

Introduction to the Ratification of the Constitution in New Hampshire

Founding of New Hampshire

The first settlements that would become New Hampshire were founded in the 1620s and 1630s. New Hampshire was often joined to Massachusetts until the two colonies were permanently separated in 1691. Both colonies, however, shared the same governor from 1698 until 1741.

Four areas of settlement developed in New Hampshire. During the seventeenth century settlement concentrated along the Atlantic coast and the basin of the Piscataqua River. In the eighteenth century, settlement expanded straddling the Merrimack River in the center of the colony, near the Connecticut River forming the western border, and lastly on the northern “frontier,” including Lake Winnepesaukee and the White Mountains. Like the other mainland British colonies, New Hampshire was governed locally with little interference from imperial authorities.

After 1741 an oligarchy under the control of the Wentworth family ruled until the outbreak of the American Revolution. Portsmouth and the southeast generally dominated the colony economically, socially, and politically. Elites in New Hampshire and throughout the colonies objected to changes in imperial policy that followed the end of the French and Indian War in 1763, which presaged the revolutionary movement in the colonies. After royal Governor John Wentworth prorogued the assembly, a provincial congress was elected and assembled in Exeter on 21 July 1774. Wentworth, who had assumed his position as royal governor in 1767, permanently left New Hampshire on 23 August 1775. The provincial congress took over some of the functions of government and appointed two delegates to attend the First Continental Congress meeting in Philadelphia.

Making a State Constitution

On 2 October 1775 New Hampshire’s delegates to the Second Continental Congress wrote to the state committee of safety suggesting that, because of the “Conv[u]l[sed] state of our Colony and the absolute Necessaty of Govermt.,” a petition should be sent to the Continental Congress requesting it to recommend that New Hampshire “take government,” that is, write a constitution.¹ No such request has been found, but New Hampshire’s delegates in the Continental Congress presented “an Instruction from the provincial Congress for the Advice of [the Continental] Congress relative to their assuming Governt.”² On 26 October, Congress appointed a five-man committee (John Rutledge, John Adams, Samuel Ward, Richard Henry Lee, and Roger Sherman) to consider New Hampshire’s instructions and report thereon.³ Congress considered the committee’s report on 3 November and resolved

¹ New Hampshire Delegates to Matthew Thornton, Chairman of the Committee of Safety, 2 October 1775, Smith, *Letters*, II, 98–99.

² Samuel Ward Diary, 18 October 1775, Smith, *Letters*, II, 200–201.

³ JCC, III, 307; and New Hampshire Delegates to William Whipple, 26 October 1775, Smith, *Letters*, II, 259.

That it be recommended to the provincial Convention of New Hampshire, to call a full and free representation of the people, and that the representatives, if they think it necessary, establish such a form of government, as, in their judgment, will best produce the happiness of the people, and most effectually secure peace and good order in the province, during the continuance of the present dispute between G Britain and the colonies.⁴

New Hampshire delegates Josiah Bartlett and John Langdon proudly sent the resolution home, saying that the unique debates in Congress over this matter “were Truly Ciceronian, the eminent Speakers, did honour to themselves and the Continent.” The resolution was carried by a “very great Majority.” The delegates regretted that the congressional resolution limited New Hampshire’s actions to “the Present Contest.” They had agreed to such a limit “to ease the minds of some few, persons, who were fearful of Independance. We tho’t it Adviseable not to oppose that part too much, for once we had taken, any sort of government, nothing but Negociation with Great Britain, can alter it.” The delegates suggested that provincial congressional leaders follow Massachusetts’ example by creating a house of representatives that would choose a council. These two bodies would rule without a governor “at Present.” The delegates rejoiced, seeing “this as a ground work of our government, and hope by the Blessing of Divine Providence, never to Return to our former Despotick state.”⁵

After receiving this recommendation the New Hampshire provincial congress notified the towns that they should elect delegates to a new provincial congress that would draft a state constitution. The new provincial congress assembled in Exeter on 21 December 1775 and began considering a constitution.

On 18 December, the town of Portsmouth elected three delegates to the new provincial congress. A week later, on 25 December, the town instructed its delegates that writing a constitution would be dangerous and should only “be entered on with the greatest caution, calmness and deliberation.” According to Portsmouth freemen,

the present times are too unsettled to admit of perfecting a form, stable and permanent; and that to attempt it now would injure us, by furnishing our enemies in Great Britain with arguments to persuade the good people there that we are aiming at independency, which we totally disavow. We should therefore prefer the government of the [provincial] Congress, till God, in his providence, shall afford us quieter times.⁶

The assembly completed its business on 5 January 1776 and adopted a constitution by a majority of almost two to one. The constitution’s preamble explained that

for the Preservation of Peace and good order, and for the Security of the Lives and Properties of the Inhabitants of this Colony, We Conceive ourselves Reduced to the Necessity of establishing A FORM OF GOVERNMENT to Continue During the Present Unhappy and Unnatural Contest with Great Britain; PROTESTING & DECLARING that

⁴ JCC, III, 319. A similar resolution was passed on 4 November for South Carolina, and then on 15 May 1776 such a resolution was addressed to all of the colonies.

⁵ Josiah Bartlett to Matthew Thornton, 3 November 1775, Frank C. Mevers, ed., *The Papers of Josiah Bartlett* (Hanover, N.H., 1979), 27–28.

⁶ Nathaniel Bouton et al., eds., *Documents and Records Relating to New Hampshire, 1623–1800* (40 vols., Concord and Manchester, N.H., 1867–1943), VII, 701–2.

we Never Sought to throw off our Dependance upon Great Britain, but felt ourselves happy under her Protection, while we Could Enjoy our Constitutional Rights and Priviledges,—And that we Shall Rejoice if Such a reconciliation between us and our Parent State can be Effected as shall be Approved by the CONTINENTAL CONGRESS in whose Prudence and Wisdom we confide.⁷

Meant to be temporary, the new constitution was short. It provided that the provincial congress “Assume the Name, Power & Authority of a house of Representatives or Assembly.” This body would elect twelve freemen to a second branch of the legislature to be called the Council. The Council would appoint a president. Approval of both houses was necessary to pass bills. All state officers, including militia generals and field officers but not clerks of the courts, should be appointed by the legislature. The judges of the courts would choose their own clerks. Money bills were to originate in the Assembly. County treasurers and recorders of deeds would be elected annually by the people in each county.⁸

An article signed by “Junius” in the *New Hampshire Gazette*, 9 January 1776, condemned the provincial congress for its premature action on 5 January, an action that would inevitably lead to “that horrid Monster Independency.” The representatives responded labeling the piece “Ignominious Scurrilous & Scandalous.”⁹ On 10 January the town of Portsmouth approved a memorial and remonstrance objecting to the new constitution on three grounds.

(1) The proposal of a formal plan of government should have been put to the people “before it was Adopted, & carried into Execution, which is *Their* Inherent right.”

(2) Such a measure was “an Open Declaration of Independency,” which the inhabitants of New Hampshire could “by no means Countenance” until they “Shall know the Sentiments of the British Nation in General.” Perceiving that New Hampshire’s inhabitants wanted independence, the British people would “be Exasperated against us and losing Sight of their former Friendship, & affection will be filled with resentment & charge us with Duplicity.”

(3) Although the provincial congress had “Intended [to act] for the General Good,” its actions would have “a Tendency to Disunite” the people of New Hampshire, which was “a most alarming Consideration as being a Circumstance which we are well Informed our Enemies Greatly Expect & would be rejoiced to hear of.”¹⁰

Portsmouth sent “circular letters to a great number of towns, expressing their fears.” Soon ten towns and some inhabitants in an eleventh town sent petitions to the provincial congress opposing the constitution. The petitions were accepted but not acted upon.¹¹

A copy of the Portsmouth objections reached the Continental Congress by mid-January 1776. Samuel Adams denounced the objections in a letter to John Adams.

⁷ *Ibid.*, VIII, 2–3. The constitution was printed as a two-page broadside in Portsmouth (Evans 14901).

⁸ Bouton, *Documents and Records*, VIII, 2–4.

⁹ *Ibid.*, VIII, 24–27.

¹⁰ *Ibid.*, VIII, 16–17.

¹¹ *Ibid.*, VIII, 66.

