

Vol. xxxiv No. 2

Price 1 Dollar

VERMONT *History*



April 1966

The PROCEEDINGS of the
VERMONT HISTORICAL SOCIETY



A New Look at the Ratification of the Vermont Constitution of 1777

By NATHANIEL HENDRICKS

Thus the constitution of the State of Vermont was put in force, and Bennington was the only town that objected against the constitution, for the want of a popular ratification of it. Ira Allen, *The Natural and Political History of the State of Vermont*

SOME of the traditional views on the formation of early Vermont government must be revised after a close examination of neglected town meeting records. There has been little detailed historical work on the events leading up to the Windsor convention in July 1777, and the post convention period is obscured by a statement made much later by Ira Allen in his history of Vermont. Allen claimed that the constitution was not submitted to the people, but a detailed examination of the actual town meeting records suggests otherwise.

Let us for a moment consider the long series of Vermont historians who have held to Allen's views. William Slade, the early nineteenth century editor of the state papers, blankly stated that the "constitution was never submitted to the people for their approbation." He followed Allen's thesis that it was not ratified due to the unsettled state of public opinion.¹ Wilbur, in his book on Allen, advanced the thesis that the constitution was put into force without a "popular ratification" because he considered it doubtful that a majority would have confirmed it and also because the influence of Congress and New York would have subdivided the people and prevented approval.² Wardner, in his history of the town of Windsor, also considered the constitution not ratified.³ Pliny H. White, writing in the *Collections* of the Vermont Historical Society on the "Adoption of the Constitution," said that the "constitu-

1. William Slade, Jr., *Vermont State Papers*, Middlebury: J. W. Copeland, 1823, 241 (note).

2. James Benjamin Wilbur, *Ira Allen: Founder of Vermont, 1751-1814*, Boston: Houghton Mifflin Company, I, 111-112.

3. H. S. Wardner, *The Birthplace of Vermont: A History of Windsor to 1781*, New York, 1927, 394.

tion went into operation without being submitted to the people for approval . . ." because he felt that its framers did not consider it "necessary or even expedient."⁴ James Q. Dealey, in the *Growth of American State Constitutions*, said that the convention adjourned "having adopted and put the constitution into operation, but without a formal referendum."⁵ These are but a few examples of the traditional theory of ratification of the Vermont Constitution of 1777 held by state constitutional historians. Although in many of the towns, records were not kept in this time of war and invasion, one can find enough material to seriously question the currently held thesis.

The constitution was not prepared and submitted to the inhabitants, until early in 1778. However, some of the Yorker towns were getting rebellious and in the middle of August, 1777, Allen wrote to the folk of Putney and neighbouring towns urging them to "content themselves until our Constitution can be printed and sent to the several towns." He said that they would then be able to compare it with that of New York to "determine whether it is best, wisest and cheapest to . . . govern themselves or pay foreigners for doing it."⁶ As the year drew to a close and the copy had not appeared, the Council of Safety wrote to Captain Bowker explaining that because of the confusion and difficulties in the northern part of the state the constitution had been prevented from being printed. The Council asked the Colonel to reconvene the old Windsor convention on December 24, for the sole purpose of adjournment until the following March.⁷ On February 6, 1778, Thomas Chittenden addressed a general letter to the inhabitants of the state. He cited the record of getting the document written and established and said that it was then printed. It would be distributed, he said, "among the inhabitants of the several towns in this state, so that it may be perused before the day of election which this council hopes will sufficiently recommend the most safe and just method of choosing the representatives to compose a general assembly." The letter went on to say that the delegates to the convention hoped and flattered themselves that their services would "meet with the approbation of their employers."⁸ Is not Thomas Chit-

4. Pliny H. White, "Adoption of the Constitution," *Collections of the Vermont Historical Society*, Montpelier, I, 55-66.

5. James Q. Dealey, *Growth of American State Constitutions*, Boston: Ginn and Co., 1915, 30.

6. Ira Allen to the Inhabitants of Putney and adjacent towns, Putney, August 15, 1777. Wilbur Library, University of Vermont. Photostat from the New York Historical Society, No. 3227.

7. Thomas Chittenden in Council to Captain Bowker, State Papers Documentary Historical and other materials, Box 1, Secretary of State Vault, Montpelier, Transcript of Stevens Papers, No. 3, 841.

8. *Governor and Council*, Montpelier, 1873, Vol. I, 215.

tenden, as President of the Council, asking the freemen to approve the new constitution? The evidence indicates that the towns considered his letter as such a request.

