professor

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CHAPTER I

SETTLEMENT OF VERMONT

In 1749, Benning Wentworth, governor of New Hampshire, granted the first township in what is now Vermont. It was the initial move starting the controversy responsible for the eventual establishment of Vermont as an individual state. Acting upon a precedent set by Connecticut in 1731 in locating her western border twenty miles east of the Hudson River, Governor Wentworth decided to muster his weak defenses for New Hampshire settlements west of the Connecticut River and attempt an infringement upon the Duke of York's charter of 1674. This charter had given the Duke of York " . . . all lands from the west side of Connecticut River to the east side of Delaware Bay."¹ Governor Wentworth's initial act was the sale of the town lands of Bennington to a number of land speculators. These in turn sold acreage, or "pitches," to actual settlers. However,

¹The Royal Grant to the Duke of York, 1674, in Francis Newton Thorpe ed., The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the States, Territories, and Colonies. Vol. III (Washington: Government Printing Office, 1909), p. 1641.

the French and Indian war precluded any permanent settlement until 1760.²

Admiral George Clinton, royal governor of New York, after some hesitation, vigorously denied the right of New Hampshire to make grants west of the Connecticut River. Governor Wentworth suggested that each should state its case before the privy council and await a decision from London. In the meantime, Wentworth continued to make land grants in Vermont.³

With the end of the French and Indian war, the lands obtained by speculators from Wentworth sold at a premium. Settlers, mostly from Connecticut and Massachusetts who had fought and scouted in Vermont during the war, eagerly bought the lands surveyed before the war. By 1764, Governor Wentworth had issued a total of one hundred twenty-eight townships comprising more than half the total area of the state of Vermont. He had realized an enormous personal profit from the sale of these townships for the New Hampshire governor had retained ownership of 500 acres of each grant and received various fees from the individual speculators. In addition, he made no hesitation in granting large tracts

²Rowland E. Robinson, Vermont, A Study of Independence (American Commonwealth Series, Boston and New York: Houghton Mifflin and Company, 1895), p. 57.

³Dixon Ryan Fox, Yankees and Yorkers (New York: New York University Press, 1940), p. 158.

of land to relatives and friends.⁴

On April 10, 1765, word reached the colonies that the king had reached a decision. By royal decree, the eastern border of New York was to be the Connecticut River. The Duke of York's charter of 1674 had stood firm.⁵

With the affirmation of the eastern New York border, the speculators holding lands under New Hampshire title found their claims ruled invalid. Many sold their remaining holdings for a fraction of their real value. Other more tenacious speculators sought means to gain the king's favor and win approval of the New Hampshire grants. They quickly seized upon the two words "To be" in the king's decree and interpreted them to mean that from that time on (ie., from July 20, 1764, the date of the king's decree) the Connecticut River was to be the New York border. In this case, prior New Hampshire grants would be considered valid; and need only to be transferred to New York jurisdiction.⁶ This interpretation was acceptable to the British government as it had

⁴Frederic F. Van de Water, The Reluctant Republic (New York: The John Day Company, 1941), p. 46.

⁵Ibid., p. 50.

⁶Samuel Williams, The Natural and Civil History of Vermont (Walpole, N. H., Printed by Isaih Thomas and David Carlisle Junior, 1794), p. 215.

no desire to see the ejection of genuine settlers already established on their pitches.⁷

However, Lieutenant Governor Cadwallader Colden of New York did not wish to recognize the New Hampshire grants as valid, even under New York jurisdiction. In 1759, less than half of Wentworth's townships had actual settlers occupying their land. Most of the remaining patents were still in the hands of the speculators who stood to realize a large profit at New York's expense if Governor Wentworth's titles were validated by New York. Lieutenant Governor Colden had no desire to eject genuine settlers nor did he wish to realize personal profit from the sale of Vermont lands. He did wish to fill his colony's treasury through the sale of unoccupied plots and the payment of quitrents by the New Hampshire settlers. Therefore, Colden tried to invalidate Wentworth's claims and issue titles of his own. This brought renewed political activity upon the part of the persistent New Hampshire speculators and Lieutenant Governor Colden soon received:

. . . a Copy of His Majesty's Order in Council on the 24th Day of July 1767, forbidding any Grants to be made of the lands annexed to New York by his Majesty's determination of the Boundary Line between that Colony and New Hampshire . . .⁸

⁷Chilton Williamson, Vermont in Quandary (Montpelier, Vermont Historical Society, 1949), pp. 12-13.

⁸Letter from Lord Hillsborough to Lieutenant Governor Cadwallader Colden, December 9, 1769, in Collections of the New York Historical Society for the year 1935 (New York: Printed for the New York Historical Society, 1935), pp. 217-18.

The new governor, Sir Henry Moore, viewed this directive as an order to abstain totally from the issuance of all land titles in Vermont.⁹ However, land speculators in New York, in particular James Duane, Councillor William Smith, and Attorney-General John Tabor Kempe, had been secretly obtaining land rights in Vermont. Through the purchase at a low price of military grants issued to soldiers for service rendered in the recent war and through a subterfuge employed by New Yorkers and New Englanders alike, these speculators had accumulated large tracts of Vermont lands.¹⁰ Therefore, when Governor Moore died in 1769, land speculators owned and were selling title to the same lands under both New York and New Hampshire auspices.

Lieutenant Governor Colden again became acting governor after Sir Henry Moore's death. Like Governor Wentworth, Colden regarded fees for the sale of Vermont land patents very beneficial to the New York treasury. However, in contrast to Wentworth, Colden did not accumulate large personal holdings nor accept private fees for certain New York land titles. Also to Colden's credit, he did offer the

⁹Charles Minor Thompson, Independent Vermont (Boston: Houghton Mifflin and Company, 1942), pp. 66-67.

¹⁰Edward P. Alexander, James Duane, A Revolutionary Conservative (New York: Columbia University Press, 1938), p. 71.

New Hampshire grantees an alternative recourse. Any township desiring to transfer its holdings from New Hampshire title into a New York patent could do so.¹¹

A goodly portion of the New Hampshire township titles were re-issued under New York jurisdiction. These towns were generally located east of the Green Mountains in the Connecticut River Valley. They were the towns first established and probably could better afford to pay the high transfer fees demanded by New York than the less populated towns west of the mountains. In addition, these towns were furthest from New York influence and possibly felt they had little to fear from New York domination. They had managed their own affairs since 1760 and expected to do so under New York government.¹²

However, as the Board of Trade had not yet issued an official directive concerning the status of the New Hampshire grants, Acting Governor Colden, at the request of James Duane and John Tabor Kempe, decided to press the issue of land titles. Nine writs of ejectment were drawn up, each typifying a certain aspect of the New York-New Hampshire title controversy. Two, the cases of James Breakenridge and Isaih Carpenter, proved to be very significant.

¹¹S. Williams, The Natural and Civil History of Vermont, p. 217.

¹²C. M. Thompson, Independent Vermont, p. 66.

Isaih Carpenter had purchased land in Shaftsbury in 1765 under New Hampshire title. Major John Small had been granted a New York military patent to the same land in reward for service in the French and Indian war. When served with an ejectment writ, Carpenter refused to obey it and Major Small brought suit against him in the New York courts at Albany.¹³

The major New Hampshire land owners, recognizing the importance of a test case such as Carpenter's, united for his defense. Through their efforts, the most competent lawyer in Connecticut, Jared Ingersoll, was hired for his defense. At Albany, an extremely biased court disallowed all New Hampshire documents as evidence and thus ruined any chance for a defense. Major Small easily won his suit, and it became obvious that the New Hampshire grantees could not expect any legal redress from the New York courts.¹⁴

While Isaih Carpenter was appealing to the New Hampshire land speculators for help in attempting to defend his claim legally, James Breakenridge of Bennington had taken a different course of action. When New York Sheriff John Munro of Albany, accompanied by a surveying team to prove the illegal site of the contested farm, approached

¹³F. F. Van de Water, The Reluctant Republic, p. 56.

¹⁴E. P. Alexander, James Duane, A Revolutionary Conservative, p. 56.

the Breakenridge farmhouse to serve the writ of ejectment, he was run off by Breakenridge and his neighbors. The writ was not served, and Munro and his company were forced to return to Albany. James Breakenridge remained on his farm.¹⁵

The first overt act of Vermont defiance against New York authority had occurred. It was shortly to be followed by violent, yet surprisingly bloodless, border warfare between the New York authorities and the New Hampshire grantees. New York's attempts to regain her lost land promised to be difficult. The primary question at this point was why the New Hampshire grantees so vehemently opposed New York's authority?

One reason certainly was plain Beardian economics. Lieutenant Governor Colden was demanding exorbitant rates for the transfer of New Hampshire townships to New York title. In addition, each settler was required to pay a quitrent of two shillings sixpence yearly for each hundred acres that he owned. To a farmer, particularly in the poorer western regions of the grants, the New York taxes were excessive. He had little hope of paying the New York taxes and improving his already disputed farm at the same time.¹⁶ Equally as important, the New Hampshire land

¹⁵F. F. Van de Water, The Reluctant Republic, p. 57.

¹⁶C. Williamson, Vermont in Quandary, p. 15.

speculators, such as the Allen brothers, who had accumulated large unoccupied land holdings, could not possibly pay the annual tax.

Even had Lieutenant Governor Colden forsaken the usual fees and quitrents and recognized the New Hampshire grants as valid under New York jurisdiction, it is unlikely that the settlers would have accepted New York government. Governor Tryon, writing to the Earl of Dartmouth in August 1773, noted:

I may venture to assure your Lord^p that while the New Hampshire Claimants can flatter themselves with the idea even of the possibility of a determination in their favor [*i.e.*, New York recognition of their land titles], they will never submit to Govern^t, and the authority of the Laws, . . .¹⁷

However important the economic factors might have been, the Vermonters' hatred for New York authority must have been much deeper than monetary. Irving Mark, in his book Agrarian Conflicts in Colonial New York, 1711-1775, detected a strong case for class conflict. New York, originally founded under the old Dutch Patroon system, gave large holdings of land to relatively few men. The common farmer in New York generally rented his farm from these large landholders and had to answer to them for his actions.

¹⁷Letter from Governor Tryon to the Earl of Dartmouth, August 31, 1773, in Documents Relative to the Colonial History of the State of New York, E. B. O'Callaghan, ed. (Albany: Weed, Parsons, and Company, Printers, 1857), Vol. VII, pp. 393-394.

Since as early as 1711, New York had been beset by troubles arising from her strict manorial system. The lower classes of New York society, in particular the small farmers, found the manorial system repugnant and were beginning to show signs of serious revolt. In contrast to the New York "peasant," the Vermonters already possessed almost complete autonomy. To pass up the power of self government into the hands of a government dominated by a landed gentry not living on their land must have seemed foolhardy to most Vermonters. Where the New York lower classes had everything to gain by revolting against the aristocracy, the New Hampshire grantees had a great deal to lose by accepting New York government.¹⁸

Phillip Skene, of Skenesboro at the headwaters of Lake Champlain, owned a vast tract of land located in both New York and Vermont. As early as 1764 he had complained to the British Board of Trade about New Hampshire encroachments upon his property. James Duane, John Tabor Kempe, William Smith, and Robert Livingston, all influential New Yorkers who had at one time or another held political or judicial office, possessed large units of property in both New York and Vermont. In all probability these men intended to carry the

¹⁸Irving Mark, Agrarian Conflicts in Colonial New York, 1711-1775 (New York: Columbia University Press, 1940), pp. 85-86.