I have seen certain Instructions which were given by the Capital of the Colony of New Hampshire to its Delegates in their provincial convention the Spirit of which I am not altogether pleas'd with. There is one part of them at least, which I think discovers a Timidity which is unbecoming a People oppress'd and insulted as they are, and who at their own request have been advis'd & authoriz'd by Congress to set up and exercise Government in such form as they should judge most conducive to their own Happiness. It is easy to understand what they mean when they speak of "perfecting a form of Govt *stable and permanent*." They indeed explain themselves, by saying that they "*should prefer the Govt of Congress* (their provincial Convention) till quieter times." The Reason they assign for it, I fear, will be consider'd as showing a readiness to condescend to the Humours of their Enemies, and their publicly, expressly, & totally disavowing Independency either in the nation, or the *Man* who insolently & perseveringly demands the surrender of their Liberties with the Bayonet pointed at their Breasts may be construed to argue a Servility & Baseness of Soul for which Language doth not afford an Epithet. It is by indiscrete Resolutions and Publications that the Friends of America have too often given occasion to their Enemies to injure her Cause. I hope however that the Town of Portsmouth doth not in this Instance speak the Sense of that Colony. I wish, if it be not too late, that you would write your Sentiments of the Subject to our worthy Friend, Mr. L—— [John Langdon], who I suppose is now in Portsmouth. If that Colony should take a wrong Step I fear it would wholly defeat a Design which I confess, I have much at heart.¹²

A letter from Portsmouth signed "Veritas" decried the memorial and remonstrance. Portsmouth's objections, "Veritas" asserted, were approved by "a very thin meeting." "Veritas" must have defamed members of the town meeting or the town itself, for, on 12 January, a committee of the Portsmouth town meeting criticized the assertions of "Veritas" as "Utterly False, Scandalous, and Derogatory to the Honour of the Town." The committee requested that the provincial congress return the original letter "in order that the author who has been guilty of this Scandalous Falsehood, may receive the reward of his Just Demerit."¹³

Twelve provincial congress delegates signed a "Dissent & Protest" to the constitution that was entered on the journals of the House. Among their objections, the delegates stated that it was inappropriate for "so Small & Inconsiderable a Colony to take the Lead in a Matter of So great Importance." Better that New York or Virginia take the lead. Reiterating Portsmouth's second objection, they stated that the new constitution "appears to us too much like Setting up an Independency on the Mother Country."¹⁴

In response to a request from the dissenting petitioners, the New Hampshire House of Representatives, on 27 January, directed that the committee of safety send a copy of the new constitution to the Continental Congress and "Let them Know that a Number of the Members of this House Dissented to & Protested against the same; Supposing it breathed too much of the Spirit of Independence." The House of Representatives wanted "to know the judgment of the Congress thereon." Pursuant to the order, the committee of safety drafted a letter to the Continental Congress, stating that the House had experienced some turmoil on the matter of the

¹² Samuel Adams to John Adams, 15 January 1776, Smith, *Letters*, III, 93.

¹³ Bouton, *Documents and Records*, VIII, 15.

¹⁴ *Ibid.*, VIII, 14–15.

new constitution. The Congress' "determination thereon" was desired to "quiet the minds of those dissatisfied" so that "all will acquiesce therein."¹⁵

On 10 February 1776, Meshech Weare, chairman of the committee of safety, sent the letter and a packet of documents concerning the constitution to New Hampshire's two delegates in the Continental Congress. Josiah Bartlett and William Whipple were to lay the documents before Congress and "endeavour to obtain their opinion thereon." The legislature expected "uneasiness will remain" until Congress responded, "which we hope will settle the dust." The delegates were told to be "assiduous in getting it decided and forwarded as soon as may be."¹⁶ Bartlett wrote to John Langdon on 5 March stating that the packet of documents had been delivered to President of Congress John Hancock. After reading and pondering the documents,

he [Hancock] asked us what was the question the Colony wanted to have put to the [Continental] Congress for their answer as he said he could not find out by reading the papers, and neither Col Whipple nor I could inform him; for the order of Congress to take up civil Govt. in such a manner as the Colony should think proper nobody can deny and that the Colony had taken up such a form as was most agreeable to majority is not disputed; that a number disliked it and protested against it is set forth, but what the Congress can say in the matter I am at a loss to guess, consistent with their constant declaration not to interfere with internal Govt of any of the Colonies, any further than to recommend to them to adopt such forms, as they shall think best calculated, to promote the quiet and peace of the Society, leaving every Colony to take such govt as is most agreeable to the majority, during the present dispute.¹⁷

Congress read the papers and committed them to a three-man committee (Benjamin Franklin, George Wythe, and Carter Braxton). Bartlett was uncertain what the committee would recommend but expressed the wish that the matter "had been kept at home."¹⁸

On 19 March 1776 the Council and Assembly issued a proclamation declaring the new constitution in force. Only officers appointed by the new government were to be obeyed. All others should be "deemed inimical to their Country." The people should thwart the enemies of the state who try "to ensnare and divide us" and were "to quell all Appearance of party Spirit, to cultivate and promote Peace, Union and good Order."¹⁹

New Hampshire and the Declaration of Independence

New Hampshire's delegates in the Continental Congress awaited the state legislature's instructions on declaring independence from Great Britain. On 11 June 1776, the New Hampshire House of Representatives appointed three members to a committee to draft formal instructions on independence. Four days later, on 15 June, the committee asserted "that our Delegates at the Continental Congress should be Instructed, and they are hereby Instructed to

¹⁵ *Ibid.*, VIII, 65–66.

¹⁶ *Ibid.*, VIII, 67.

¹⁷ Josiah Bartlett to John Langdon, 5 March 1776, Smith, *Letters*, III, 333–34.

¹⁸ *Ibid.*

¹⁹ Evans 14902.

join with the other Colonies in Declaring THE THIRTEEN UNITED COLONIES, A FREE & INDEPENDENT STATE.” The instructions were sent to Bartlett and Whipple.²⁰

The Declaration of Independence was well received in New Hampshire. In Exeter, state militia general Nathaniel Folsom reported that it will

have a happy tendency to unite us in the present glorious Struggle & by it many of the objections of wavering (tho’ perhaps otherwise well disposed) persons are entirely answered. In short, as it is the first principle of every virtuous man to keep a Conscience void of offence towards God & man, it is the second thing he has in view to make it appear to the World. By the Declaration you make it evident to the World that you are neither ashamed to own the Cause of Liberty nor afraid to defend it, And I doubt not it will be defended even against the Ultimo Ratio Regis.²¹

New Hampshire and the Articles of Confederation

On 17 November 1777, the Continental Congress sent the final version of the Articles of Confederation to the state legislatures for their ratification. On 27 December the New Hampshire House of Representatives ordered the Articles printed and “dispersed throughout this state, that every person may give their sentiment thereon.” On 24 February a committee of both houses of the state legislature considered and approved each of the thirteen articles. On 4 March the House formally approved the Articles, saying that they “shall be inviolably observed by this state.” The Council concurred at a later time.²² New Hampshire’s delegates in Congress were told that

The Confederation is lookt upon by this State as a Matter of so much Importance, and the Difficulties naturally Attending such an Union by so many States Differing in so many Circumstances rather induced the Council & Assembly [i.e., the House] to comply therewith, than an Opinion of the perfectness of the Articles agreed to by Congress.²³

Only the eighth article, relating to the apportionment of federal expenses (i.e., taxes) on the basis of land valuations, incurred opposition in the committee of both houses. Members felt that it would be difficult to estimate the value of land and buildings throughout the country in an equitable manner. If any other state recommended an alteration in the eighth article, the delegates were told that they should “join in the Motion, but if the Other States are all agreed, you will produce the [legislature’s] Resolve & agree likewise.” On 23 June 1778 the New Hampshire delegates informed Congress “That the State of New Hampshire have, in their General Assembly, agreed to the Articles of Confederation as they now stand, and have empowered their delegates to ratify the same in behalf of their state.” On 1 August 1778, Speaker of the Assembly John Langdon wrote Bartlett encouraging him to sign the Articles for New Hampshire. “For Mercy’s sake do all you can to compleat the Confederation, for on this depends every Thing.” On 9 July,

²⁰ Bouton, *Documents and Records*, VIII, 138–39, 149–50.

²¹ Nathaniel Folsom to Josiah Bartlett, 14 August 1776, Mevers, *Bartlett*, 104. The Latin expression *Ultimo Ratio Regis* means “the final argument of kings” (i.e., a resort to arms; war).

²² CDR, 96, 101–2.