The Yorker towns on both sides of the mountains were generally opposed to the formation of the new state and to the establishment of the new constitution. In Bennington the town voted on March 25, 1778 strongly in the negative for a third article in the warrant. The records do not indicate what the article was, but from the order of business in other towns, I would assume that they were rejecting the constitution and the new state. Ira Allen states in his history that Bennington alone was against the formation of the new constitution. On September 10, however, the citizens there changed their minds and chose Colonel Ebenezer Walbridge to represent them at the next session of the general assembly.⁹ On the other side of the state, in Brattleboro, the inhabitants met June 1777 and voted neither to reject nor to accept the proceedings of the preliminary constitutional convention that had been recently held in Windsor. Instead they elected a committee of five to join with other committees to develop a plan of action.¹⁰ The strong Yorker town of Guilford, refused to act when presented with the constitution. They met on March 3, 1778 according to the warrant and notification from the Council at Bennington and voted not to act according to the warrant and thereupon immediately dissolved the meeting.¹¹

A number of towns, however, did vote to accept the new constitution at their duly warned March town meetings in the spring of 1778. The town of Rockingham met on Tuesday, March 3, chose a governor, members of the Council and other officers, and then "unanimously and accepted [*sic*] of the Constitution."¹² The freemen took the oath as recommended by the constitution and their names were listed in the record. Several miles up the river in Chester, a similar meeting was taking place. There it was also put to a vote whether or not they should proceed to business under the new state and it "passed in the affirmative."¹³ In April the town met again and voted Thomas Chandler, Jr. full power on behalf of the town to make alterations in the constitution according to

9. Bennington, Vermont, *Town and Vital Records*, Deeds, Vol. AI, Mormon Microfilm of Manuscript Records, in Public Records Division, Montpelier.

10. Brattleboro, Vermont, Transcribed Records, Brattleboro, Anno Domini 1832, Vol. 1, Transcribed records in the Town Clerk's Office, Brattleboro, 104.

11. Guilford, Vermont, Manuscript Town Records, Guilford: Town Clerk's Office Book C., 24.

12. Rockingham, Vermont, *Records*, Manuscript Records in the Town Clerk's Office, Bellows Falls, I, 57 (in back of book,) sheet 234.

13. Chester [New Flamstead,] Vermont, Manuscript Town Meeting Records, Chester. Chester: Town Clerk's Office, I, 57 (but marked, 58).

the warning.¹⁴ The town of Halifax also met in March and after choosing a moderator "it was put to a vote whether the town would except [*sic*] the Constitution of the State of Vermont. It passed in the affirmative. . . ." The town then proceeded to elect two men to represent it at the general assembly. After performing this important task, the meeting then adjourned and reconvened for other business on June 16.¹⁵ The town of Marlboro, located immediately north of Halifax, acknowledged Thomas Chittenden's letter of February 6 from the Council at Bennington, chose Jonathan Underwood as the moderator, took the freeman's oath as directed by the constitution, and then voted that the principles of said constitution were agreeable and "except [*sic*] said Constitution." They also voted to send Dr. Samuel King to represent them at Windsor as was directed by the constitution.¹⁶ The town of Windsor, which also met on this day, voted a moderator, adjourned the meeting to the house of Seth Smith, and then proceeded to "vote whether the people would act under the constitution, [and it was] voted in the affirmative." They then elected representatives to the next general assembly.¹⁷

The first general assembly of the new state met in the meetinghouse at Windsor on Thursday, March 12, 1778 "agreeable to the constitution." They proceeded with their business of choosing a speaker and a committee of twelve to direct the voting for governor and other officers. The President of the Council of Safety, Colonel Thomas Chittenden, was elected governor.¹⁸ The government of a new republic was operating.

To conclude, we may say with a great deal of certainty that the constitution of the new state was indeed submitted to the people for their approval at the regular town meetings held in the spring of 1778. Bennington was alone in a categorical rejection, but later agreed to send representatives to the general assembly. Brattleboro, another Yorker town had straddled the fence the previous June regarding the election of delegates to the constitutional convention, and Guilford when confronted with the document voted not to act. The towns that voted in favor of the constitution were in the Connecticut River valley from the Massachusetts line to Windsor. It must be remembered, however, that the northwestern part of the state was under siege and had been evacuated in order to escape the British troops. Halifax, Marlboro, Rocking-

14. *Ibid.*, 61.

15. Halifax, Vermont, Deeds, Town Records and Vital Records, Vol. IA., 1771-1789, Mormon Microfilm of Manuscript Records, in the Public Records Division, Montpelier, 400.

16. Marlboro, Vermont, Manuscript Town Meeting Records, Vol. I, Marlboro: Town Clerk's Office, 12.

17. Wardner, *The Birthplace of Vermont*, 425.

18. Slade, *Vermont State Papers*, (Journal of General Assembly, March 1778), 257.

ham, Chester, and Windsor all held meetings on the third day of March, voted to accept the constitution, the new form of government, and proceeded to their other business of the day. Only by going back to the original documents of this formative period can we approach a fuller understanding of the sequence of events. The records, therefore, would tend to suggest that the Vermont Constitution of 1777 was submitted to the people and ratified.