New York institution of a domineering local aristocracy into their Vermont possessions.¹⁹ Governor Tryon, himself a large New York speculator in Vermont lands, commented upon the proposed manorial system as " . . . a method which will ever create subordination and counterpoise, in some measure, the general leveling spirit."²⁰

The first generation Vermonter, raised in the relatively liberal political environment of Connecticut and Massachusetts, was conditioned to the private ownership of his land and accustomed to a good deal of self-government. Since the initial permanent settlements in the Connecticut River Valley, the New Hampshire grantees had been managing their own political and judicial affairs.²¹ New Hampshire had never attempted to establish her courts west of the Connecticut River, and until 1768, New York had been equally negligent.

In 1768, New York divided the more populated sections of Vermont into three counties. The section west of the Green Mountains with 2,645 inhabitants became Charlotte County; the lower half of the Connecticut River Valley in Vermont became Cumberland County and was populated by 3,947

¹⁹C. M. Thompson, Independent Vermont, p. 74.

²⁰Letter from Governor Tryon to Earl of Hillsborough, April 11, 1772 in Documents Relative to the Colonial History of the State of New York, E. B. O'Callaghan ed., Vol. VIII, pp. 293-294.

²¹F. F. Van de Water, The Reluctant Republic, p. 77.

inhabitants; the upper half of the Connecticut River Valley became Gloucester County with 722 settlers.²² It seemed New York's intent to replace the traditional New England institution of town government and its liberal policies with the easily controlled, centralized county governments of New York.

East of the Green Mountains, while never popular, these governmental units were generally tolerated for a time, particularly by those towns which had substituted a New York town charter for the original New Hampshire grant. The east did not openly contest New York authority until 1775. The settlers west of the Green Mountains, where New York influence promised to be strongest, opposed New York government from the start of Colden's attempt to establish it east of the Hudson River.

The confrontation at Breakenridge's farm provided a guide for further resistance. The major New Hampshire land speculators owning land west of the mountains met at Jonas Fay's tavern in Bennington. Among those present were three of the Allen brothers (Ethan, Levi, and Ira,) Seth Warner, Remember Baker, Robert Cochran, and Peleg Sunderland. They organized a Council of Safety as a loose central government,

²²I. Mark, Agrarian Conflicts in Colonial New York, 1711-1775, p. 167, citing Census of the State of New York for 1855, p. vii.

and a para-military group known as the Green Mountain Boys to forceably oppose New York intrusions into Vermont. Ethan Allen was appointed "Colonel Commandant" of the Green Mountain Boys.²³

All those attending the meeting were economically tied to the recognition of the New Hampshire grants. One historian stated that "If patriotism consisted of an attachment of one's land, the Allens were super-patriots."²⁴ They had been buying and trading New Hampshire land titles ever since the king's decree of 1764. With the decline in price due to the king's affirmation of the Duke of York's charter of 1674, the Allens and their speculator compatriots had bought more and more land. By 1773 they owned in excess of 45,000 acres. This was organized into the Onion River Land Company consolidated around the township of Burlington. Financially, they were totally committed to New Hampshire land titles. The fate of Vermont was their own.²⁵

While the towns east of the mountains remained relatively docile, the towns west of the mountain waged bloodless border warfare against the New Yorkers. New York settlers had their homes and barns burned. New York surveyors

²³F. F. Van de Water, The Reluctant Republic, pp. 79-80.

²⁴Ibid., p. 103.

²⁵Ibid.

were run off their lines and had their equipment confiscated. Intimidation and threat, not bloodshed, were the Westsiders' prime means of opposition to New York.²⁶ Their success and vigor is attested to by the fact that the new governor of New York, Sir William Tryon of North Carolina infamy, was forced to request British regulars to quell the "Bennington Mob."²⁷ Fortunately none were available.

While the Green Mountain Boys were waging their form of bloodless warfare against New York authority west of the mountains, the Eastside had been growing increasingly discontented with New York rule. Before the erection of Gloucester and Cumberland counties, the east, with the exception of a few royally appointed officials, had filled its town offices with popularly elected men. With the adoption of New York government, this policy had been changed. New York appointed all sheriffs, judges, justices of the peace, and other minor officials. Where the settler had formerly found friendly neighbors serving in these capacities, he now found the appointees of Albany serving the desires of the large New York absentee land owners. In

²⁶Ibid., pp. 85-86.

²⁷Letter from Governor Tryon to Major-General Haldimand, September 1, 1773, in Documents Relative to the Colonial History of the State of New York, E. B. O'Callaghan, ed., Vol. VIII, p. 394.

addition, where they had previously set their own taxes, New York now levied higher rates to support her courts and officials.²⁸ As had already happened in the West, the situation in the east was reaching the point where the status quo could not long remain.

In March 1775 a riot erupted at the meeting of the Cumberland County Court of Common Pleas at Westminster in the Connecticut River Valley. Sentiment against the court had been growing as Chief Justice Thomas Chandler had been prosecuting cases in New York's interest. Several men were killed during the riot and the New Hampshire element quickly seized the opportunity to gain a propaganda victory. They misnamed the incident the "Westminster Massacre." It did much to unite eastern and western sentiment against New York.²⁹

The battles of Lexington and Concord occurred thirty-seven days after the Westminster incident. The settlers appear initially to have held little real interest in Lexington and Concord. No Vermont Minutemen dropped their plows, seized their muskets, and went off to fight at Boston. In spite of a vigorous propaganda campaign carried out by the Council of Safety in Bennington, it is doubtful if the

²⁸F. F. Van de Water, The Reluctant Republic, pp. 117-118.

²⁹S. Williams, Natural and Civil History of Vermont, p. 225.

average Vermonter held an opinion on the matter of loyalties at all. As was previously the case with New York, the Vermont settler would not be goaded into action until his home was directly threatened. General John Burgoyne was forever to alienate the New Hampshire grantees from the king's ranks in 1777 when he offered them either submission or death.

The Allens and the Council of Safety at Bennington immediately joined the cause of the colonies. The success of the American rebellion offered a possible opportunity for a favorable settlement of the land title controversy. Earlier, Ethan Allen, Phillip Skene, and Amos Bird had contrived to establish Vermont as a separate colony with Skene as governor. In 1774, Skene had traveled to London to work for this measure. There he had gained control of Forts Ticonderoga and Crown Point and was well on the way to gaining the king's approval for a new colony. The start of the Revolution stopped all further action in this field. While Skene remained a Tory throughout the war, Ethan Allen joined the rebellion.³⁰ In all probability he felt that Vermont had just as good, if not a better, chance of gaining sovereignty from the Continental Congress as from the king. In

³⁰Walter Hill Crockett, A History of Lake Champlain, 1609-1909 (Burlington, Vt.: Hobart J. Shanley & Co., 1909) p. 126.

that case, the Allens and the other members of the Council of Safety at Bennington stood to hold a domineering position in the new government.

The men from Bennington were to fight long and hard for the establishment of Vermont as the fourteenth state. Eventually, fifteen years after the Declaration of Independence from Great Britain, these men were to achieve their ambition and bring Vermont into the United States as the first new state in the union. The crucial years, from 1776 to 1780, were to be the deciding factor in whether or not these men were to achieve success. It was during these years that opposition to the sovereignty of Vermont was most vehement. They were faced with opposition from New York, the Continental Congress, the British, and most importantly, from several internal factional elements. The problems which beset these founders of Vermont and their means of solving them during the critical years shall be the primary concern of this thesis. The Vermont Constitution of 1777, of crucial importance in the founding of the state, shall be particularly emphasized.

The following terms are used in a restrictive sense and their meaning should be considered to be as in the following definitions:

1. "Vermont" is that area comprising the present state of Vermont.

2. "New Hampshire Grants" are the grants of land obtained either directly or indirectly from Governor Benning Wentworth. Authority for these grants originated in New Hampshire. The term is also frequently used prior to the Constitution of 1777 to designate that area of land which is now Vermont.

3. "New Hampshire Grantees" are those people, settlers and land speculators alike, who owned land in Vermont derived from New Hampshire title.

4. "New Yorkers" are those people in both Vermont and New York who claimed to be citizens of New York.

5. "Vermonters" may be considered to be synonymous with New Hampshire Grantees prior to the Constitution of 1777. After the Constitution of 1777, they may be considered to be the people who vowed allegiance to the state of Vermont.

CHAPTER II

THE VERMONT DECLARATION OF INDEPENDENCE

The movement for independence was launched in Bennington by the major speculators in former New Hampshire lands. They had the most to lose if the New Hampshire Grants remained attached to the state of New York. They were also the men who would benefit most if the Grants became an autonomous political unit. The speculators would be in the ideal position to assume the principal governmental offices of a new colony. The Council of Safety at Bennington, organized in 1769 to resist intrusions into western Vermont by New York settlers, was the only organized semi-political body in the Grants west of the Green Mountains. After the Westminster incident in March 1775, the New York governmental structure in eastern parts was viewed with distrust by many settlers. The time was opportune for the Bennington Council of Safety to exploit its monopoly of power in the west.

The idea of forming a new colony was not novel. Ethan Allen, Phillip Skene and others had begun a separatist movement as early as 1774. They had met with some encouragement. However, the onset of the War for American Independence had divided the principle conspirators between

Tory and Whig and their scheme had collapsed.¹ In spite of this failure, the notion of an independent Vermont persisted.

It was only natural that the Bennington Council of Safety should reassume the initiative in seeking sovereignty for Vermont. The council was composed of men who would profit most from the Grants' independence. These were such men as Jonas Fay, Joseph Bowker, Seth Warner, Robert Cochran, Moses and Samuel Robinson, and Remember Baker. They, along with the Allens, were financially committed to the sale of New Hampshire land titles and would become paupers if the validity of their claims was not recognized.

The year of 1775 brought ideal conditions for the assumption of political power by the Bennington land speculators. New York authority in the west had been forcefully eliminated by the Green Mountain Boys, many of whom were members of the Bennington Council of Safety. The farmers in the west were committed to the recognition of their New Hampshire land titles. Unlike in the east, few westerners had transferred the title of their towns and farms to New York jurisdiction. Isaih Carpenter's trial at Albany in

¹W. H. Crockett, A History of Lake Champlain, p. 126.

1769 assured them that they could not seek recompense from New York. The Bennington Council of Safety was the only organized political body to which they could turn.

In the east, the incident at Westminster had done much to undermine New York's authority in the Connecticut River Valley. New York, at least in some quarters, was not very popular after the Westminster "Massacre." On April 11, 1775, a general convention was held at Westminster. This convention resolved:

. . . That it is the duty of said inhabitants, as predicated on the eternal and immutable law of Self-preservation, to wholly renounce and resist the administration of the government of New York, till such time as the lives and property of those inhabitants may be secured by it; . . .²

However, it is doubtful that the majority of the east-siders subscribed to this resolution. Most of the towns in the east had been rechartered under New York auspices and their governments were firmly under the control of the adherents of New York.

In 1775, external politics also favored the

²Fifth resolution issued from general convention, April 11, 1775 in Vermont State Papers; being a Collection of Records and Documents, connected with the Assumption and Establishment of Government by the People of Vermont; together with the Journal of the Council of Safety, the First Constitution, the early Journals of the General Assembly and the Laws from year 1779 to 1786, inclusive, to which are added the Preceedings of the First and Second Councils of Censors. William Slade ed. (Middlebury: J. W. Copeland, Printer, 1823), p. 60.

assumption of power by the Council of Safety at Bennington. The battles of Lexington and Concord, occurring eight days after the Westminster Convention of April 11, 1775, caused a break in all governmental relations with Great Britain. This necessitated the assumption of governmental duties by extra-legal bodies. The Bennington Council, in assuming political control in the west, would only be doing what other aggressive men had already done in other colonies. The difference, of course, was that the other colonies were long established prior to the outbreak of the American Revolution. The New Hampshire Grants would be seeking status equal to these colonies.