²³ Josiah Bartlett to George Frost and Nathaniel Folsom, 14 March 1778, Mevers, *Bartlett*, 177.

Bartlett had signed the Articles, and John Wentworth, Jr., signed on 8 August.²⁴

New Hampshire and the Effort to Strengthen the Confederation Government

New Hampshire strongly supported amendments to the Articles that would strengthen the Confederation Congress. On 6 April 1781 the New Hampshire legislature adopted the Impost of 1781, and on 2 January 1784 it adopted the Impost of 1783. Both would have allowed Congress to levy a five percent tariff on imported goods, the revenue of which would be earmarked to pay the wartime debt. On 5 November 1784 the legislature granted Congress additional commercial powers for a limited time, and on 23 June 1785 it authorized Congress to regulate commerce. In compliance with a request from the Confederation Congress of 17 February 1783, the legislature on 20 June ordered the printing of a handbill to be sent to town selectmen to take a census of the number of white and black inhabitants in each town. The census also indicated the number of dwelling houses, barns and other buildings, and the number of acres of land. This information was needed by the Confederation Congress to allocate federal expenses among the states.²⁵ Also on 20 June 1783, the legislature ordered the printing of another handbill containing the Confederation Congress' proposed amendment to Article VIII. According to the amendment, federal expenses would be allocated proportionally among the states based on population with three-fifths of slaves being included in the tabulation. After printing Congress' reason for the proposed amendment, the legislature stated that it was "fully convinced of the Expediency and Utility of the Measure, but at the same time, wish to be instructed and impowered particularly by their Constituents in a matter of such Importance as the Alteration of an Article in the Confederation." Consequently, the legislature recommended that the selectmen call town meetings "as soon as may be . . . for the purpose of instructing and empowering their Representatives, with respect to the proposed Alteration."²⁶ New Hampshire did not adopt the amendment.

New Hampshire and the Effort to Strengthen the State Government

After independence was declared and as the war with Great Britain continued, many New Hampshire inhabitants wanted to create a more permanent state constitution. On 26 February 1778, the House of Representatives proposed the assembling of a convention "for the sole purpose of forming and laying a permanent plan or system of Government for the future Happiness and well-being of the good people of this State." A convention for preparing a plan of government was scheduled to meet in Concord on 10 June 1778. Any constitution drafted by that convention was to be printed and sent to the towns for their consideration. Three-fourths of the people of New Hampshire needed to approve any new constitution before it could be put into effect. Once in effect, any proposed constitution would "remain as a permanent system or Form of Government of the State."²⁷

On 10 June a convention met at Concord and, following several days of debate, chose a committee to draft a constitution. (The committee, according to John Langdon, was supposed to

²⁴ John Langdon to Josiah Bartlett, 1 August 1778, Mevers, *Bartlett*, 203; and CDR, 94, 124.

²⁵ Evans 18047.

²⁶ Evans 18046.

²⁷ Bouton, *Documents and Records*, VIII, 775–76.

meet on 7 July.)²⁸ After choosing a committee, the convention adjourned until June 1779. Some members of the convention and other New Hampshire inhabitants saw the necessity of creating a strong executive separate from and independent of the legislature.²⁹ Others, however, remembering the arbitrary authority of the royal governors, balked at such a move. Meshech Weare, president of the Council, noted the difficulties facing those in favor of a stronger executive: "I Am very sensible of the necessity of an Executive branch in the legislature, but Am greatly afraid we shall never Obtain it. . . . there seems to be a Strange fear that such an One would soon grow up to be a *Governor*."³⁰ Josiah Bartlett had almost despaired of getting a new constitution adopted:

it will be difficult to make any very material alterations from the present modes. Many people seem to be afraid to trust the Supreme Executive Power out of the hands of the Legislature for fear they should in time grow to be as arbitrary as a *Governor*. I think it will be some considerable time before we shall have a new government established.³¹

On 5 June 1779 the convention met, agreed to a declaration of rights and a plan of government, ordered it printed, and sent it to the towns for approval. The convention was to meet in September to count the votes. Assembling in town meetings, the freemen rejected the new constitution.³²

On 28 March 1781, the House of Representatives voted to call another constitutional convention to meet at Concord in June. On 6 April, the process for electing delegates to the convention was set. On 12 June the convention met to frame a constitution. It adjourned until September, when the constitution was submitted to the people in their town meetings for approval or amendment. When the convention reassembled on 23 January 1782, the towns had rejected the constitution and submitted recommendations for its revision. The convention then adjourned until 21 August, when it sent another plan of government to the people for their assent. On 31 December, the convention reconvened and found that the towns had again rejected the constitution and proposed additional alterations. The convention met again on 3 June 1783.

The convention was pleased to find "that every article, except those which relate to the Executive Department, is accepted by the people." The convention then proposed amendments transforming the governor into a president and the privy council into a Council. In lieu of the governor's veto power, the president was made to preside over the Senate with a vote equal to that of each senator as well as a casting vote in the case of ties. The amended constitution was again sent to the people with the hope that it "will secure, diffuse, and transmit THE BLESSINGS OF FREEDOM TO GENERATIONS YET UNBORN."³³ On 31 October 1783, the convention

²⁸ John Langdon to Josiah Bartlett, 20 June 1778, Mevers, *Bartlett*, 188.

²⁹ Josiah Bartlett to Meshech Weare, 20 July 1778, and John Langdon to Josiah Bartlett, 1 August, Mevers, *Bartlett*, 201–2, 203–4, respectively.

³⁰ Meshech Weare to Josiah Bartlett, 8 August 1778, Mevers, *Bartlett*, 206.

³¹ Josiah Bartlett to William Whipple, 3 April 1779, Mevers, *Bartlett*, 251.

³² Bouton, *Documents and Records*, IX, 833–42.

³³ *Ibid.*, 842–919; and *An Address of the Convention for Framing a Constitution of Government for the People of New-Hampshire, To the Freemen Thereof, Voted at their last Meeting, viz. on the First Tuesday of June 1783*

declared that, after examining the returns, the bill of rights and form of government “are hereby agreed on and established by the Delegates of the People, and declared to be the Civil Constitution for the State of New-Hampshire” to take effect on 2 June 1784.³⁴

The forty-seven-page printed edition of the constitution consisted of a bill of rights with thirty-eight articles.³⁵ The first article stated that “All Men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good.” Subsequent articles provided that “All men have certain natural, essential, and inherent rights” (Article II), some of which were given up in a social compact to preserve the others (III). Some rights, however, were “in their very nature unalienable,” among which were freedom of conscience and freedom of religion (IV–V). Article VI provided that, although there would be no single established church, public funds should be allocated “for the support and maintenance of public protestant teachers of piety, religion and morality.” Article VII provided that the people were sovereign and that Congress should have only “expressly delegated” powers. Magistrates were merely trustees of the people (VIII), and offices were not to be hereditary (IX).

Article X guaranteed the right of revolution “whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual.” “The doctrine of non-resistance against arbitrary power, and oppression” was declared “absurd, slavish, and destructive of the good and happiness of mankind.” Elections should always be free (XI). People were duty bound to pay taxes and take part in military service, but all taxes and any other laws had to be approved by the people or their direct representatives (XII, XXVIII). Conscientious objectors were excused from bearing arms provided they paid for substitutes (XIII). Justice should be freely available “without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws” (XIV). Articles XV through XXI provided traditional common law judicial rights, including the right to be tried by a jury of one’s peers under the law of the land. Double jeopardy was prohibited (XVI), jury trials in the vicinage were guaranteed (XVII), punishments were to be proportionate to the crime (XVIII), general warrants were prohibited (XIX), and civil cases were to be tried by juries (XX).

Freedom of the press was “to be inviolably preserved” (XXII) and ex post facto laws were prohibited (XXIII). A well-regulated militia was declared proper for the defense of the state (XXIV), while standing armies were said to be “dangerous to liberty” and not to be “kept up without the consent of the Legislature” (XXV). The military was at all times to be subordinate to the civil power (XXVI), and the quartering of troops was restricted (XXVII). The power of suspending laws was limited to the legislature or its agents (XXIX). The legislature was to meet “frequently” (XXXI), and members should possess the freedom of speech during debates (XXX). The right to assemble “in an orderly and peaceable manner” and the right to petition were guaranteed (XXXII). Excessive bail and fines and cruel and unusual punishments were prohibited (XXXIII). Civilians were not to be subject to martial law (XXXIV). Because laws should always be impartially interpreted, judges should serve during good behavior (XXXV). Government pensions were to be limited (XXXVI), and the three branches of government should always “be kept as

(Portsmouth, 1783) (Evans 18042), 2, 8.

