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Villages and Cities

EXCERPTS FROM:

*Rutland County: Its Establishment, Geography, Municipalities and
Judicial Institutions*

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Rutland, Vermont

2. The Founding of Rutland Town

Rutland Town was chartered by New Hampshire's Governor Benning Wentworth on July 7, 1761. The 45 or 48 square mile grant was among the largest issued by New Hampshire and until its division in the late 19th century, Rutland would be one of Vermont's largest municipalities both geographically and in terms of population. The grantor, as he did with his other grants, anticipated a thriving agricultural community. Once the town reached a population base of 50 families, it was according to Wentworth's standard clause, authorized to hold biannual fairs as well as a market at least one day a week. The lead grantee John Murray was from Rutland, Massachusetts. Thus the name Rutland was assigned to this new grant. The grantees also included several members of the Willard's family and of course Benning Wentworth reserved five hundred acres for himself as was his usual practice.

Rutland Town rapidly evolved into one of early Vermont's three significant population centers, along with Bennington and Manchester. A status that was acknowledged by its designation as the nucleus of a shire before the formation of Rutland County and again in 1784 with its designation as the shire town.

During the first half of the 19th century, Rutland Town's population continued to expand and several villages the most

significant of which was Rutland Village. The population growth in the town center prompted the General Assembly to legislatively incorporate the village in 1847 as a body politic within Rutland Town. As originally chartered the village was to annual hold a village meeting at which occasion the electorate would select seven at large trustees. The trustees were directed to " make road expenditures from at least two thirds of the highway taxes assessed upon the polls and ratable estate, within said village, as the selectmen of said town of Rutland may assess to them." A right of appeal to Rutland County Court for aggrieved taxpayers similar to that existing on the town level was provided. Beyond roads, the village was entrusted with fire protection responsibilities.

Over the next 40 years, the village's charter would be periodically amended to provide for water commissioners. Most significantly from a political perspective, authority was granted in 1857 for the annual meeting to divide the village into seven wards with each ward electing one trustee. Apparently while the wards were established, the trustees continued to be elected at large until the legislature adopted another measure in 1872 specifically directing that trustees be elected by ward

3. Rutland City - The First Try

By 1880, Rutland Town was a thriving metropolis, and the adequacy, and even ability to conduct a fair and truly participatory town meeting in such a large community was very questionable. In response to the population increase, bills were introduced in both the House and Senate to incorporate the city of Rutland. The Senate version was referred to a committee comprised of Rutland County's three senators who reported negatively back to the full Senate and third reading was refused. The House bill was introduced by Rutland Town's Representative Page. Although initially referred to the House Corporations Committee, the bill was recalled from the committee, as was then permitted under the rules, and instead committed to a committee comprised of all representatives from Rutland county. This special House committee, in the person of Representative R.C. Abell reported back against the incorporation of Rutland City,

Both chambers' rejection of their respective versions could be attributed to the influence of the marble companies which were

the county's premier industrial enterprise. Probably the leading owner in the marble industry was then Governor Redfield Proctor whose marble factory at Sutherland Falls was merging with other facilities in Rutland to form the Vermont Marble Company. That enterprise would soon develop an industry cartel that for a number of years dominated the manufacturing and shipment of marble products both in Vermont and across the nation.

These industrialists had convinced the farming communities of West Rutland and Sutherland Falls that a city charter was not in their interests, and in fact Proctor had personally lobbied for the defeat of the charter. The opponents submitted a "Remonstrance of Citizens of Rutland Against Chartering a City Charter"

The opponents cited the principal interests of the town as being farming and quarrying, "neither of which find their chief market in the village." The opponents claimed that they were on the short end of trade and the village economically benefited at the town's expense. They complained of a new town hall that centralized town meeting in the village instead of rotating it among several villages, and for having to pay for the increased number of poor persons who in winter were attracted to the village. They asserted that rights of the minority of 4,000 village residents would be outnumbered both in Rutland and Montpelier by the majority of 8,000 who resided within the village.

The remonstrators claimed that they feared "the dangers and evil of city organization" and that a town government would treat all residents equally and "simpl[y] that it is the best devised by man for us." They were clear that they would oppose an incorporation of the entire town into a city and that it was "their growth [the village's] and their necessities which call for a change and not ours..." The remonstrators acknowledged that they had not circulated the document within the village although they believed that they would have some support within its borders. However, while the opponents might have truly believed their own rhetoric regarding the tyranny of the urban majority over the rural and quarrying villagers, the underlying issue was the grand list. The opponents truly feared that the generously low valuation assessments granted by the town to the marble quarries and related facilities would be significantly raised on a grand list controlled by a new Rutland City and not by the more congenial town government.

Governor Proctor, at a meeting held in West Rutland Village that was reported on in the December 11, 1880 Rutland Herald was even more scathing in his comments against the proponents of the city charter stating:

I don't think that a little spot..[should].. Dictate to a town of 45 square miles what kind of government they will have, and I don't think a little portion of 1 square mile should ask us our reasons.."