For the Bennington Council of Safety to assume power, it had to declare its leadership over the individual town assemblies. Prior to July 26, 1775, it had not attempted to assert this leadership. On June 23, 1775, the Continental Congress:

. . . recommended to the Convention of New York that they, consulting with Gen. Schuyler, employ in the army to be raised for the defense of America, those called Green Mountain Boys, under such officers as the said Green Mountain boys shall choose.³

³Committee recommendation from Continental Congress, June 23, 1775, Records of the Council of Safety and Governor and Council of the State of Vermont to which are prefixed the Records of the General Conventions from July 1775 to December 1777. E. P. Walton, ed. (Montpelier: Steam Press of J. & J. M. Poland, 1873), Vol. I, pp. 4-5.

A copy of these recommendations was given to Ethan Allen and Seth Warner. They immediately returned to New York to address the convention convened at Kingston. This assembly gave them authorization to organize the Green Mountain Boys into a regiment for service against the king.⁴

Using this authorization as a basis for further action, the Bennington Council of Safety issued a warrant for a general convention to be held at Dorset on July 26, 1775. This convention's sole purpose was to organize the Green Mountain Boys into a regiment for active duty. Neither separation from New York nor the possibility of establishing a new colony was discussed at this convention.⁵ However, in taking the first step in organizing the militia, the convention seems to have had the effect of establishing the Bennington Council of Safety as the governing body of the New Hampshire Grants, at least west of the Green Mountains.

The Bennington speculators soon recognized the advantage they had gained. Acting as an official body, a committee composed of Moses and Samuel Robinson, Seth Warner, Jermial Clark, Martin Powell, Daniel Smith, and Jonathan Willard, warned:

⁴Ibid.

⁵Minutes of general convention, July 26, 1775 in Governor and Council, E. P. Walton ed., pp. 6-10.

. . . the inhabitants on the said New Hampshire grants west of the range of Green Mountains to meet together by their delegates . . . on the sixteenth day of January next . . .⁶

This warrant stated that the agenda of the convention would include the question of whether or not the inhabitants would consent to associate with New York, or by themselves, in the cause of America.

That the committee realized that its influence was limited is obvious. It appealed only for delegates from towns west of the mountains. Geographical and climatological factors may have precluded an appeal for delegates from the Connecticut River Valley. A trek across the Green Mountains in the midst of winter was then an adventure which few eastsiders would have found enjoyable. Also, in the warrant for a future convention, the Bennington Council of Safety "warned" the inhabitants on the west side of the mountains to attend while only "desiring" delegates from the east to be present. In answer to this "desire," two delegates representing only one eastern town attended. Obviously, the Council of Safety's influence did not yet

⁶Warrant for general convention, December 20, 1775, in Henry B. Dawson ed., The Historical Magazine, and Notes and Queries, concerning the Antiquities, History and Biography of America (Morrisania, N. Y.: Henry B. Dawson, 1872-3), Vol. I, Third Series, p. 21.

extend beyond the Green Mountains.⁷ It was a fact they must have realized.

It is also quite evident that the Committee of Safety recognized the difficulties it faced. Its problems can be categorized into four separate and distinct groups. The immediate problem was to defend the Grants from invasion from Canada. This was more than just a necessity for self-preservation. Vigorous military support for the cause of America would do much to sway the Continental Congress' opinion in favor of the Grants separatist movement. Ethan Allen and the Green Mountain Boys had taken a long step in this direction on May 9, 1775, when they captured the king's forts at Ticonderoga and Crown Point. The first convention at Dorset had been concerned solely with organizing the Green Mountain Boys as a regiment for service against the British. Military affairs were to concern the New Hampshire grantees throughout the war. When the relatively small population of the Grants is considered, their war effort and what they accomplished on the battlefield was extremely large.

Secondly, since only the Continental Congress could formally recognize the Grants' statehood, the speculators had to reveal their intentions at Philadelphia. Support

⁷Warrant for general convention, July 24, 1776 in Governor and Council, E. P. Walton ed., Vol. I, p. 14.

for statehood from individual members of Congress had to be solicited.

The establishment of open opposition to New York authority, particularly east of the Green Mountains, was the third task that the adherents of the Grants' independence had to accomplish. Only with the denunciation and elimination of the New York county government system within the entire area of the Grants could the Council of Safety hope to assume complete political power. An indirect attack upon New York authority was included in the warrant for the January 16, 1776, general convention.

Finally, and most important, the proponents of separatism had to convince the disbelievers that an independent state was what they desired. They had to persuade the population into believing that it would be more beneficial to their interests to be a separate state instead of remaining a section of New York. In the west, the realization of this task was relatively effortless. Most New York supporters had long since been driven out of the area by the vigilante tactics of the Green Mountain Boys. In the east, sentiment for New York was still strong. The resolutions passed at Westminster in July 1775 were far from being a unanimous condemnation of New York's government. A concentrated effort of propaganda and appeal, concessions and cajolery, would be necessary to secure unified support for

independence in the Connecticut River Valley.

That the men at Bennington recognized the problems confronting them was obvious. While the first convention at Dorset in July 1775 had been concerned wholly with the military problem, the second Dorset convention, convened on January 16, 1776, was concerned totally with political affairs. It was to mark the first organized effort toward statehood by the Bennington land speculators.

One of the first orders of business at Dorset was to form a committee to investigate the advisability of taking action on the third article of the warrant. This article had called for a vote:

To see if the Law of New York shall have free Circulation where it doth not infringe on our properties, or Title of Lands, or Riots (so called) in defense of the same.⁸

It is apparent that an intra-convention squabble developed over this issue. The original committee elected to review the point in question had been composed of nine members. The Bennington Council of Safety appears to have been represented by at least four men on the committee. These were William Marsh, Heman Allen, Moses Robinson, and Joseph Bowker. The subsequent vote provided for an additional four men to be added to the committee. Apparently these

⁸Third article of warrant, December 20, 1775, in H. B. Dawson ed., Historical Magazine, Vol. I, pp. 21-22.

additional four men were delegates from towns which held more moderate points of view than did the men from Bennington. The enlarged committee shelved the matter. The initial move towards independence from New York by the land speculators had been rejected by the majority of the delegates from west of the mountains.⁹ It was far from being a crippling defeat. The conservatism of most of the delegates was probably a manifestation of the unrest in international affairs. Most of the population hesitated to sever connections completely with New York, in spite of how repugnant they might be, until the situation respecting Great Britain was clarified. Invasion from Canada might be imminent, and continued alliance with New York insured protection.

An additional concession appears to have been surrendered to the moderates when it was stipulated that each town should be authorized only two voting delegates. Since Bennington, Shaftsbury, Pownall, and Manchester were anti-New York and were the most populous towns in the west, it is very probable that the less settled towns insisted upon this point.¹⁰ Representation based upon population would have left the northern towns hopelessly under-represented.

⁹Vote of convention, January 16, 1776, Ibid.

¹⁰Vote of convention, January 16, 1776, Ibid.

The following day, however, the anti-New York faction of the convention managed to offset this disadvantage. A committee, heavily weighted with radical anti-New Yorkers, was appointed to delimit the number of committeemen each town would be permitted. Committee work was extremely important. Committees determined which issues and legislation would be placed before the whole convention for ratification. Control of the committees would enable the Bennington faction continually to present the proposition of separatism. As most of the committee work was executed out of convention and was time consuming, it is unlikely that it would attract the northern farmers. They had to spend their time wresting subsistence from their farms. The speculators' fortunes were dependent upon recognition of their land titles. Time spent in committee work would be an important extension of their efforts toward separatism. The committee to determine the proportion of committeemen granted Bennington an overwhelming seven committeemen while Shaftsbury, Pownall and Manchester were each given four.¹¹

The next order of business was to rule upon the fifth article of the warrant. This article had called for a vote by the people's delegates "To See if they will

¹¹Report of sub-committee, January 17, 1776, in Governor and Council, E. P. Walton ed., Vol. I, p. 12.

Choose an Agent, or Agents, to send to the Continental Congress."¹² It was concluded that a remonstrance and a petition should be sent to Philadelphia. Captain Heman Allen, Lt. James Breakenridge, and Doctor Jonas Fay were nominated and eventually appointed to present these documents. Col. William Marsh and Mr. Thomas Rowley were appointed to assist the delegates in drafting the papers. All, with the possible exception of Mr. Rowley, were among those conspiring to attain the Grants' independence.¹³

There is no indication that the delegates had an opportunity to review and accept the remonstrance and petition. Normally, if there had been a vote upon the two documents, it would have been recorded in the minutes of the convention. This was standard procedure. However, due to the two-delegate voting rule which granted the moderates control of the final vote on all issues, it is unlikely that Allen, Fay, and Breakenridge allowed the completed copies of the remonstrance and petition out of committee before the convention adjourned. The remonstrance and petition were probably drafted after the session had disbanded and were forwarded to the Continental Congress without general review.

¹²Fifth article of warrant, December 20, 1775 in H. B. Dawson ed., Historical Magazine, Vol. I, p. 21.

¹³Vote of convention, January 16, 1776, Ibid., pp. 21-22.

The petition, while not an outright request for independence--the moderates' sentiment at Dorset precluded such direct action,--was clearly drafted to discern Congress' view concerning the Grants' movement towards autonomy. After the remonstrance enumerated the Vermonters' grievances against New York including the land title controversy and their opposition to the New York courts, the petition requested that the New Hampshire Grants be permitted to contribute to the American war effort as a separate unit. The Vermont delegates asked that the controversy over land titles be set aside until after the peace had been won.¹⁴

At the insistence of the New York delegates, in particular James Duane who owned immense land holdings in Vermont, it was ruled that the petition and remonstrance should "Lie on the Table" for further consideration. In addition, the congressional sub-committee "Resolved, . . . that it be recommended to the petitioners, for the present, to submit to the government of New York" The congressional committee subsequently promised that the land title controversy would be brought under arbitration

¹⁴ Remonstrance and petition presented to Continental Congress, June 4, 1776, in Vermont State Papers, W. Slade ed., pp. 61-64.

when the " . . . present troubles are at an end."¹⁵ New York, quite naturally, did not approve of any congressional indication of recognition of the sovereignty of her eastern counties. Congress, not desiring to alienate New York which was seriously divided between Whig and Tory in 1776, was predisposed to evade the question.¹⁶

Captain Heman Allen recognized the political danger of leaving the petition pigeon-holed in committee when delegates from the Grants were not present. This would present New York with the opportunity to have the petition brought into final consideration without anyone available to defend it.¹⁷ Therefore, Congress:

Resolved, That Captain Heman Allen have leave to withdraw the petition by him delivered, in behalf of the inhabitants of the New Hampshire grants, he representing that he has left at home some papers and vouchers necessary to support the allegations therein contained.¹⁸

After the delegates returned to the Grants, the convening committee summoned another general convention for July 24, 1776 at Dorset. Among various military and

¹⁵Committee resolution of Continental Congress, June 4, 1776 in Ibid., p. 64.

¹⁶Edmund Cody Burnett, The Continental Congress (New York: W. W. Norton & Company, Inc., 1964), p. 541.

¹⁷Report of Heman Allen to general convention, July 24, 1776, in Governor and Council, E. P. Walton ed., Vol. I, pp. 15-16.