³⁴ *A Constitution, Containing a Bill of Rights, and Form of Government* . . . (Portsmouth, 1783) (Evans 18043), 47.

³⁵ For the New Hampshire bill of rights, including the substance of the following three paragraphs, see Appendix I (RCS:N.H., 465–71n).

separate from and independent of each other, as the nature of a free government will admit” (XXXVII). Finally, “A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues” were said to be “indispensably necessary to preserve the blessings of liberty and good government” (XXXVIII).

Most of the remainder of the constitution provided for the form of government for the state of New Hampshire,³⁶ which was declared “a free, sovereign, and independent Body-Politic or State.” A bicameral General Court, or legislature, was to be composed of a Senate and a House of Representatives, which were to assemble every year on the first Wednesday of June. The legislature could create courts and make “all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant, or contrary to this Constitution.” The legislature could appoint all officers not otherwise provided by the constitution. Taxes were to be assessed on polls and estates. Assessments of the valuation of estates would take place at least every five years. The journals of both houses were to “be printed and published, immediately after every adjournment.” And upon the request of any one member, the yeas and nays should be taken and entered on the journals.

The Senate was to consist of twelve persons elected annually in March. They represented senatorial districts established by the legislature based on the proportion of taxes paid. Adult freemen who paid a poll tax were eligible to vote for senators. If no one received a majority of the vote in a senatorial district, the House of Representatives and those senators who had been elected without qualification would choose the senators unaccounted for from the candidates with the highest vote totals in each district. Senators had to be Protestants, at least thirty years old, seven years an inhabitant of the state, own freehold estates worth at least two hundred pounds, and be an inhabitant of the district from which they were chosen. The Senate could appoint its own officers and make its own rules. Seven senators were needed to attain a quorum, and whenever fewer than eight senators were present, five assents were necessary to pass measures. The Senate tried all impeachments.

The House of Representatives was to be elected annually by ballot in town meetings in March by adult men who had paid a poll tax. Representatives were to be apportioned among the towns based on the number of “rateable male polls.” Towns, parishes, or places with fewer than 150 ratable polls would be classed with larger towns in electing representatives. Representatives had to be Protestants, inhabitants of the state for at least two years, and own a freehold of at least one hundred pounds. The state treasury paid travel expenses for representatives attending sessions, while the towns paid their “wages.” The House of Representatives had the power to impeach and the power to punish individuals who disrespected the House. The House alone could originate money bills. A quorum consisted of a majority, but when fewer than two-thirds of the representatives attended, a two-thirds vote was required to pass any measure. The House would elect its speaker and other officers and make its own rules.

The supreme executive authority in the state was to be the president, who had the title “His Excellency.” Chosen annually in March, he had to be a Protestant, an inhabitant of the state for seven years, at least thirty years old, and own a freehold estate of at least five hundred pounds. Men eligible to vote for senators and representatives could vote for the president. If no one

³⁶ For excerpts from the New Hampshire constitution (1784), including the substance of the succeeding paragraphs, see Appendix I (RCS:N.H., 471–75).

received a majority vote, the House of Representatives would choose two candidates by ballot from among the top four vote recipients. The Senate would then choose by ballot between the two final candidates. The president was to preside over the Senate, have an equal vote with any other member, and have a casting vote in case of a tie. The president with the advice of the Council, the president's advisory committee, could prorogue the legislature or call special sessions. The president was to be the commander in chief of the state army and navy with the power "to train, instruct, exercise and govern the militia and navy." He could call up the militia or navy and lead them in the field in time of war or when the legislature declared that a state of rebellion existed. The president with the advice of the Council could grant pardons, except in case of conviction by the Senate on impeachment. Most civil and military officers were nominated by the president and confirmed by at least three members of the Council. No militia officer could be removed except by court martial or by address of both houses of the legislature. All appropriations of funds had to be paid by warrant of the president with the advice and consent of the Council. The president and the Council were to "be compensated for their services from time to time by such grants as the General-Court shall think reasonable." Whenever the presidency became vacant, the senior senator would assume that office until the following election.

At its first meeting of the year, the General Court by a joint ballot would choose two senators and three representatives to make up the Council. The president had the authority to convene the Council at any time. A quorum consisted of the president and three councilors. The members of the Council needed to have the same qualifications as senators. They should "not intermeddle" with impeachments, although they were subject to being impeached. The resolutions and advice of the Council were to be recorded in a register that could be examined by either house of the legislature. Any member of the Council could record his dissent from the majority in the register.

The state secretary, treasurer, and commissary-general were to be elected by joint ballot of the General Court. The records of the state were to be kept in the secretary's office. County treasurers and registers of deeds were to be elected in town meetings as had been customary. The legislature and magistrates were supposed to promote "literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, science, commerce, trades, manufactures and natural history of the country."

All members of the judiciary held their offices during good behavior, except that they could be removed by address of both houses of the legislature. "Permanent and honorable salaries" were to be established by law for the justices of the superior court. The legislature, the president, and the Council could require advisory opinions from the judges "upon important questions of law, and upon solemn occasions." All commissions of justices of the peace were valid for five years and could be renewed. Clerks of the courts were appointed and served at the pleasure of their courts.

Delegates to Congress were elected annually by the Senate and House of Representatives in their separate branches. They could be recalled and replaced. They had to meet the same qualifications as the president. No one could serve more than three years within any six-year period, nor could a delegate to Congress hold any other office under the United States for which he received a benefit or emolument.

After specifying the oaths of office for government officials, the constitution provided that "The privilege and benefit of the Habeas-Corpus, shall be enjoyed in this State, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the Legislature,

except upon the most urgent and pressing occasions, and for a time not exceeding three months.” Dual office-holding was prohibited. “To preserve an effectual adherence to the principles of the Constitution, and to correct any violations thereof,” the General Court should call a constitutional convention to meet in seven years from the inception of the present constitution. No alteration in the constitution should be made before being approved by two-thirds of qualified voters present in town meetings.

The General Court under the new constitution met for the first time on 2 June 1784. To commemorate the new government, the Reverend Samuel McClintock, the fifty-two-year-old pastor of the First Congregational Church in Greenland near Portsmouth, delivered a sermon before a joint session of the legislature. A graduate of the College of New Jersey (Princeton), with a graduate degree from Harvard, and formerly an army chaplain during the French and Indian War, McClintock praised Americans for their independence and for their new state constitutions. They had secured “the rights and privileges of men in a state of civil society.” As few before them, Americans had the “precious opportunity . . . to take up government on its first principles, and to chuse that form which we judge best adapted to our situation, and most promotive of our public interests and happiness.” He cautioned both the new legislators and the freemen of New Hampshire about too frequently changing government. “Every one who is a friend to the order, peace and happiness of society, or who even regards the safety of his own life and property,” should “support and maintain” the new constitution. According to McClintock, government was a “divine institution” that was indispensable because of “the corruption and vices of human nature.” “If mankind were in a state of rectitude there would be no need of the sanctions of human laws to restrain them from vice or to oblige them to do what is right. . . . But in the present disordered state of our nature there would be no safety of life or property without the protection of law.” McClintock warned against too literal an interpretation of the “doctrine of passive obedience and non-resistance.”