But while the legislature rejected the 1880 charter, in large part because all of Rutland Town would have fallen within the new city's jurisdiction, a minority of legislators on the special House committee issued a very strongly worded dissent signed by Representative Page of Rutland Town that contested the remonstrators point by point.

The minority commented that in a town of 2,500 qualified voters it was "simply absurd that a town meeting form of government could be a deliberative assembly. Page noted that the large number of foreign born in Rutland Town were not accustomed to the procedures of the town meeting. (Proctor would use this same argument in reverse six years later in campaigning

for the establishment of Proctor Town). The large multitudes at town meeting meant, according to Page, that "only the strong and vigorous can safely venture...and that matters are decided by strength of lungs and strength of endurance and muscle.. [resulting in] foolish and improvident appropriations of money, and to a considerable extent, a loose and discordant administration of town affairs."

Page observed that the original proposal for a majority voter approval had been changed to two thirds to ease the concerns of the residents from outside Rutland Village. He commented that of the 819 persons who signed the remonstrations in opposition, 107 also signed a petition in support of the bill, and a number were not even Rutland town voters. Most importantly, Page wrote of the strong opposition of the marble industry, and described a petition with sixty names in support of the city charter being "destroyed for the avowed reason that it would be unsafe and imprudent for the names of the signers thus to appear in

opposition to their employer's wishes." Also, the minority related that "at least one of these men (a marble company owner or manager who is not identified) had given orders to the men employed not even to discuss the subject."

As for the fear that a city would substantially raise their taxes to pay for amenities (i.e. gas, sidewalks) only found in the village the minority retorted that "[a]n examination of the bill would show that such fears were wholly unfounded" and as for the agricultural community Page and his supporters concluded "farmers suffer more than any other class of people" under the town form of government.

There the matter would rest for a dozen years until a new and scaled back proposal only encompassing the village was introduced in the legislature in 1892. But Rutland Town's geographic and political future would undergo significant changes before the city incorporation question would again be debated in the General Assembly.

4. Proctor Village - An Intermediate Step

By 1884, Redfield Proctor no longer governor, but still a highly influential member of the Republican hierarchy in the state, sought to partially consolidate his political authority at Sutherland Falls, the site of his principal marble processing facility. The House bill introduced on his behalf at the 1884 session (H.100) was not as dramatic as the 1880 proposals to incorporate all of Rutland Town as a city. Rather, Proctor sought to incorporate Sutherland Falls as an organized village. This did cause municipal boundary problems because the village was not exclusively located in one town, but rather straggled the Rutland - Pittsford border.

Unlike in 1880, or subsequently in 1886 when Rutland was divided into three municipalities, the 1884 proposal did not warrant a special committee, but was referred to the House Committee on Corporations, the normal House jurisdictional committee at the time for municipal matters. The member from Rutland in 1882 was of a different political persuasion than his 1880 predecessor. Instead of working in opposition to the former governor as had Representative Page, Representative Barrett

sponsored the bill to incorporate Sutherland Falls as a village.

The committee, although it reported the bill favorably, did insist on two amendments.

First, it proposed language that authorized either town to approve a territorial expansion of the district from within its municipal boundaries provided that the village's electorate concurred. The second proposal, which may not have pleased Proctor, required that the village's electorate adopt the proposal before it could become effective. The measure passed the House without a roll call vote. Once in the Senate it was referred to the General Committee which while not changing the substance of the legislation did recommend a significant symbolic change, namely that the name of the proposed village be Proctor. The measure won final approval in both chambers.

While Proctor Village lacked the full authority of a town, the new charter gave the village's government considerable legal and taxing capacity. The village's officers included a President who in addition to serving as village moderator had veto authority over the decisions of the three member board of trustees. It required a unanimous vote of the trustees to override a veto. In effect, the President could act as a chief executive with considerable authority. The trustees also had the authority to appoint police officers, a power not available in many villages. The prudential committee was charged with running the school system as were prudential committees across the state. The village was granted taxing authority as both a school and highway district.

But perhaps most important was the broad ordinance making authority granted to the village. There were twenty three enumerated categories of ordinance authority. These reflected the desire of Redfield Proctor to have a community that set a highly moralistic image for the village was authorized, "to suppress and restrain disorderly and gaming houses, billiard tables, and all descriptions of gaming, and for the destruction of all instruments and devises used for that purposes." In the same light, the village was authorized "to regulate the exhibition of common showmen, and of shows of every kind not interdicted by law." Similarly, the village could direct the removal or cleansing of unwholesome or noisome houses or places. A power that was probably unusual for a Vermont village of the 1880's was the

right to regulate the manufacturing of gun power. The extensive list concluded with a very broad authority to adopt ordinances that were "not repugnant to the Constitution or laws of this State or of the United States.."

In effect, Proctor had the legislature create a town that reflected the work environment that he sought for his employees . While the village had many legal attributes of a town, it still was not totally free of the influence and politics of Rutland Village. That final step would follow the September 1886 elections.