¹⁸Committee resolution of Continental Congress, June 4, 1776, in Vermont State Papers, W. Slade ed., pp. 64-65.

financial affairs to be debated, the warrant called for the people's delegates to receive the report of Heman Allen concerning his trip to Philadelphia. It also provided for a ballot to determine if the Grants should associate in the defense of American liberty with the province of New Hampshire, or, if this was deemed undesirable, to see if they should "associate as Members of the District of Land which they inhabit."¹⁹ All three issues held great importance for the movement towards separation.

The resolutions from Congress obviously had been unfavorable for the men seeking a new state. The congressional opinion recommended a continued union with New York. The resolutions put the speculators in a problematic situation. Men with less fortitude might have forsaken the cause of the Grants' independence at this time. The speculators had previously faced comparable situations. This crisis was similar in nature to the king's decree of 1764 which had reaffirmed New York's title to Vermont. Then the land speculators had seized upon the two words "to be" in the king's decree and had battled New York to a stalemate. Heman Allen rose to the occasion of this new threat. He followed the only alternative remaining for the speculators. He misrepresented the truth.

¹⁹3rd, 4th, 5th articles of warrant, June 24, 1776, in H. B. Dawson ed., Historical Magazine, Vol. I, p. 80.

The remonstrance and petition were read to the convention. This lends credence to the supposition that completed copies had not been reviewed by the previous Dorset convention. They were long and legalistically worded and must have been both time-consuming and boring. Roughly the same men attended both conventions. Heman Allen then reported that individual members of Congress had informed him:

. . . that said inhabitants [should] . . . not by any way or Means whatsoever connect or Associate with the Honorable Provincial Congress of New York, or any Authority derived from, by, or under them, directly or indirectly, but that the said inhabitants do forthwith consult suitable Measures to Associate and Unite the whole of the Inhabitants of said Grants together.²⁰

Undoubtedly, certain members of the Continental Congress had countenanced Vermont's representatives to seek independence from New York. Dr. Thomas Young, an influential lobbyist at the Congress and an intimate of the Allen family, was formally to propose independence in an open letter to the Grants' inhabitants at a later date. In all probability, Vermont's patrons in Congress anticipated the Declaration of Independence from Great Britain which was to come to pass only one month after the Grants' case was reviewed in Congressional committee. Capitulation to New York on the issue of association would have seriously weakened Vermont's case for independence. In spite of this encouragement, Heman

²⁰Report of Heman Allen to general convention, July 24, 1776 in Governor and Council, E. P. Walton ed., Vol. I, pp. 15-16.

Allen's presentation of only a favorable version of his jaunt to Philadelphia to the general convention is unpardonable. He does not appear to have made any remark about the resolutions of Congress concerning Vermont. There is no indication that the people knew of the Congressional decision beforehand.

The fourth article of the warrant, calling for the "mind of the Convention, relative to the Associating with the province of New Hampshire,"²¹ appears to have been planted in the warrant as a gambit in the campaign for independence. It is improbable that many settlers retained a favorable opinion of New Hampshire. Most of Vermont's population had migrated from Connecticut and Massachusetts. Since 1764, when the king's decree had terminated any expectation of extending her domain westward, New Hampshire had generally ignored her offspring. In all probability, the Council of Safety at Bennington fully expected, and hoped, that an association with New Hampshire would be spurned at the convention. They were correct in their expectation. The idea received very brief consideration in the convention and was quickly dismissed.²²

²¹4th article of warrant, June 24, 1776, in H. B. Dawson ed., Historical Magazine, Vol. I, p. 80.

²²Resolution of general convention, July 25, 1776, in Ibid., Vol. I, p. 80.

The rejection of the proposal for an association with New Hampshire prepared the way for the reception of the fifth article of the warrant. This called for the association of the Grants as a separate unit. The fifth article was quickly adopted in the affirmative after Allen's favorable, but misleading, report about the temper of Congress concerning the Grants' independence. It was "Resolved that Application be made to the inhabitants of Said Grants to form the same into a separate district."²³ This resolution placed the question of independence squarely in the open. An association was composed (similar in form to those issued in other states at the request of the Continental Congress) to be signed by each individual acquiescing to its provisions.²⁴ In effect, this association gave the inhabitants of Vermont the choice of either subscribing to a new state or electing to remain a portion of New York. It was designed to differentiate between those inhabitants of the grants who were advocates of independence and those who wished to retain New York citizenship. It was not an official declaration of independence. However, a strong note did accompany the notice of association. It stated that the convention had resolved unanimously:

²³Resolution of general convention, July 25, 1776, in Ibid., Vol. I, p. 84.

²⁴Resolution of general convention, July 25, 1776 in Governor and Council, E. P. Walton ed., Vol. I, p. 23.

. . . That any person or Persons inhabitants of the New Hampshire Grants that shall in future Subscribe, and Return an Association to any the Committee, or Committees of Safety of either of the Counties in the province of N. York, or to the provincial Congress thereof, Otherwise than the Associations contained in these Records and Subscribed by the Several Delegates of this Convention, shall be deemed enemies to the Common Cause of the New Hampshire Grants.²⁵

This note was contrived primarily to dispose of what little opposition to separation remained in the west.

It is unlikely that association and its appendage would have been received favorably in the Connecticut River Valley towns. The warrant for the July 24th convention had "Desired" that delegates from towns east of the mountains be in attendance. This call had been largely ignored. Only two men from the Connecticut River Valley, Captain Samuel Fletcher and Josiah Fish, representing the township of Townsend had responded to the warrant. Therefore, the general convention chose a committee to treat with the inhabitants located east of the mountains in an attempt to persuade them to join in association with the settlers in the west. Heman Allen, Jonas Fay, and William Marsh, along with Fish and Fletcher, were assigned to be envoys for this mission.²⁶

Fay, Allen, and Marsh addressed a joint meeting of

²⁵Resolution of general convention, July 25, 1776, in E. P. Dawson ed., Historical Magazine, Vol. I, p. 85.

²⁶Vote of general convention, July 24, 1776, in Ibid., p. 24.

the Cumberland and Gloucester County Committees of Safety at Westminster. They requested that the people be called into special session in the individual towns in the east and be given the opportunity to express their opinion respecting an autonomous state.²⁷ This request was granted and some towns, Rockingham for example, voted wholeheartedly in favor of separation from New York.²⁸ Other towns were divided between supporting New York or the Grants, while a goodly proportion of the eastern towns spurned the independence movement. Hostility to the independence faction was concentrated in the southeast corner of the Grants. This area was composed of such pro-New York towns as Guilford, Halifax, and Brattleboro. They were the earliest settled and had been the first to transfer their titles to New York jurisdiction. New York's influence had had time to mature in these towns. It is remarkable that Fay, Allen, and Marsh achieved such rapid success. When the general convention reconvened on September 25, 1776, delegates from nine eastern towns were present. In spite of this strong deputation from east of the Green Mountains, the towns in the west still dominated the convention.

²⁷ Benjamin H. Hall, History of Eastern Vermont (New York: D. Appleton & Co., 348 Broadway, 1858), pp. 268-269.

²⁸ Minutes of Rockingham town meeting, September 2, 1776, in Archives, Town Records File (Montpelier: Microfilmed for the Society, n.d.). (Microcard)

Representatives from twenty-five western towns attended the convention.²⁹

One of the first orders of business for the convention was to form a general list of the names of those people who had not signed the association issued after the last convention. Later, provisions were made to determine why these intransigent settlers had refused to sign the Grants' association. The twenty-third vote of the convention assumed authority which was usually reserved for independent states. It declared that the committees of safety of the towns of the New Hampshire Grants were " . . . vested with the same authority as the Committees of Safety for other towns in any of the other Free States of America."³⁰ Those inhabitants who had refused to sign the association were methodically isolated. The forty-fifth vote of the convention proclaimed that:

. . . no person be admitted to act in choosing Committees of Safety but those that sign the Association of this convention and acknowledge the authority of the Committees of Safety.³¹

²⁹List of delegates, September 25, 1776, in Governor and Council, R. P. Walton ed., Vol. I, p. 27.

³⁰23rd vote of general convention, September 25, 1776, in H. B. Dawson ed., Historical Magazine, Vol. I, p. 137.

³¹45th vote of general convention, September 27, 1776, in Ibid., Vol. I, p. 139.

The remainder of the September 25th session of the general convention was concerned with military and financial matters.

The convention reconvened at Westminster on the east side of the mountains on October 30, 1776. Only seventeen delegates were in attendance. The American naval forces on Lake Champlain had recently been defeated at Valcour Island and the British had occupied Fort Crown Point. Many of the former delegates were members of the individual town militias. The Vermont militia had been summoned to Fort Ticonderoga to prepare to thwart the invasion expected from Canada.³² Fortunately, it was too late in the season for the redcoats to sail southward in invasion strength and General Burgoyne postponed his march until 1777.

The fear of invasion may also have been the chief reason for shifting the site of the convention from Dorset to Westminster. Dorset was located dangerously close to the southern end of Lake Champlain. Westminster was far from the probable route of invasion. The decision to change the convention's location may also have been based upon political considerations. The eastside had presented a relatively strong showing at the September 25th Dorset convention. The

³²Statement by Ira Allen in general convention, October 30, 1776, in Governor and Council, E. P. Walton ed., Vol. 1, p. 37.

Bennington speculators may have felt that this response warranted changing the center of the independence movement to the Connecticut River Valley. Since the New York county assemblies also met at Westminster, the challenge to New York's authority was explicit. Either, or both, suppositions for changing the site may be correct. The importance of the change lies in the fact that it marked the shift of interest from the less-populated west to the populous east. Apparently the speculators felt that they had developed sufficient support for the independence movement in the west. They were now ready to concentrate their efforts for separatism in the east.

Very little official business was transacted at the October 30 general convention. Arrangements were made to rebut a pamphlet published by New York and distributed in the Connecticut River Valley.³³ No copies of this pamphlet remain and its contents are unknown. However, it undoubtedly contained the resolutions of Congress issued in June concerning the Grants. This pamphlet may also have been another reason why so few delegates attended this convention. Ira Allen was delegated to compose a rebuttal to the New York publication.³⁴ His issuance was entitled:

³³Vote of general convention, September 31, 1776, in Ibid., Vol. I, p. 37.

³⁴Committee report of general convention, September 31, 1776, in Ibid.

Some Miscellaneous Remarks, and Short Arguments, on a Small Pamphlet, dated in the Convention of the Representatives of the State of New York, October 2, 1776, and sent from said Convention to the County of Cumberland, and some Reasons given, why the District of the New Hampshire Grants had best be a State.

As its title implies, Allen's pamphlet enumerated the various arguments supporting the case for independence. It was published in Connecticut and circulated widely in the Grants. It appears to be the first material printed in support of forming the Grants into a new state.³⁵ After settling some minor issues, the general convention once again adjourned.

When the convention again convened at Westminster the following January 15, twenty-two delegates were in attendance. This was only slightly more than had attended the previous session. However, where the anterior assembly had produced no legislation of vital importance, this meeting was unequivocally to withdraw the Grants from the state of New York.