It would be a glaring inconsistency, after people have chosen a form of government, and delegated authority to rulers to exercise the several powers of that government, to form combinations within the State in opposition to their own laws and government. It would be pulling down with one hand what they build up with the other. . . . While on the one hand we reject the doctrine of passive obedience and non-resistance, and with a jealous eye watch the motions of those in power; let us on the other hand, equally guard against a spirit of faction, that from selfish motives would overturn the foundations of government, and throw all things into confusion. . . . Instead of weakening they should do every thing in their power to strengthen the hands of rulers, and to support them in the exercise of lawful authority.³⁷

In response to Shays’s Rebellion, “Amicus Reipublicæ” expressed similar thoughts in a 4 December 1786 pamphlet. “Unreasonable clamours against government let us discountenance and despise. Tumults and insurrections against the constitutions, the laws and administrations of government, let us endeavor to suppress and discourage.—These are evils that spread their influence like witchcraft, and lead on to the most ruinous consequences.” If people had concerns about the actions of government officials, they should “assemble as towns, in an orderly manner, to remonstrate and petition for redress of grievances.” Usually such action would provide relief. If

³⁷ Samuel McClintock, *A Sermon Preached Before the Honorable the Council, and the Honorable the Senate, and House of Representatives, of the State of New-Hampshire, June 3, 1784. On Occasion of the Commencement of the New Constitution and Form of Government* (Portsmouth, 1784) (Evans 18567), 23, 43, 44, 45.

the situation persisted, the people could effect a change each year at the polls.³⁸

New Hampshire Towns Secede from the State

During the years that New Hampshire struggled to adopt a permanent constitution, the state also faced a secession movement from disgruntled towns. Between 1741 and 1764, Governor Benning Wentworth granted charters for about 130 townships west of the Connecticut River and many other townships east of the river in Grafton and Cheshire counties in the north and west of New Hampshire. Towns settled along the Connecticut River felt a rapport with each other; many of them had been populated by families from Connecticut. This rapport was also strengthened by geography. Mountains separated the towns immediately east of the Connecticut River from Portsmouth and Exeter, while the Green Mountains separated the towns immediately west of the river from the western part of present-day Vermont, which was controlled by Ethan and Ira Allen and the “Bennington mob.” The charter and individual land grants west of the Connecticut River were endangered after 1764, when imperial authorities ruled that New York’s boundary north of Massachusetts was the Connecticut River. Such meddling precipitated a land dispute that festered for more than a decade.³⁹

In January 1777, towns west of the Connecticut River compacted together in a new state called New Connecticut and petitioned Congress for recognition. (The name was changed to Vermont in June.) The Allens saw the political advantage of wooing the towns immediately west of the Connecticut River to the cause of Vermont independence and U.S. statehood. Despite their geographical separation from the Allens’ stronghold in western Vermont, towns along the Connecticut River were important in establishing Vermont’s territorial claim, as the river had been recognized as the extent of New York’s boundary. New York’s primary consideration was the suppression of the Vermont independence movement and the maintenance of New York’s historic rights to the territory. New Hampshire no doubt kept a close watch on the boundary dispute between Vermont and New York, especially in light of disgruntled New Hampshire freemen living on or near the eastern bank of Connecticut River.⁴⁰

New Hampshire towns along the Connecticut River felt separated from the state’s eastern towns not only geographically, but also politically. Freemen in northern and western New Hampshire felt that they were unfairly represented in the state legislature. For more than four years, 1778–82, a complicated struggle occurred between several political factions and legislatures. Towns in Grafton and Cheshire counties did not send delegates to the first three New Hampshire provincial congresses. Under the state constitution of 1776, the thirty-five Grafton County towns were given six representatives in the state House of Representatives and one member in the Council. The thirty-three Cheshire County towns were allotted fifteen representatives and two members in the Council. This small representation angered the

³⁸ *An Address to the Public, Containing Some Remarks on the Present Political State of the American Republics, &c. By Amicus Reipublicæ* (Exeter, 1786 or 1787) (Evans 20179), 18, 36. This essay might have been written by Benjamin Thurston.

³⁹ Richard Francis Upton, *Revolutionary New Hampshire: An Account of the Social and Political Forces Underlying the Transition from Royal Province to American Commonwealth* (Hanover, N.H., 1936), 189; and Jere R. Daniell, *Experiment in Republicanism: New Hampshire Politics and the American Revolution, 1741–1794* (Cambridge, Mass., 1970), 145–46.

⁴⁰ Upton, 192–93.

westerners. Freemen there believed that the Declaration of Independence had abrogated all authority and that each town being in a state of nature should be given one representative in the provincial legislature.⁴¹

On 11 June 1777, the western New Hampshire towns met in convention in Hanover and agreed to three conditions to maintain New Hampshire's unity: (1) each town had to have at least one member of the House of Representatives, (2) the state capital needed to be more centrally located, and (3) a new constitution needed to be drafted. A committee of the towns was appointed to negotiate with the legislature. The committee went to Exeter in November 1777, but nothing resulted from the negotiations.⁴²

In March 1778 sixteen western towns petitioned the Vermont legislature for admission to the new state. Significant minorities in the sixteen towns opposed this secession, but they were suppressed by a majority that looked to unite with Vermont. On 17 May the Vermont legislature agreed to accept the New Hampshire towns if freemen in Vermont and the New Hampshire towns agreed to such an annexation. On 11 June the Vermont Assembly formalized the annexation by a vote of 37 to 12. On 18 July, Meshech Weare, president of the New Hampshire Council, notified Josiah Bartlett, the state's delegate to the Continental Congress, that the annexation had occurred: "they are Appointing officers, Courts, &c. which is like to make the utmost confusion and trouble among the People there & in this State And will probably give some trouble to Congress before the matter is Setled." Weare told Bartlett that "great pains are taking to perswade other Towns to follow their Example." Weare also informed Bartlett that, based on the best information available, "nearly one half of the People in the revolted Towns, are averse to the proceedings of the Majority; who threaten to confiscate their Estates if they don't join with them." Weare was fearful that the whole affair "will end in the shedding of Blood." New Hampshire sought the aid of Congress. According to Weare, "unless Congress interfere, (whose Admonitions I believe will be obeyed) I know not what consequences will follow, its very probable the Sword will decide it, as the Minority in those Towns, are claiming protection from this State, and they think themselves bound by every tie, to afford it." On 22 August, Weare sent a strongly worded protest to Vermont Governor Thomas Chittenden.⁴³

From Congress, Bartlett responded to Weare telling him that he conferred with other New England delegates who advised him to turn the matter over to Congress and seek its advice. Bartlett handed over the documents and "Every person who spoke on the Subject severely Condemned the Conduct of the Revolted Towns & of Vermont." A solution was not so easy. When Ethan Allen arrived in Philadelphia to discuss Vermont statehood with Congress, he saw how upset Congress was with the annexation. Allen asked Bartlett "not to press Congress to take up the matter till he had an opportunity to Return to Vermont & lay the matter before their Assembly," which was scheduled to meet on 8 October. Allen told Bartlett that he was "perswaded they will Resind their vote for Receiving those Towns and Disclaim any pretensions to the East Side of [the] Connecticut River." According to Bartlett's account, Allen noted that the vote for annexation

⁴¹ *Ibid.*, 189–90.

⁴² *Ibid.*, 192.

⁴³ *Ibid.*, 192–93; and Daniell, 154. And see Meshech Weare to Josiah Bartlett, 18 July, 19 August 1778, Mevers, *Bartlett*, 200, 210–11, respectively.

was past by a Small majority . . . he had opposed the Measure and that if Vermont Does not Rescind the vote He with a very Considerable number who he is Sure will Join him will petition Congress against it and that he will himself present the petition to Congress and will use Every other means in his power to procure Newhampshire Redress against So unjust and impolitic a measure.⁴⁴

Allen promised to keep President Weare informed. Bartlett agreed not to press the matter with Congress, affording Allen some time to negotiate with the Vermont Assembly. Before Allen left Philadelphia, Congress intimated to him that Vermont would never achieve statehood while possessed of the New Hampshire towns. Allen also obtained New Hampshire's promise of support for Vermont statehood if the Vermont Assembly agreed to repudiate any claim to New Hampshire towns. Allen returned to Vermont and successfully got the Vermont Assembly to renounce the towns' annexation.⁴⁵

Allen wrote President Weare on 23 October 1778 informing him that the annexation had been accepted "Inadvertently by Influence of Designing men." That union was, in Allen's opinion, "entirely Dissolved." He hoped "that the Government of New-hampshire will Excuse the Imbecility of Vermont in the matter," would not seek to extend its claims west of the Connecticut River, and would "Accede to the Independency of the State of Vermont as the last Obstacles are Honourably removed." Weare was not completely satisfied. He had received Allen's letter and another from Vermont Governor Chittenden saying "That no additional Exercise of Jurisdictional authority be had by this State East of [the] Connecticut River for the time being." Weare indicated that this statement "by no means expresses their future designs or intentions in the matter."⁴⁶

In the meantime, on 9 December 1778, delegates from twenty-two towns both east and west of the Connecticut River met in Cornish. Preferring neither Vermont nor New Hampshire, they voted to join the state that would accept them as a unit or, if necessary, to seek separate statehood as a unit. The opinions of men like Allen only seemed to embolden the western separatists.⁴⁷

On 4 March 1779, Allen responded to Weare's concerns over possible ulterior motives by Vermont leaders, assuring Weare that the annexation attempt had received "its death wound" at the October session of the Vermont Assembly. Without a dissenting vote, the Assembly had "in the fullest and most Explicit manner" dissolved the union. Allen hoped that New Hampshire officials would "vigerously exert their authority, to the East Banks of the River," because he believed that "the Schism on both sides, to be Equally against both Governments and therefore both should join to suppress it."⁴⁸

Disenchanted with Vermont leaders' disavowal of the earlier annexation, delegates from the river towns attended the New Hampshire legislature and won approval of a plan that, if successful

⁴⁴ Josiah Bartlett to Meshech Weare, 26 September 1778, Mevers, *Bartlett*, 225–26.