The first important act accomplished by the delegates was the appointment of a committee to determine how many people in Cumberland and Gloucester counties were in favor of the establishment of the Grants as an independent state. This committee returned the following report:

We find by Examination that more than three fourths of the people in Cumberland and Gloucester counties

³⁵Ira Allen, Some Miscellaneous Remarks, and Short Arguments (Vol. V of American Bibliography, Charles Evans ed., 12 vols. New York: Peter Smith, 1941). (Microcard)

that have Acted ~~are~~ for a New State, the rest we
view as Neuters.³⁶

This committee report differed considerably from a poll submitted to the provincial Congress of New York in early 1778. This survey, taken by committees opposed to the proposed state of Vermont, stated that of 565 people questioned: 380 were in favor of remaining New York citizens; 110 favored the new state; and 75 were considered "neuters."³⁷ Probably the truth lies somewhere between the two estimates. However, the New York evaluation was in much greater detail and probably reflected the more accurate appraisal of the people's sentiments. The speculators still led the minority opinion east of the mountains in early 1777.

In spite of the strong opposition centered in the lower Connecticut River Valley counties, the general convention took the step which had been long pending. It unequivocally renounced the legitimacy of New York's authority in the Grants. Without dissent, the twenty-two delegates did:

. . . Proclaim and publically declare that the district of territory comprehending and usually known by the name and description of the New Hampshire Grants,

³⁶Committee report of general convention, January 16, 1777, in H. B. Dawson ed., Historical Magazine, Vol. I, p. 290.

³⁷Report of town committees, 1778, in Public Papers of George Clinton, 1777-1795, 1801-1804, Published by the State of New York (Albany: James B. Lyon, State Printer, 1900), Vol. III, pp. 622-624, doc. no. 1645.

of right ought to be, and is hereby declared forever hereafter to be considered as a separate, free and independent jurisdiction or state; by name, and forever hereafter to be called, known and distinguished by the name of New Connecticut.³⁸

New Connecticut's declaration of independence was ordered printed in the newspapers. As no newspapers were available in Vermont, the declaration was printed in the Connecticut Current. Political ties with New York had been completely, and publicly, severed. The stage was set for a rival government officially to oppose New York.

With the declaration of independence, the self-proclaimed state of New Connecticut had to establish governmental control over its domain. The new state quickly recommended that each town, which had retained its New York Committee of Safety, should elect a new one under New Connecticut's auspices.³⁹ This suggestion was carried out in several towns. The township of Rockingham dismissed its old Committee of Safety and replaced it with staunch supporters of the new state. It is apparent that the members of the Rockingham Committee of Safety offered stiff resistance to their removal. Mention of the attempt to unseat

³⁸Grants' declaration of independence, January 16, 1777, in Vermont State Papers, W. Slade ed., p. 69.

³⁹17th vote of general convention, January 16, 1777, in Governor and Council, E. P. Walton ed., Vol. I, p. 47.

them is made in the minutes of all the town meetings from March 1777 till December 1777. Apparently the new Committee of Safety went to the extent of re-writing the minutes for they were incorrectly headed "New Hampshire Grants alias New Connecticut" from September 1776. As the declaration of independence from New York was not issued until January 1777, the reports were incorrectly titled for five months.⁴⁰

While the state government in the Grants was being re-oriented, an attempt had to be made to gain recognition from the Continental Congress. Therefore, the January session of the Westminster convention again elected a committee to represent their interests at Philadelphia. A new remonstrance and petition were drafted asking for recognition of the new state and again citing the reasons why the Grants no longer wished to remain a portion of New York.⁴¹

While recognition from the men at Philadelphia was important, it was even more vital that a new state government be formed. Although there is not any mention of it in the January 16 convention, a call may have been made for delegates to meet to vote on a constitution. The town record

⁴⁰Minutes of Rockingham town meeting, September 2, 1776 through December 27, 1777, in Vermont State Archives, Town Record File. (Microfilm.)

⁴¹14th vote of general convention, January 16, 1777, in Governor and Council, E. P. Walton ed., Vol. I, p. 46.

of Rockingham, dated March 10, 1777 includes a copy of the following proclamation:

Resolved therefore that copies of the said Recommendation be distributed to the inhabitants of each town within this state and that it be and it is here recommended to the freeholders and inhabitants of each town in this state to meet at some Convenient Place in each town/on the Twentythird day of this instant June and chuse a Delegate or deligates to attend a General Convention at the meeting house in Windsor with in said state on the Second Day of July next to chuse Deligates to attend the General Congress a Committee of Safety and to form a Constitution for said state.⁴²

This report is dated between the January 16th convention and the next session held at Windsor on June 4, 1777. However, the Rockingham records have already been proven notoriously misdated and it is possible that the Windsor convention in June issued this call. Minutes of this convention have never been found.

The adherents of political separation for the Grants had finally taken the long step to independence. They had officially solved one of their four major problems. The authority of New York had been openly and officially renounced. The other three problems still persisted. The war was moving toward New Connecticut's borders. The year 1777 was to witness Burgoyne's armada sail up Lake Champlain and take the fortress of Ticonderoga. It was to see the battles of Hubbardton and Bennington; the former a Pyrric

⁴²Minutes of Rockingham town meeting, March 10, 1777, in Vermont State Archives, Town Record File. (Microfilm.)

victory for the British, the latter an undeniable victory for the Americans. Both were fought on the new state's territory. In 1777, the military problem was foremost in the inhabitants' eyes. However, it did not completely overshadow the remaining two problems.

Recognition from the Continental Congress was important, yet not vital, for the formation of the new state. Future events were amply to prove that Vermont, alias New Connecticut, could survive without the sanction of Congress. Nonetheless, an attempt had to be made to influence favorably the congressional leaders. Arrangements were made at the June 15th convention again to send delegates to Philadelphia.

The last problem, the need to muster the complete support of the people, was far from being solved. The declaration of independence from New York was meaningless unless a majority of the people rallied behind it. Sentiment for New York was still strong in some sections of the state. Many inhabitants appear to have been undecided whether to support New York or Vermont. It was with this primary consideration in mind that the land speculators went to the constitutional convention held at Windsor on July 2, 1777.

CHAPTER III

THE VERMONT CONSTITUTION OF 1777

More than any other document, the Vermont Constitution of 1777 stood to influence the minds of the area's inhabitants. Future Vermonters, like all English colonials, recognized the vital importance of a written constitution in a democratically based government. The state constitution, unlike any other document, would reveal to the people exactly what type of governmental organization the separatists proposed. With the publication of both the New York and Vermont constitutions, Vermont's inhabitants were extended the opportunity of comparing the two. The retention of political connections with New York or the creation of a separate state depended on their judgment.

In framing a constitution which would be popular with the people, the separatists were confronted with a much simpler task than the New York provincial congress. Relatively speaking, the population of Vermont was homogeneous. Very little class distinction existed between the various inhabitants. The most humble farmer in the northern-most frontier township found ease in communicating with the Bennington land speculator who had sold him his farm. No aristocracy, as such, existed in Vermont in 1777. To be

sure, the lower Connecticut River Valley towns provided a well-established middle-class resistant to change. Yet, even these men could not be considered aristocrats similar to the Livingstons and Van Cortlands of New York or the Byrds and Washingtons of Virginia. Vermont's entire population had sprung from lower class origins, and most still remained in that status. Therefore, the land speculators, in drafting a form of government, had only to pacify one class of individuals.

New York was in a more difficult predicament. Distinction between social classes in New York was very pronounced. An inherent aristocracy was securely in control of the polity of the state. The archaic patroon system, appropriated from the original Dutch settlers, had divided New York into a well-defined four class society.¹ At the time of the American Revolution the higher echelons held the dominant--if not undisputed--position in this social hierarchy. Friction within the patroon structure had been developing for some time, and the American revolt gave impetus to the movement to liberalize New York government.² Political concessions to the lower classes were necessary

¹I. Mark, Agrarian Conflicts in Colonial New York, pp. 85-86.

²Ibid., pp. 116-130.

to gain their support in opposing Great Britain. The danger of internal upheavals was mounting, and concessions were vitally needed to relieve the pressure. Despite concessions to the masses, controls remained in the hands of the aristocracy. Any constitution drafted in New York was certain to reflect a concern for preserving their favored position.

Few Vermonters were apt to consent to a constitution which divested them of political prerogatives which they had possessed since 1763. While the subordinate classes in New York welcomed the constitutional concessions made by the New York Constitution, Vermonters could only lose political rights to which they had become accustomed if they embraced that constitution. The Vermont land speculators offered an alternative which would be entirely satisfactory to the vast majority of the Vermont inhabitants.

Many of the leading proponents of separation appear to have been fairly well-versed in the art of formal writing. Ira Allen, in particular, had demonstrated his articulate ability on innumerable previous occasions. However, the instability of the wartime environment and the necessity for haste forced the separatists to cast about for an extant constitution readily adaptable to their peculiar situation. They discovered this document in the Pennsylvania Constitution of 1776.

The January 15 convention at Windsor had delegated

Jonas Fay, Thomas Chittenden, Heman Allen, and Reuben Jones to journey to Philadelphia to present the petition and remonstrance to the Continental Congress declaring New Connecticut³ to be a separate and independent state.⁴ Working in conjunction with Dr. Thomas Young, they sought the acceptance of Vermont into the Union as the fourteenth state. At this time Dr. Young recommended to the Vermont petitioners " . . . the Constitution of Pennsylvania for a model, which, with very little alteration, will, in my opinion [Dr. Young's] come as near perfection as any thing yet concerted by mankind."⁵ This constitution was forwarded to Vermont.

Unfortunately a copy of the Pennsylvania Constitution was the only tangible asset that the separatists secured at Philadelphia. Dr. Young appears to have been the separatists' most vehement ally at the Continental Congress. While never an official member of the Congress, Young had been long

³New Connecticut was discarded when it was discovered that a tract of land in the Susquehanna Valley had been previously so-named. At the suggestion of Dr. Thomas Young the name Vermont, a bastardization of the French "Verde Mont," was adopted. Governor and Council, E. P. Walton ed., Vol. I, p. 397.

⁴Petition and Remonstrance to the Continental Congress, January 15, 1777, in Vermont State Papers, W. Slade ed., p. 73.

⁵Letter from Dr. Thomas Young to the Vermont Council of Safety, April 11, 1777, in Governor and Council, E. P. Walton ed., p. 395.

associated with the radical faction in Pennsylvania. A number of his cohorts were members of Congress.⁶ Dr. Young and the Vermont envoys could generally rely upon the support of the New England delegates (excluding New Hampshire's) in the Congress. Most New Englanders endorsed Vermont's bid for statehood for two reasons. The first was based upon an ancient animosity for New York stemming from controversies over the western borders of Connecticut and Massachusetts. The Vermont-New York dispute was but an extension northward of this original boundary question. The New England delegates also felt that added advantage for their region might be gained in Congress if Congressional delegates from Vermont were added to their ranks.⁷

Unfortunately, Dr. Young lacked the stature to act as a nucleus around which Vermont supporters could organize. A recent historian of Pennsylvania characterizes Young as being an ultra-radical who had previously been compelled by public pressure to leave three colonies: Massachusetts, Rhode Island, and New York. His close friendship with Samuel Adams alienated him from most conservatives, and his belief

⁶ David Hawke, In the Midst of Revolution (Philadelphia: University of Pennsylvania Press, 1961), p. 104.

⁷ Lynn Montross, The Reluctant Rebels (New York: Harper & Brothers Publishers, 1950), p. 331 citing Letters of James Madison, Vol. VII, p. 340.

in Deism antagonized the more religiously orthodox members of Congress.⁸

While championing the separatists' cause, Dr. Young addressed an open letter to the residents of Vermont. In this letter Dr. Young stated:

I have taken the minds of several leading members in the Honorable the Continental Congress, and can assure you that you have nothing to do but send attested copies of the Recommendation to take up government to every township in your district, and invite all your freeholders and inhabitants to meet in their respective townships and choose members for a General Convention, to meet at an early day, to choose Delegates for the General Congress, a Committee of Safety, and to form a Constitution for your State . . . Indeed, They [the Continental Congress] can by no means refuse you. You have as good a right to choose how you will be governed, and by whom, as they had.⁹

This letter, while designed to drum up support in Vermont for the political split with New York, actually cost the cause of separatism a great deal of support at Philadelphia. On June 23, 1777, James Duane presented a copy of this letter to the Congressional sub-committee studying the Vermont-New York dispute.¹⁰ It was unfavorably received by the

⁸D. Hawke, In the Midst of Revolution, pp. 104-105.

⁹Open letter from Dr. Thomas Young to the people of Vermont, April 11, 1777 in Governor and Council, E. P. Walton ed., Vol. I, p. 235.

¹⁰Statement in "State of the Evidence and Arguments in Support of the Territorial Rights and Jurisdiction of New York" by James Duane in Collections of the New York Historical Society for the year 1871, New York Historical Society ed., p. 30.

sub-committee which felt that Dr. Young had distorted the Congressional position to the people of Vermont.

New York's argument, ably defended by James Duane and reinforced by strongly-worded letters from A. Ten Broeck, President of the New York Convention, and Pierre Van Cortlandt, President of the New York Council of Safety, may have been sufficient to counter Vermont's Petition and Remonstrance.¹¹ James Duane felt that the introduction of Dr. Young's letter would insure the defeat of the separatists at Congress. Apparently he was correct, for on June 30, 1777, the Continental Congress resolved that:

The petition " . . . that the district . . . described, may be ranked among the free and independent States; and that delegates therefrom may be admitted to seats in Congress." be dismissed.¹²

In addition, Congress officially rebuked Dr. Young in writing for misrepresenting the sentiment of Congress concerning the admission of Vermont as the fourteenth State.¹³

While Vermont was to continue to seek admission into the Union, this early refusal by Congress marked her last

¹¹Letters by A. Ten Broeck (March 1, 1777) and Pierre Van Cortlandt (May 28, 1777) to John Hancock, President of the Continental Congress in Vermont State Papers, W. Slade ed., pp. 75, 77-78.

¹²Resolution of the Continental Congress, June 30, 1777, in Ibid., p. 78.

¹³Ibid.

attempt to do so as an unorganized State. As the separatists organized their governmental institutions and stabilized the internal disputes, their power to bargain with Congress increased, and their demand for statehood grew steadily stronger. Time was on the side of the Vermonters. Statehood, while still desirable, was no longer a vital necessity for the survival of Vermont as a viable political unit.

The problem of pacifying the population still remained. New York did not neglect to insure that the resolutions of Congress were distributed in Vermont. James Clay, Chairman of the General Committee of the County of Cumberland, was ordered by the New York Provincial Congress to deliver copies of the Congressional resolutions to all the towns in Cumberland County. Much to the chagrin of the Vermont separatists who ordered his arrest, Clay was successful in fulfilling his orders before he was arrested.¹⁴

News of the adverse resolutions issued by the Continental Congress probably did not arrive in Vermont until after the Constitutional Convention called for July 2, 1777, convened. It is unlikely that the news greatly effected the drafting and initial acceptance of the constitution. Congressional approval for separation would have been desirable,

¹⁴James Benjamin Wilbur, Ira Allen, Founder of Vermont, 1751-1814 (Boston and New York: Houghton Mifflin Co., 1928), Vol. I, p. 107.

but was not a necessity. The separatists were determined to organize an independent state, even if it had to operate as a sovereign nation. Therefore, the Constitutional Convention continued to deliberate in spite of the congressional resolutions.

The exact number of delegates attending the Convention is unknown. The pending invasion by General Burgoyne may have limited the number of towns represented, especially from the Lake Champlain Valley. The recent congressional resolutions concerning Vermont may have reduced the ardor of some of the less-dedicated separatists. The number in attendance was probably small. The Bennington faction was undoubtedly well-represented. It is known that several other towns answered the call for constitutional delegates. In Springfield, located in the Connecticut River Valley, the town meeting warned:

. . . that the people of Lawful age should vote Lt. Chase, Col. Marsnet and William Lockwood to go to Windsor to form a constitution and moves that the committee be intrusted to give warrants to these men it passes in the affirmative.¹⁵

How many other town committees followed Springfield's example is unknown.

The meeting in Windsor represented some of the most influential men in the area. One of the most prominent men

¹⁵Minutes of Springfield town meeting, June 22, 1777, in Vermont State Archives, Town Record File. (Microfilm)

in the East, General Jacob Bayley, was expressly requested to attend by Thomas Chittenden. General Bayley had formerly held an important New York office in Vermont and on various occasions had written to Governor Clinton declaring his firm loyalty to New York.¹⁶ However, when the New York Constitution was adopted on May 8, 1777, General Bayley received it with disenchantment. In a letter addressed to the New York Assembly Bayley made the following statement:

. . . I am happy to think that our people the Vermonters will not choose to sit in the State of New York. The people before they saw your constitution were not willing to trouble themselves with a separation from New York, but now, almost to a man, are violently for it.¹⁷

General Bayley, as Commander in Chief of the militia forces in the Connecticut River Valley, was in a position to influence a large segment of the population. Realizing the benefits that might accrue from his presence at Windsor, Thomas Chittenden wisely asked him to attend.¹⁸

The New York Constitution which General Bayley and the majority of the Vermonters found so repugnant actually gave

¹⁶Bernard Mason, The Road to Independence, The Revolutionary Movement in New York, 1773-1777 (Lexington: University of Kentucky Press, 1966), p. 116.

¹⁷Frederic P. Wells, History of Newbury, Vermont (St. Johnsbury, Vt.: The Caledonia Co., 1902), p. 109 citing letter from General Jacob Bayley to the New York Assembly, June 14, 1777.

¹⁸Ibid., pp. 108-110.

Vermont an equitable voice in the New York government. The New York Counties in Vermont, Charlotte, Cumberland, and Gloucester, were to be allocated three representatives in the Assembly out of a full membership of seventy. They were allocated three senators out of a total membership of twenty-four in the Senate. A larger representation would have vastly over-emphasized Vermont's population in 1777. The property qualification for suffrage of owned land of the value of 20 pounds or rented land exceeding the value of 40 shillings would not have disfranchised many Vermont voters. This provision was leveled at the tenant farmers on the large landed estates in New York proper. Most Vermonsters, providing their land titles were validated by New York, would have been qualified as landowning voters.¹⁹

Vermonters appeared most frightened about the Executive branch as provided in the New York Constitution. This branch, which was to be firmly under the control of the landed aristocracy, was assigned considerable political power. The Governor, elected for a term of three years, was granted a conditional veto over legislation. Voting in committee with either two Supreme Court judges or one judge and

¹⁹Articles IV, XII, and VII of the New York Constitution of 1777 in Benjamin Perley Poore ed., The Federal and State Constitutions, Colonial Charters and other Organic Laws of the United States (Washington: Government Printing Office, 1877), Vol. II, pp. 1333-4.

the Chancellor, the governor could veto legislative bills. He also was authorized to prorogue the legislature for a period not to exceed sixty days.²⁰

The still considerable powers of the executive arm of the New York government caused general apprehension among the Vermonters. However, two articles of the New York Constitution had a particularly obnoxious effect upon them. In two major areas of contention, the appointment of county officials and the affirmation of land titles, New York failed to make an adjustment. Her policy remained basically the same as it had been prior to the outbreak of war with Great Britain.²¹ All important county officials, including the members of the judicial branch and the county sheriffs, were to be appointed by a commission composed of the governor and four senators. Appointed local officials, specifically Judge Chandler of the Cumberland County Court of Common Pleas, had been responsible for the Westminster riots of 1775. The Westminster Resolutions of 1775 had been directed against appointed county officials. These Resolutions had been the one instance of unified rebellion against New York in the Connecticut River Valley prior to the Revolutionary War. New York, in perpetuating the appointment of county officials,

²⁰Articles III and XVIII in Ibid., pp. 1332, 1335.

²¹Articles XXVI and XXXVI in Ibid., pp. 1336, 1338.

assured opposition of the Easterners.

In the West, the main dispute prior to the Revolutionary War had been the reluctance of New York to recognize the land grants made by New Hampshire. These grants conflicted with patents issued by New York. In the 1777 Constitution New York re-affirmed all the land titles it had granted before the War for Independence. In doing so, New York demonstrated an inability to compromise with the Bennington land speculators who were the main motivating factor behind the separatist movement. New York's intransigence to compromise on issues vital to the interests of Vermont cost her virtually all her support in her eastern-most counties.

With the publication of the New York Constitution and its obvious adverse effect in Vermont the separatists were given a good indication of the type of government the people desired. With this advantage, the appointed constitutional delegates met at Windsor on July 2, 1777. While minutes of the Constitutional Convention have never been found and no participant has ever given a fully enlightening account of the proceedings, certain occurrences are known to have taken place. The delegates were first subjected to a two-hour sermon by Reverend Aaron Hutchinson. By his own admission Reverend Hutchinson was somewhat overawed by the quality of the men gathered and did not fully complete the point he wished to carry in his sermon. Having second thoughts at a

later date, he found it necessary to publish a revised version of the sermon. By the tone of the apology preceeding the printed sermon, it would appear that Reverend Hutchinson's ego was injured by his previous poor performance.²²

Reverend Hutchinson was representative of the clergy in Vermont. The First Estate, as in most states, enjoyed considerable influence in political affairs. While several different sects appear to have been practicing in Vermont in 1777, the Congregationalists and Presbyterians were dominant. In his sermon Reverend Hutchinson called upon the legislative and executive powers of the state " . . . to put restraints upon an open contempt of God and all religion, blaspheming and taking of his tremendous name in vain."²³ He later called for religious freedom.

. . . And you may be assured, they, [Presbyterian] ministers and all others of every denomination, will take it very hard, if, in a state wherein all others have their rights secured, they may not be as safe in their office as under the dominion of Britain.²⁴

²²Aaron Hutchinson, A Well-Tempered Self-love, A Rule of Conduct towards others: A Sermon preached at Windsor, July 2, 1777, Before the Representatives of the Towns in the Counties of Charlotte, Cumberland, and Gloucester, for the forming of the State of Vermont, (Vol. V of American Bibliography, C. Evans ed.), Preface to sermon.

²³Ibid., p. 38.

²⁴Ibid., p. 39.

When speaking of every denomination, Hutchinson undoubtedly meant every Protestant sect. Canada, with her large Catholic majority, was immediately beyond the Vermont border and posed an imagined, if not real, threat to Vermont Protestantism. The Constitution was heavily weighted against other than Protestant religions. Article III of the Vermont Bill of Rights insured religious freedom for Protestants only and the oath of office for the assembly required members to profess the Protestant religion.²⁵ However, no single religious sect was sponsored by the state.