⁴⁵ *Ibid.*, 226; Upton, 193–94; and Daniell, 155.

⁴⁶ Ethan Allen to Meshech Weare, 23 October 1778, and Weare to Allen, 5 November 1778, John J. Duffy, ed., *Ethan Allen and His Kin: Correspondence, 1772–1819* (2 vols., Hanover, N.H., 1998), I, 85–86, 87, respectively.

⁴⁷ Upton, 194.

⁴⁸ Ethan Allen to Meshech Weare, 4 March 1779, Duffy, *Ethan Allen*, I, 90–91.

in Congress, would grant New Hampshire control of all of Vermont. By claiming Vermont's territory for itself, New Hampshire might be able to settle the boundary issue forever. At issue was the legitimacy of land claims: Was Vermont within New York's ambit—per the 1764 order in council that the Connecticut River was New York's boundary north of Massachusetts—or within New Hampshire's—based on Governor Wentworth's original land grants, some of which were for towns west of the river? New Hampshire leaders imagined that they could accomplish two principal aims by making a claim on Vermont: (1) address the dilemma of the river towns, quashing the towns' separatism by reaffirming New Hampshire's claims to the Connecticut River and, once this first aim was accomplished, (2) support Vermont statehood. On 17 November 1779, the New Hampshire legislature passed a law allowing the Continental Congress to arbitrate with New York over New Hampshire's claims. All parties in the dispute—New Hampshire, New York, and the river towns—sent representatives to Congress, but the issue was still undecided by September 1780.⁴⁹

Many freemen in the western towns still distrusted the New Hampshire legislature. A convention composed of forty-three towns from both sides of the Connecticut River met on 16 January 1781 in Charlestown, Cheshire County, and voted that the Connecticut River towns be given to New Hampshire and that the Green Mountains be New Hampshire's new western border. Territory west of the Green Mountains would be assigned to New York. The day after this proposal was accepted, Ira Allen addressed the convention and effected a total change, making a case for thirty-six Grafton and Cheshire County towns to join Vermont. On 8 February, the Vermont Assembly agreed to this second annexation and also voted to extend its western border into New York's territory. On 20 August, Congress announced that Vermont statehood would never occur as long as it retained control over New Hampshire and New York territory. But the Vermont Assembly, meeting in Charlestown on the east side of the Connecticut River, refused to abrogate its most recent annexation. By this time, however, many freemen in New Hampshire's western towns still expressed their disapproval of the annexation. Vermont appointed local officials and their heavy-handed treatment of freemen loyal to New Hampshire alienated many. In November an incident in Chesterfield nearly caused a civil war. To avert a crisis Congress again reiterated that Vermont statehood would never be granted if it retained possession of the New Hampshire towns. On 8 January 1782 the New Hampshire legislature authorized that 1,000 troops be sent to the west under the command of Major General John Sullivan to bring the rebellion to an end. Four days later the legislature issued a proclamation giving residents of the seceding towns forty days to acknowledge that the Connecticut River was New Hampshire's western border. Fortunately, no fighting occurred.⁵⁰

In a letter dated 1 January 1782, General George Washington, at the request of Congress, addressed Vermont Governor Thomas Chittenden and prodded the Vermont Assembly into renouncing its most recent annexation. Concluding with a veiled threat, Washington wrote that "There is no calamity within the compass of my foresight, which is more to be dreaded, than a necessity of coercion on the part of Congress." On 20 February, the Vermont Assembly dissolved the union with the New Hampshire towns and set the eastern border of Vermont at the

⁴⁹ Upton, 194–95.

⁵⁰ *Ibid.*, 195–97.

Connecticut River. After four years, freemen in the western towns accepted their fate as part of New Hampshire.⁵¹

Postwar Problems

Like the other states, New Hampshire experienced a brief period of prosperity toward the end of the Revolutionary War. With commerce restored between the U.S. and Great Britain, American merchants took advantage of long-term credit and low interest rates offered by British merchants and built up demand for British manufactures by American consumers. But British trade restrictions, especially those in the order in council of 2 July 1783, severely limited American exports to the British West Indies, thus requiring British imports to be paid for in specie. This situation soon resulted in a severe scarcity of circulating medium in America. The loss of traditional markets and the scarcity of specie contributed to a serious deflationary cycle in which the price of agricultural produce and land fell precipitously.

Because both the state and Confederation governments had difficulty raising revenue, they were unable to pay the interest or principal due on government securities owed to soldiers and farmers. New Hampshire securities depreciated to eighty percent below par. Many Americans found themselves in debt and owing back taxes. When creditors (who were often debtors themselves) could not collect the debts owed to them, they found it impossible to pay their creditors. The bankruptcy of one individual occasionally led to the bankruptcy of others. Sheriffs would seize farms and sell them at public auctions, but due to the depressed prices for agricultural produce and land, the revenue derived from these public sales was often insufficient to pay the back taxes and debts in full. Impoverished farmers faced debtors' prison. Seemingly well-to-do landholders and merchants were not immune to these personal financial crises.

Beginning as early as December 1782 and accelerating monthly thereafter, town meetings sent petitions to the legislature seeking relief. Petitions from town meetings demanded the reduction of direct taxes, tariffs on imports, laws making produce and land legal tender, stay laws, protection from aggressive creditors, lower legal fees, and an emission of paper money to be loaned on real estate collateral. Often issued successfully during the colonial years to combat deflation, paper money began to trouble creditors because of runaway inflation caused by too much paper money during the revolutionary years. Merchants in Portsmouth desired a state navigation act to limit the predatory practices of British merchants. Knowing that New Hampshire alone could do little to adjust British-American commerce, the New Hampshire legislature supported amendments to the Articles of Confederation giving Congress the authority to establish a tariff on imports and granting it power to regulate commerce.⁵²

The New Hampshire legislature actively responded to calls for relief. Legislators voted to suspend the aggressive collection of back taxes and then gradually reduced the state tax from £110,000 in 1782 to £22,000 in 1785. In 1784 they prohibited the public auction of debtor estates, enacted a tariff, and allowed justices of the peace to handle all cases valued less than £10, thus making it easier and less expensive for debtors to pay legal fees. New state certificates were issued and used to pay the interest on the state debt. These certificates could be used to pay taxes. Unfortunately, the certificates did little to alleviate the scarcity of a circulating medium; most of

⁵¹ George Washington to Thomas Chittenden, 1 January 1782, John C. Fitzpatrick, ed., *The Writings of George Washington* . . . (39 vols., Washington, D.C., 1931–1944), XXIII, 421; and Upton, 197.

⁵² Daniell, 185–86.

them were paid to speculators who had already accumulated much of the state debt at greatly depreciated prices. By a vote of 64 to 17 the legislature allowed debtors to use personal estate as payment for debts in lieu of specie. Debtors who offered this type of payment could not be incarcerated. The legislature also passed a navigation act discriminating against goods shipped in British vessels and provided bounties to encourage domestic production of iron, steel, wool, tobacco, linseed oil, and other goods. But none of these measures seemed to stem the downward economic spiral as hard times persisted.⁵³

By 1785 the factional divide in the New Hampshire legislature thwarted efforts at further relief. Newspaper articles denounced state officials—particularly members of the Council and the legislature—for corruption and favoritism. A bitter four-way battle over the election of a new state president in 1785 further alienated freemen. Anti-debtor policies during John Langdon's presidency disaffected many, resulting in the overwhelming victory of John Sullivan as president in 1786 and the election of forty-five new members of the House of Representatives. William Plumer wrote to his brother lamenting that "The change is not for the better." He hoped that the upcoming legislative session would not bring paper money, but he feared what might pass in the subsequent session. Sullivan's supporters had intimated that he favored a loan office with a new emission of paper money. When Sullivan refused to support a paper-money program, his support diminished. Former president John Langdon, who had become speaker of the House of Representatives, also opposed paper money.⁵⁴

Unable to obtain relief from the legislature, freemen from various towns, without the consent of town meetings, began to elect delegates to unofficial conventions.⁵⁵ Plumer described several of these "self-created" conventions, one of which had assembled in Londonderry.