After Reverend Hutchinson's prolonged sermon, the Delegates proceeded with the task of discussing the new Constitution and resolving other pressing matters. While the delegates met from July 2 to July 8, they appear to have considered the Constitution as the last order of business. On the evening of July 8, news of the evacuation of Fort Ticonderoga was received and the constitutional delegates, being much alarmed, immediately moved to adjourn the convention without a final reading and vote on the Constitution. Fortunately, a severe thunderstorm arose and forced the delegates to forestall their departure. The Constitution

²⁵Article III of the Bill of Rights, Sections VIII and XLI of the Vermont Constitution, in B. P. Poole ed., The Federal and State Constitutions, Vol. II, pp. 1859-1865.

was given a final review and accepted.²⁶

As may be expected, the Vermont Constitution differed drastically from the New York Constitution. With few exceptions, it was a direct copy of the Pennsylvania Constitution of 1776 recommended by Dr. Young. Most historians consider the Pennsylvania Constitution of 1776 to be the most liberal of all the state constitutions drafted after the American Declaration of Independence. The alterations that the Vermonters instituted were designed to give it an even more liberalizing nature. Adult slavery was expressly prohibited. The governor was allocated only limited power. He was elected for a term of only one year and was seated in conjunction with twelve elected members of the council. This body represented the function of the senate in most other states. The governor acted more as the chairman of the council than as the supreme executive authority. The governor and council did not possess the executive veto nor did they hold the right to prorogue the legislature. Most political power was concentrated in the house of representatives whose members were elected by the town meetings for a term of one year. All county officers, including judges and sheriffs,

²⁶Ira Allen, The Natural and Political History of the State of Vermont (Vol. VII of A Dictionary of Books relating to America, Joseph Sabin ed., 20 vols. New York: Joseph Sabin, 84 Nassau Street, 1867-70), p. 383.

were elected annually by the people. Universal adult manhood suffrage was specifically provided for in Article VI of the Constitution.²⁷

In addition, a Preamble composed by Ira Allen was attached. New York was clearly indicted as being the arch-enemy of Vermont. Of the ten articles of the Preamble, only the first was directed against Great Britain. The remaining nine were leveled against New York and again enumerated the arguments against the continuation of New York government in Vermont.²⁸

While the Constitutional Convention responded to the desire of the people for a liberal constitution, the people's acceptance was by no means assured. Elections for the political offices had been provided for at the July meeting. These elections, which were to have taken place in December of 1777, were the crucial test of the Constitution. At this time, the Constitution would have to endure the scrutiny of the people. The failure of the town meeting to elect representatives in the December elections would amount to a repudiation of the separatists' Constitution.

Unfortunately, events between the time of the

²⁷Article I of the Vermont Bill of Rights, Sections II, III, VI, XVIII, XXVII of the Constitution of 1777, in B. P. Poole ed., The Federal and State Constitutions, Vol. II, pp. 1859, 1861, 1864.

²⁸Ibid., pp. 1857-1858.

Constitutional Convention and the December elections proved unfavorable for the initiation of the Constitution. The war had physically entered the borders of Vermont with the invasion of General John Burgoyne. The exposure of Vermont to Burgoyne's hordes of Indians brought about a reconsideration of the disadvantages of the solitude of a sovereign State. The resolutions of the Continental Congress had had ample time to disperse within Vermont, and New York, after years of indifferent opposition, had mounted an organized offensive against the adoption of the new Constitution. The speculators had drafted a Constitution which was agreeable to the people; yet opportune circumstances for its acceptance were lacking. Acceptance of their Constitution was the most serious problem confronting the separatists in the latter part of 1777 and 1778. A noticeable improvement in conditions was necessary for the speculators to feel that they could present the Constitution to the people with a reasonable hope for implementation.

CHAPTER IV

IMPLEMENTATION OF THE CONSTITUTION OF 1777

While the Bennington speculators could be reasonably certain that they had drafted a state constitution which would please the people, they were by no means sure that they would be able to implement it. Events occurring immediately after the constitutional convention at Windsor created circumstances which rendered inauguration of government under the new constitution exceedingly doubtful.

Of immediate concern was the invasion of Vermont by General John Burgoyne. The British intrusion had a two-fold effect. First, it so completely disrupted Vermont internally that its people had to devote full attention to matters of defense and ignore problems of implementing the constitution. Second, invasion made Vermont's inhabitants more aware of certain disadvantages accompanying a separation from New York. The most important of these disadvantages was the danger to Vermont of the withholding of New York's military protection.

The feeling of vulnerability and isolation increased after the resolutions of the Continental Congress had time to circulate within Vermont. Despite efforts by the separatists to inhibit the distribution of copies of the

unfavorable resolutions, New York was partially, if not totally, successful in informing the Vermonters of the Congress' sentiment. With knowledge of the congressional resolutions of June 30, 1777, awareness of the possible isolation of Vermont increased and sentiment for separation ebbed. Only a reasonable sense of security from invasion could renew desire for independence.

The effort by New York to disseminate the congressional resolutions was only a facet of the Yorker attempt to thwart the implementation of the Vermont constitution. Previous efforts by New York to foil the separatist movement had been carried out only sporadically. With the serious threat of actual secession, New York resumed interest in countering the separatists. New York opposition to the designs of the Bennington faction, both within Vermont and from New York, became increasingly active.

It was necessary to overcome these obstacles before the speculators could comfortably present their constitution to the people. The latter half of 1777 did not offer the opportunity. However, the year of 1778 was to find the circumstances much more favorable for implementation and was to see the erection of a functioning Vermont government.

News of General John Burgoyne's march and the American evacuation of Fort Ticonderoga had nearly disrupted the Constitutional Convention session of July 2-8, 1777. The

alarm expressed by the delegates at Windsor was representative of the general panic sweeping Vermont. Internally, Vermont was completely disrupted by the British invasion. The invasion route was through western Vermont, and all towns west of the Green Mountains and north of Manchester were evacuated.¹ The threat of English and Indian incursions into the Connecticut River Valley was of serious concern.

Fortunately, General Burgoyne had completely alienated the Vermonters by demanding in a proclamation that they either surrender or face the wrath of his Indian allies. This ultimatum had the effect of forcing the Vermonters to make the choice between Tory and Whig. Most became Whigs. After the capture of Fort Ticonderoga by Ethan Allen in the early stages of the Revolution, Vermont had offered only meager aid to the patriot's cause. When the war was fought far from their borders, Vermonters tended to lose interest in supporting the American cause. However, at Hubbardston and later at Bennington, detached elements of Burgoyne's forces met unexpected sharp resistance.² When their homes were directly threatened, the Vermonters proved to be tenacious fighters.

¹I. Allen, The Natural and Political History of the State of Vermont, p. 388. (Microcard.)

²Ibid., p. 389. (Microcard.)

The full attention devoted to repelling Burgoyne did not create conditions conducive for the implementation of the separatists' constitution. However, the invasion had more far reaching effects for the separatists than merely their preoccupation with the protection of Vermont's borders. The invasion had created a new awareness among the inhabitants of the disadvantages incorporated in the separation from New York during wartime. Embracing the Vermont constitution increased the possibility of having to stand alone against the British threat from Canada.

The feeling of vulnerable isolation was made even more evident when General Philip Schuyler, a native of New York and the commander of American forces in northern New York, attempted to commandeer a regiment of New Hampshire troops which had been raised by General John Stark for the specific purpose of aiding Vermont.³ Fortunately, General Stark refused to obey General Schuyler's order to join him, and he employed his forces with great effect at the battle of Bennington. The fact remained, however, that military help from New York and the Continental Congress might not be forthcoming if the Vermont constitution was implemented.⁴

³Reply from New Hampshire to request from Vermont for military aid, July 19, 1777, in H. B. Dawson ed., Historical Magazine, Vol. II, p. 226.

⁴I. Allen, Political and Civil History of the State of Vermont, p. 384. (Microfilmed.)

Therefore, the publication and distribution of the Constitution of 1777 in December of that year would have aroused disapproval within the state. Consequently, the proponents of the constitution thought better of attempting to hold elections in December. Thomas Chittenden, Chairman of the Council of Safety, later issued a proclamation dated February 6, 1778, stating that the general convention of Vermont, meeting December 20, 1777, had agreed to postpone the general elections scheduled for that month. He listed reasons based upon the unsettled condition of Vermont due to Burgoyne's invasion and the fact that the constitution had not been published and distributed prior to the day of election.⁵ This proclamation was for public consumption only.

It did not specify the actual reasons for the delay of elections. Ira Allen, in his history of Vermont, states that:

. . . had the Constitution been submitted to the consideration of the people . . . , it is doubtful whether a majority would have confirmed it, considering the resolutions of Congress, and their influence at that time, as well as the intrigues and expense of the provincial congress of New York, who endeavored to divide and subdivide the people.⁶

⁵B. H. Hall, History of Eastern Vermont, pp. 295-296.

⁶I. Allen, Political and Civil History of the State of Vermont, pp. 391-393. (Microcard.)

Organized opposition to the proposed state had originated at Brattleboro in July 1777 when representatives from six towns in southeastern Vermont had met to condemn the separatists' Declaration of Independence. From this meeting was issued a report declaring that:

. . . we [the New York supporters] entirely disapprove of the proceedings of the late convention at Windsor, and of all persons whatever acting under authority of said convention, and that we will, at all times, do our best endeavour to support the legal authority of New York in the county.⁷

This report was presented to the New York Council of Safety by Colonel Eleazer Patterson on July 15, 1777.

New York responded to this report by immediately ordering that printed copies of Congress' resolutions of June 30, 1777 be sent to James Clay in Cumberland County with the instructions that they be distributed throughout the county:

. . . in such manner as will most effectively convey to the inhabitants . . . the Disapprobation of the Honorable Continental Congress, of the Illegal Preceding of their pretended Convention.⁸

It was anticipated that the dissemination of the congressional resolutions would make the Vermonters realize their possible

⁷Mary R. Cabot ed., Annals of Brattleboro, 1681-1895 (Brattleboro, Vt.: Press of E. C. Hildreth & Co., 1921), p. 40.

⁸Orders to James Clay from New York Provincial Congress, July 17, 1777, in Governor and Council, E. P. Walton (ed.), Vol. I, p. 397.

military isolation, for at this time Burgoyne was marching through Vermont.

Apparently the separatists had foreseen opposition from the Cumberland County general convention. James Clay was ordered arrested. At his trial, Clay was accused of attempting to call a New York county committee into session ". . . contrary to their [the separatists] Resolves of June last." While it was not recorded in the convention minutes, the Westminster convention issuing the Vermont Declaration of Independence must have forbidden the county committees of New York to meet in Vermont.⁹

The New York conventions for Charlotte, Cumberland and Gloucester counties probably did not meet openly after September 2, 1777, the date of the last recorded county meeting.¹⁰ Pressure from the supporters of the new state was great. However, the New York sympathizers did meet secretly. On February 16, 1778, Governor George Clinton presented a number of papers from New Yorkers in Vermont to the New York Legislature asking that New York take direct action against the separatists.¹¹

⁹Report of his arrest by James Clay to the New York Provincial Congress, August 16, 1777 in Ibid., p. 399.

¹⁰Minutes of the Cumberland County Committee, September 15, 1777 in Ibid., p. 367.

¹¹Letter from Governor George Clinton to the New York Legislature, February 16, 1778 in Public Papers of George Clinton, published by the State of New York, Vol. II, p. 721, doc. no. 1054.

Governor Clinton answered the Yorkers' request for help by issuing a proclamation again enumerating the Continental Congress' resolutions and asking that the New York counties in Vermont send representatives to the newly formed New York assembly. He also asked for signed petitions from the individual towns in the counties to buttress a request for a more forceful stand by Congress against the Vermont interlopers.¹² The distribution of this proclamation was timed to coincide with the March 3 general election. The Vermont separatists did everything within their power to stifle this proclamation. Particularly damaging to their cause was the renewal of the issue of Congress' disapproval. That they were successful in suppressing Governor Clinton's proclamation is attested to by Colonel John Williams, an aspirant to a New York County Magistracy. On May 4, 1778, Colonel Williams requested that Governor Clinton again circulate his proclamations as they ". . . had been Secreted or kept from the Inhabitants in General in such manner as they have not been made acquainted with them."¹³

¹²Petition from New York supporters in Halifax, Vermont to Governor George Clinton, March 10, 1778 in Ibid., Vol. III, pp. 16-17, doc. no. 1161.