On the 10th, 150 men met at Emery's tavern in this town. They were from 15 towns, but were not elected by the towns. This meeting elected 67 of their own number, who met, chose a chairman, and appointed two clerks. After two days spent in debate, they resolved that they would adopt such measures as should compel the General Court to emit paper money. They appointed a committee of 18 to devise a plan and draw a petition to the legislature, and then adjourned to meet at Chester, the 20th of this month. The Convention is now in session in that town.⁵⁶

Personally acquainted with convention delegates, Plumer described them as "men of feeble intellect." "Very few of them know what they do," wrote Plumer, "or are apprehensive to what their measures tend." Plumer hoped that "these visionary schemes will not end in acts of rebellion against the constituted authorities," though he feared that they would.⁵⁷

The New Hampshire legislature further alienated freemen when, responding to a request from the Confederation Congress, it passed a law making the Treaty of Peace the law of the land.

⁵³ *Ibid.*, 186–88.

⁵⁴ *Ibid.*, 189–96; and William Plumer to Samuel Plumer, Jr., 6 June 1786, Worthington C. Ford, ed., "Letters of William Plumer, 1786–1787," *Publications of the Colonial Society of Massachusetts*, 11, *Transactions, 1906–1907* (Boston, 1910), 385.

⁵⁵ Daniell, 197–99.

⁵⁶ William Plumer to Samuel Plumer, Jr., 22 July 1786, "Plumer Letters," 385.

⁵⁷ *Ibid.*, 386.

The House of Representatives defeated the measure on 14 September 1786 by a vote of 34 to 32. The next day, however, newly arrived John Pickering championed the bill, which was passed by a vote of 44 to 34.⁵⁸ Plumer favored the act, arguing that “National honor ought to be estimated higher than national wealth,” but opponents of the bill in the legislature and throughout the state found its provisions reprehensible. According to Plumer, the law

permits those who did not take up arms in the late war against the United States to return and live in the State. It allows those who were in arms to return and live a year without any molestation to collect their debts and settle their affairs; and that none of them shall be subject to prosecution for any thing by them done during the war. Some of the members, particularly those from Londonderry, [Daniel] Runnels and [Archibald] McMurphey, reported, “That the Act authorized the tories to return, and obliged the State to repurchase and restore to them the confiscated estates, and that a heavy tax would be assessed on all the people for that purpose.” These reports have inflamed the minds of many, and enraged the members of the Rockingham Convention.⁵⁹

With all of this disgruntling news, it was “whispered” that the Rockingham Convention then in session intended “to adopt coercive measures.” An armed force started gathering to compel the legislature to repeal the Treaty Act and to issue paper money. Observers expected that “a great accession of numbers from every town in the vicinity” would join in the march on Exeter, where the legislature was meeting, and that several legislators would offer their support as well. At 11:00 A.M. on 20 September 1786 word arrived in Exeter that a band of armed men was camped on the plains at Kingston. By 3:00 P.M. they had reached the outskirts of Exeter.⁶⁰

Led by Captain Joseph French and several militia officers, the mob numbered about two hundred, eighty of whom carried “fire and side arms.” The others were armed with “clubs and staves.” Some were on horseback. Most marched on foot in military parade “with the drum beating and their arms clubbed.” Collected from Londonderry, Hampstead, Hawke, Sandown, Bedford, Goffstown, Raymond and a few other towns, the mob “made a miserable appearance—dirty, ragged fellows—many of them were young and most of them ignorant.”⁶¹

Mob leaders sent their ultimatum to the legislature. Referring to their previous petition calling for a variety of relief measures, including an emission of paper money and the abolition of debts, the mob was now “determined to do ourselves that justice which the laws of God and man dictate to us.” They hoped that the legislature would redress their grievances “and not drive us to a state of desperation.”⁶²

⁵⁸ Bouton, *Documents and Records*, XX, 697–98, 699; and Daniell, 198.

⁵⁹ William Plumer to John Hale, 18 September 1786, “Plumer Letters,” 389, 390.

⁶⁰ *Ibid.* The following account of the Exeter riot, its suppression, and its aftermath is largely taken from letters written by Plumer to Hale on 18, 20, 21, and 26 September and 6 October 1786 (pp. 387–98). The letters detail Plumer’s firsthand experience as an observer and, later, as part of the militia that quelled the rebellion. See also Daniell, 198.

⁶¹ Plumer to Hale, 20 September 1786, “Plumer Letters,” 391.

⁶² *Ibid.*, 390–91.

The House of Representatives appointed a committee of five to join with those to be appointed by the Senate to meet with the mob leaders. The Senate, however, viewing the insurgents' petition as "an outrageous insult upon the Legislature," unanimously refused to consult with the mob. President Sullivan told the House of Representatives "That a compliance with a request from an armed mob would, in his opinion, be a sacrifice of their duty. That for his own part he was determined that no consideration of personal danger should ever compel him to betray his trust."⁶³

Rebuffed by the legislature, the insurgents marched into town and then surrounded the meeting house in which the legislature was assembled. Stationing armed sentinels at the doors and windows, the mob allowed no one in or out of the building. Severe threats were yelled at the legislators: "their confinement" would continue "untill after their petition should be granted." The legislature, however, proceeded with its normal business. The insurgents demanded the repeal of the Treaty Act, "declaring that those who voted for it ought to be punished with death." Other demands included an emission of paper money, an equal distribution of property, the "annihilation of debts, freedom from taxes, the abolition of lawyers, the destruction of the Inferior Courts, [and] the reduction of salaries [for government officials]." All of the insurgents "exclaimed against law and government."⁶⁴

At sunset President Sullivan and the Senate attempted to leave the building but were forcibly prevented. Exeter inhabitants asked Sullivan if they should organize and disarm the insurgents. Sullivan refused the offer. Twenty inhabitants, including William Plumer, assembled and marched unarmed to talk with mob leaders. When spectators joined the twenty inhabitants some of the frightened insurgents started to disperse. Sullivan appealed to mob leaders to allow him to leave. If allowed to leave, he would calm the inhabitants and "prevent the effusion of blood." They agreed to release Sullivan who went to his lodgings. From there he sent two messengers to mob leaders ordering them to disperse. Captain French ordered the mob to retire to the outskirts of town and re-assemble at 9:00 the next morning.⁶⁵

"Unanimously authorized" by the legislature, President Sullivan "immediately issued his orders" for the militia to meet in the morning with their arms. By 4:00 A.M. militiamen were on the scene. Within two hours squads of militia arrested one mob leader. By 8:00 A.M. militia cavalry and light infantry arrived. A couple of mob leaders ordered their men to fire on the militia. They refused. The insurgents dispersed without the loss of any blood.⁶⁶

Thirty-nine men were taken and imprisoned. All were brought before the legislature on 22 September 1786, and over the course of the next days all but five were released and pardoned. On 25 September the state attorney general "filed an Information" against five leaders to stand trial in the Superior Court. The legislature wanted the five charged with riot rather than treason, a capital offense. The five "plead not guilty." One of the five was released on bail of £50 when no evidence was found except that he came into town with the mob. The other four were released on bail of £100. Two other leaders were also arrested, one in Sandown and one in Londonderry, and charged. The Court released the prisoners on bail. Plumer worried that the surety was too small.

⁶³ *Ibid.*, 391.

⁶⁴ *Ibid.*, 391–92.

⁶⁵ *Ibid.*, 392.

⁶⁶ *Ibid.*; and Plumer to Hale, 21 September 1786, "Plumer Letters," 393.

“It has the appearance of estimating rebellion only as a petty offence. Too much lenity is as fatal to government as too much severity.”⁶⁷

Both houses of the legislature voted thanks “to the brave Officers and Soldiers of the Militia for the great Zeal and Alacrity they have discovered in supporting the constitutional Authority of the State and for displaying a Spirit of patriotism and public Virtue.” The House of Representatives voted to thank President Sullivan “for his firm, zealous and decisive exertions in suppressing the late audacious insurrection of a body of unprincipled men against the legislative authority of this state.” The House assured Sullivan that his conduct met their “highest approbation and esteem.”⁶⁸

A relieved William Plumer wrote from Epping that “the most dangerous mob we have ever had [has] been suppressed, and that without any untoward accident.” He believed that some benefit would be derived from the mob:

the government will gain strength by this event. Its warmest friends are animated by seeing the promptness with which all orders and classes of men came forward in its support. The timid are encouraged and supported; and the vile race of time servers no longer hesitate—they speak loud in support of law and order. If our rulers have wisdom and prudence to improve the present moment, this disturbance will terminate to our advantage. The militia may be arranged, officered and disciplined. And if the legislature will maintain their dignity within their own walls, they will receive ample support and revenue from without. The complaints against Courts and against taxes will cease, when men are persuaded that the government is permanent. The Legislature ought to give, and not receive, the *tone* to the people. The *few*, and not the many, are *wise*, and ought to bear rule.⁶⁹

Plumer was happy that the crisis arose so quickly in New Hampshire. “Had the same spirit of jealousy, distrust and uneasiness increased for two years to come as it has done for eight months past, their numbers would have rendered them formidable.” It was fortunate that the insurgents

attacked the Legislature, the fountain head of law and order, and not the Inferior Courts, as did the insurgents of Massachusetts. Theirs struck at the streams, but ours aimed a bold stroke at the fountain head. This has brought the contest to a single point—whether we would yield up our government and all our dearest rights to an ignorant lawless band of unprincipled ruffians!⁷⁰

At the same time that the Exeter riot took place, Shays’s Rebellion unfolded in neighboring Massachusetts, where insurgents closed local civil courts to prevent foreclosures on debtor properties. Lasting several months, the Shaysites’ resistance was eventually suppressed in February 1787. But the potential for further turmoil had not been completely mitigated. New Hampshire believed that something had to be done to strengthen the Confederation Congress allowing it effectively to respond to the exigencies of the time. The New Hampshire legislature was ready to join in efforts to amend the Articles of Confederation.

⁶⁷ Plumer to Hale, 21, 26 September 1786, “Plumer Letters,” 393–96.

⁶⁸ Bouton, *Documents and Records*, XX, 680, 708, 711.

⁶⁹ Plumer to Hale, 21 September 1786, “Plumer Letters,” 394.

⁷⁰ *Ibid.*

New Hampshire and the Constitutional Convention

On 4 March 1786 the New Hampshire legislature appointed Joshua Wentworth, John Sparhawk, and Thomas Martin as commissioners to the Annapolis Convention to examine the commercial policy of the United States. On 14 June, John Langdon and James Sheafe were added to the delegation. None attended.⁷¹

In response to the Annapolis Convention's report calling for a general convention of the states to meet in Philadelphia in May 1787 to revise the Articles of Confederation, the New Hampshire House of Representatives resolved on 17 January 1787 to appoint and authorize any two of the state's congressional delegates to attend the proposed gathering. Being sensitive to the unofficial status of the Annapolis Convention, the New Hampshire Senate proposed an amendment to the House's resolution: "that the said delegates shall proceed to join the convention aforesaid in case Congress shall signify to them, that they approve of the said convention as advantageous to the union, and not an infringement of the powers granted to Congress by the confederation." The House read and concurred with this amendment. Without referring to the report of the Annapolis Convention, the Confederation Congress on 21 February resolved that a convention should be held in May in Philadelphia to revise the Articles of Confederation.⁷²

While waiting for a quorum, Confederation Secretary at War Henry Knox, at the behest of several Convention delegates already assembled in Philadelphia, wrote his close friend New Hampshire President John Sullivan encouraging him to get the state's delegates to attend the Convention.

Impressed most fully with the belief that we are verging fast to anarchy, and that the present Convention is the only mean of avoiding the most flagitious evils that ever afflicted three millions of freemen I . . . beg leave to have recourse to your kind friendship. . . . Endeavor then my dear Sir to push this matter with all yr powers.⁷³

Because of a shortage of funds in the state treasury, none of the four New Hampshire delegates to Congress (Nicholas Gilman, John Langdon, Pierse Long, or John Sparhawk) attended Congress during the meeting of the Constitutional Convention. In response to Knox's letter, Sullivan called on the New Hampshire legislature to appoint delegates. On 22 June the House of Representatives voted that the legislature's two houses should elect Convention delegates by a joint ballot. The Senate rejected the idea of a joint ballot. Five days later, both houses passed an act electing and empowering delegates to the Convention.⁷⁴ After acknowledging the imperfections of the Articles of Confederation and the weaknesses of the Confederation Congress, the act mentioned the crisis that faced Americans:

And whereas Congress hath, by repeated and most urgent representations, endeavoured to awaken this, and other states of the union, to a sense of the truly critical, and alarming situation, in which they may inevitably be involved, unless timely measures be taken to enlarge the powers of Congress, that they may thereby be enabled, to avert the dangers which threaten our existance, as a free and independent people. And

⁷¹ Bouton, *Documents and Records*, XX, 483, 545; and CDR, 177.

⁷² RCS:N.H., 477–78.

⁷³ Bouton, *Documents and Records*, XXI, 834–35.

⁷⁴ RCS:N.H., 478, 479, 481–82.

whereas, this state hath been ever desirous to act upon the liberal system of the general good of the united states, without circumscribing its views to the narrow, and selfish objects, of partial convenience; and has been at all times ready to make every concession to the safety and happiness of the whole, which justice and sound policy could vindicate⁷⁵—

The legislature then appointed John Langdon, John Pickering, Nicholas Gilman, and Benjamin West as delegates to the Convention then meeting in Philadelphia “to discuss and decide upon the most effectual means to remedy the defects of our federal union; and to procure, and secure, the enlarged purposes which it was intended to effect.” Langdon and Gilman first attended the Convention on 23 July 1787. Langdon paid the expenses associated with their attendance. Langdon actively took part in debates during the Convention’s last two months, speaking on twenty-six occasions and serving on three committees. Gilman, however, made no speeches and only served on one committee.⁷⁶

Some sense of the attitude of New Hampshire’s delegates toward the Convention can be derived from a letter that Nicholas Gilman wrote shortly after his arrival for the Convention’s secret proceedings.

I have the pleasure to inform you of my having arrived at this place on the 21st instant, Mr Langdon arrived a few hours before and, notwithstanding we are so late in the day, it is a circumstance, in this critical state of affairs, that seems highly pleasing to the Convention in general.—Much has been done (though nothing conclusively) and much remains to do—A great diversity of sentiment must be expected on this great Occasion: feeble minds are for feeble measures & some for patching the old garment with here & there a shred of new Stuff; while vigorous minds and warm Constitution[alist]s advocate a high toned Monarchy—This is perhaps a necessary contrast as “all natures difference keeps all natures peace” it is probable the conclusion will be on a medium between the two extremes.—

As secrecy is not otherwise enjoined than as prudence may dictate to each individual—in a letter to my brother John [Taylor Gilman], of the 28th instant, I gave him (for the satisfaction of two or three who will not make it public) a hint respecting the general principles of the plan of national Government, that will probably be handed out—which will not be submitted to the Legislatures but after the approbation of Congress to an assembly or assemblies of Representatives recommended by the several Legislatures, to be expressly chosen by the people to consider & decide thereon.—

Great wisdom & prudence as well as liberality of Sentiment & a readiness to surrender natural rights & privileges for the good of the nation appears in the southern delegates in general and I most devoutly wish that the same spirit may pervade the whole Country that the people by absurdly endeavoring to retain all their natural rights may not be involved in Calamitous factions which would end but with the loss of all

⁷⁵ *Ibid.*, 481–82.

⁷⁶ *Ibid.*, 482; and Farrand, III, 588.

. . . I think the business of the Convention will not be completed untill the first of September⁷⁷—

The Constitutional Convention finished its work on 17 September 1787, when thirty-nine delegates signed the new plan of government. New Hampshire's two attending delegates, Langdon and Gilman, were among the signers. The Convention delegates received copies of a six-page broadside of the Constitution printed by Dunlap & Claypoole, and the Convention ordered the engrossed signed parchment of the Constitution be sent to the Confederation Congress in New York City. Congress read the Constitution on 20 September. Langdon and Gilman were two of ten Convention delegates who traveled to Congress and joined twenty-three other congressional delegates who considered the Constitution between 26 and 28 September, culminating in a unanimous resolution sending the Constitution to the state legislatures to be submitted to conventions elected by the people.

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⁷⁷ Nicholas Gilman to Joseph Gilman, 31 July 1787, Farrand, III, 66.