¹³Letter from Colonel John Williams to Governor George Clinton, May 4, 1778 in Ibid., Vol. III, pp. 262-264, doc. no. 1355.

The elections for the offices of the new state were held as planned on the first Tuesday of March 1778. The people were not given the opportunity to ratify or reject the constitution. Ira Allen states in his history of Vermont that "The difficulty was to establish the Constitution without the voice of the people, further than was vested in the [Constitutional] Convention by their credentials."¹⁴ The separatists correctly surmised that at the time of the election there would be one or more individuals in each town who desired to be a candidate for political office within the governmental structure of Vermont. It was in the interest of these political aspirants to insure that their fellow townsmen elected to send delegates to the new state during the town meeting.¹⁵

The Vermont constitution appears to have been received with enthusiasm in most towns outside of the New York stronghold of Cumberland County. Several towns within Cumberland County took strong action against it. The Putney town meeting voted on May 12, 1778, to send James Clay and Deacon Samuel Minott to meet with representatives from Hinsdale, Guilford, Brattleboro, Westminster, and Rockingham" . . .

¹⁴I. Allen, Political and Civil History of the State of Vermont, p. 392. (Microcard.)

¹⁵Ibid., p. 393. (Microcard.)

to consult for the good of the state of New York against the protened [protended?] State of Vermont."¹⁶ Vermont influence in these towns was weak until March 25, 1779, when Ethan Allen, recently freed from British captivity, arrested the leaders of the New York opposition in Guilford and intimidated the Yorker leaders in the other New York-oriented towns.¹⁷

Halifax probably was typical of the towns east of the Green Mountains in Cumberland County. On March 3, 1778, the town meeting " . . . put to a vote whether the town would Except [accept] the Constitution of the State of Vermont. It passed in the affirmative."¹⁸ This faction decided to send delegates to the Vermont general assembly. On March 10, 1778, another faction of Halifax's citizens sent a petition containing the signatures of forty-six freeholders to New York in answer to Governor Clinton's proclamation. They reaffirmed their allegiance to New York and thanked Governor Clinton for his efforts on their behalf.¹⁹ Obviously, this

¹⁶Minutes of Putney town meeting, May 12, 1778, in Vermont State Archives, Town Record File. (Microfilm.)

¹⁷Report of Ethan Allen's actions by Samuel Minott to Governor George Clinton, May 25, 1779, in Governor and Council, E. P. Walton, ed., Vol. I, p. 518.

¹⁸Minutes of Halifax town meeting, March 3, 1778 in Vermont State Archives, Town Record File. (Microfilm.)

¹⁹Petition from New York supporters in Halifax to Governor George Clinton, March 10, 1778 in Public Papers of George Clinton, published by the State of New York, Vol. III, pp. 16-17, doc. no. 1161.

segment of Halifax's population did not elect to accept the Vermont constitution.

Halifax's division was not evident in townships outside of the New York stronghold of Cumberland County. In the northern portions of the Connecticut River Valley and west of the Green Mountains the constitution was greeted with widespread approval. The fear of invasion had subsided substantially with the defeat of General Burgoyne and the negotiation of the French Alliance. The separatist leaders had had greater success in suppressing or explaining away the New York proclamations in these areas than in Cumberland County. The liberality of the Vermont constitution was so popular that sixteen New Hampshire towns in the Connecticut River Valley petitioned Vermont to accept them within the state.²⁰

With the success of the March elections, the implementation of the Vermont constitution was complete. Vermont was provided with a functioning statewide government. Opposition from New York sympathizers, particularly in Cumberland County, was to erupt periodically, but the return of Ethan Allen and his vigilant tactics successfully restrained any serious dissension. New York was to oppose Vermont for

²⁰Including the townships of Cornish, Lebanon, Enfield, Dresden, Canaan, Cardigan, Lime, Orford, Piermont, Haverhill, Bath, Lyman, Guntherwite, Apthorpe, Landoff, and Morristown, as listed in the minutes of Vermont General Assembly, June 11, 1778 in H. B. Dawson, ed., Historical Magazine, Vol. II, pp. 294-295.

a good deal longer and, on occasion, even asked the Continental Congress for armed aid in re-establishing control in her former eastern counties.²¹ However, her opposition had little effect upon the functioning, and avowedly independent, Vermont government. The Continental Congress issued several further resolutions condemning the Vermont secession, yet, did not actively enforce its demands that Vermont return to the jurisdiction of New York. The war shifted to the central and southern states and Vermont, through her own efforts, was able to remain relatively free from British intervention from Canada.

Surprisingly, the only serious threat to the security of the newly established government arose from the popularity of its constitution. The desire of the sixteen towns east of the Connecticut River to join Vermont aroused bitter controversy within the state. The towns in the Connecticut River Valley adjacent to the New Hampshire towns generally supported their bid for admission into Vermont. The speculators, fearful of active intervention from the Continental Congress if New Hampshire's territory was infringed upon, opposed the union. However, Vermont, with a functioning

²¹Letter from Governor George Clinton to John Jay, President of the Continental Congress, May 29, 1779, in Governor and Council, E. P. Walton, ed., Vol. I, pp. 519-520.

statewide political system was to remain solvent and actually grow in wealth and population before it entered the Union in 1791.

CHAPTER V

SUMMARY AND CONCLUSIONS

In summary it can be said that the Vermont land speculators initially found their main support for separation from New York west of the Green Mountains where a movement opposing the establishment of New York government had been started at an early date. The small farmers here generally opposed New York government for economic, political, and social reasons.

Economically, the small settlers, much like the larger land speculators, could not pay the retitling fees necessary to transfer their land from New Hampshire title to a New York patent. Also of concern financially was the potential necessity of paying annual New York quitrents, an inconvenience not enforced by New Hampshire.

Politically, most western Vermonters found the framework of New York government offensive. The majority of Vermont's inhabitants had migrated from the lower three New England colonies and were more familiar with the democratic New England town governments. New York's system of county governments with a multitude of appointed local officials was much less democratic. The Vermonters often found themselves in opposition to it.

Socially, Vermonters were critical of the New York patroon system. This system was based upon a well-defined aristocracy owning large tracts of land which were parceled out to lower-class tenant farmers. The New England preference and practice was the less stratified and more democratic private ownership of land at all levels of society.

The American Revolution offered the opportunity for the land speculators to establish a new state. Their paramilitary organization, the Green Mountain Boys, and its political component, the Bennington Council of Safety, provided the only organized government west of the Green Mountains.

Through a series of general conventions, the Dorset conventions of July 26, 1775, January 16, 1776, June 24, 1776, and September 25, 1776, the separatist movement was organized and support was solicited. By the time of the last Dorset convention, the separatist element was firmly in control west of the Green Mountains.

East of the Green Mountains where the population was densest, the speculators met the most opposition to separation from New York. Initially, the vast majority of Vermonters in the Connecticut River Valley favored retaining political ties with New York. New York counties had been operating in the east since 1767. As the land was much better suited to farming and the area had been the first to be settled, the

eastside had risen above the purely subsistence type of economy of the west. Most towns in the Connecticut River Valley had substituted a New York title for their original New Hampshire town charter. Land patents east of the Green Mountains had not been granted by New York. Consequently, conflicting land claims, very prevalent in the west, were not existent in the east. In addition, the Connecticut River Valley was far from the center of New York government at Albany and probably felt that it had little to fear from New York domination.

The so-called Westminster Massacre and the following Westminster convention of April 11, 1775, demonstrated the fact that there was opposition to New York government in the Connecticut River Valley. However, the vast majority of the eastsiders desired to maintain their political connection with New York. The uncertainties of the American Revolution and the very real threat of invasion from Canada tended to strengthen political ties with New York.

The Westminster convention of October 30, 1776, marked the shift of emphasis in the movement towards separation from the west to the Connecticut River Valley. The settlements in the west were firmly under the control of the speculators. However, without the support of the heavily populated east, the separatist movement was doomed to failure. Two general conventions, the Westminster conventions of October 30, 1776,

and January 15, 1777, provided a nucleus around which eastern opposition to New York could form. The second Westminster meeting issued the all-important Vermont Declaration of Independence, a document to which the majority of the east-siders still did not subscribe.

The Vermont Constitution of 1777, drafted at the Windsor general convention of July 2, 1777, offered the separatists their best opportunity for gaining support in the east. The New York state constitution had been greeted with a good deal of animosity from all of Vermont. It tended to preserve the strict pre-war social structure in New York and included two articles which perpetuated the ill will between the two peoples. These articles renewed the issue of conflicting land titles, a point which the westerners were bound to oppose, and reinstated the system of appointed officials at the county level, a move which the eastsiders were firmly against.

The Vermont Constitution of 1777 was drafted with the express purpose of pleasing the Vermont population, especially in the Connecticut River Valley. It was based upon the extremely liberal Pennsylvania state constitution of 1776 with provisions added which gave it an even more egalitarian temper. The political power was firmly entrenched in the legislative branch and frequent elections insured public control of the assembly. All local political officials were

elected by their compatriots. While the Protestant religions were given preferential status, no single sect was officially sponsored by the state. The constitution provided for universal adult manhood suffrage without property qualifications.

The separatist constitution of 1777 was generally well received throughout Vermont. It embodied the egalitarian form of government lacking in the New York constitution. However, opportune circumstances had to exist before the constitution could be placed into service. During 1777, the war situation produced fears which prevented the implementation of the constitution. The fear of isolation from the remainder of New York, along with the rest of the country, was increased when General John Burgoyne invaded Vermont. Adding to this fear of military isolation were the congressional resolutions condemning the separatists' bid for statehood.

Without the feeling of general security from invasion, the separatists had little hope of implementing their constitution. By March 1778, this feeling of security had been developed. The threat of invasion seemed diminished after the American victories of 1777. The unfavorable congressional resolutions, despite New York efforts to insure their dissemination, were either withheld from the Vermont public or explained away by the separatists. The result was that 1778

provided a timely situation for implementation of the constitution; whereas its acceptance by the people four months earlier would have been improbable.

While an official ratifying process was not organized to formally approve the Vermont constitution, the people of Vermont did have the choice of either supporting the establishment of the separatists' government or continuing to endorse the existing New York political structure. Repudiation of the Vermont constitution could only come from a lack of interest in filling the elective offices. Fortunately, the constitution was greeted with a great deal of interest and was generally well-received in all of Vermont outside of the New York bastion of Cumberland County. The New York governmental structure in Vermont rapidly fell into disuse and disappeared.

With the acceptance of their constitution, the land speculators who had founded the separatist movement realized their primary objective. They had erected a functioning civil government, endorsed by the majority of the inhabitants, which was totally separate from any existing governmental system. Their goal of statehood had not been realized--they were to wait an additional thirteen years before entering the union--yet, independence from New York had been achieved.

In their quest for independence, the speculators had been able to play upon a sincere dislike and distrust of

New York political, social, and economic institutions. If the Vermont people had been satisfied with New York institutions, a separatist movement could not have found the massive support needed to bring independence. Only when it became obvious through its state constitution that New York intended to perpetuate its aristocracy dominated, pre-revolutionary institutions did the Vermont people decide to no longer acquiesce to New York government. By offering the Vermonters an extremely democratic form of government, a change from pre-war practice they apparently desired, the separatists gained their support for their movement. This political egalitarianism, unprecedented in the former colonies and achieved only at a much later date in most states, was Vermont's legacy to the United States.

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