5. Proctor Town and West Rutland

While it was perhaps inevitable that Redfield Proctor would seek full town status for Proctor, the results of the fall 1886 elections in Rutland Village motivated him to seek immediate action. That fall, Rutland Village elected a slate of officials, including all 15 justices of the peace, and a state representative James Hogan, who were neither Democrats nor Republicans. They were all part of a Knights of Labor Slate. This unusual turn of events was based on two factors.

First, Rutland Village had barely survived a very embarrassing fiscal crisis the prior winter. After the village trustees adopted a plan to shut off the gas lights and dismiss police officers, an emergency meeting was able to resolve the problem. But recriminations were plentiful and one local attorney and politician, a Democrat John Spellman, characterized Rutland Village as "the worst managed village in Vermont." Secondly, a growing class of laborers, mostly unskilled and often foreign born and only recently enfranchised, were a potent force in Rutland Village. Redfield Proctor, fearing that more municipal taxation was in store, and possibly labor difficulties, decided to proceed with a legislative effort to divide the town into three distinct municipalities, Rutland, West Rutland and Proctor with his major objective being the upgrading of Proctor village into a town. Even before the 1886 legislative session began, Proctor was consulting with counsel on the strategy for proceeding.

A digression is merited to examine the stellar legal team involved in this matter. These lawyers represented the pinnacle of the Vermont Bar and political leadership in 1886. The chief legal

tactician for Redfield was William Dillingham whose political prominence rivaled that of Proctor's. Similar to his client, he served in the General Assembly, as Governor and with Proctor in the United States Senate and beyond into the 1920's. The important distinction between Proctor and Dillingham was that Dillingham was far more committed to the law as an avocation than Proctor. He served as Washington County State's Attorney and was described as an excellent advocate. Proctor after a decade had left the practice of law for the marble industry.

Another, attorney aiding Proctor in the division campaign was William Stickney. Unlike Dillingham and Proctor, he never sought statewide office. His lone public office was a single term in the House representing Bethel. However, he had a far more direct connection with Proctor than did Dillingham. Having clerked for Isaac Redfield in Boston. Redfield was Proctor's uncle and namesake. Equally significant, Proctor had been employed as a young lawyer at the firm for a brief period before the Civil War.

Other Rutland attorneys who became involved in this matter were Charles Joyce who by 1886 had represented Rutland in the House, served as Speaker and sat in Congress as a representative from Vermont for four terms. George E. Lawrence, who at one time was a partner of Joyce's, had served four consecutive terms as the city's municipal judge. He also served twice as Rutland County State's Attorney.

Proctor had written to Dillingham on September 14, 1886 employing the same basic argument that the proponents of a Rutland City Charter had presented in 1880. Namely, that Rutland had outgrown the town system of government. Unlike in 1880, when he saw no problem with Rutland's large town meeting, he now contended that "[m]en can learn the duties of citizenship very much better in small towns where questions are brought to right. than in a large town where interests are so mixed..."

In letter to George Draper on September 18, 1886, Proctor took the argument regarding foreign born residents unfamiliarity with town government and reversed the Rutland City proponents position by commenting, "our people many of them foreigners, would be better prepared for citizenship to first exercise its dictates in a small town." Of course considering that most of "our

people" were his employees, Proctor would be in a position to greatly influence their voting behavior.

The proposed division, including the severing of West Rutland from the town, would reduce the Rutland Town Grand List from \$105,000.00 to approximately \$74,000.00 and the population from 16,000.00 to 10,000.00. The town's area would be lessened by 25 square miles from its 1886 size of approximately 48 square miles. While the population would be reduced by a third, the shrinking of the grand list would still have significant consequences for the town and village because the village was the largest consumer of public services.

The committee's heard largely favorable testimony in Proctor and West Rutland and not surprisingly strong opposition in the village to Proctor's proposal. For example, in Proctor, a ten year Vermont Marble Company employee named Patrick Bresneham offered his support and stated that, "he had known of no intimidation on the part of Vermont Marble Company." Similarly Bernard McGarry a nine year Proctor resident supported the proposal as did John Carry also a long time Proctor resident and J. H. Goulding who resided in Rutland Town. All stressed that there had been no intimidation, although Goulding, an employee of the Dorset Marble Company, acknowledged that he had spoken with former Governor Proctor before testifying.

This alleged lack of intimidation by Proctor, and the other marble company executives was questioned in Rutland Town testimony offered by Sydney Stockwell a carpenter, not employed in the marble industry, who lived in Center Rutland. He related that "he knew most of the Proctor people and that many had told him that they had signed a petition to divide the town, but should vote to keep the town as is. if they had a secret ballot.." He concluded, ["i]t is my candid belief that if only they could do just as they would, they would not have signed the petition, and we should get a large majority for the old town remaining just as it is."

When the General Assembly convened in the fall of 1886, bills were introduced to create two new free standing municipalities, Proctor and West Rutland, within the existing borders of Rutland Town and Pittsford. Special committees consisting of a ten member House panel and a three member Senate panel were appointed and traveled on several occasions to Rutland Village,

Proctor Village and West Rutland to hear testimony from both proponents and opponents of the proposed division.

While the testimony was being received, the Rutland Herald was continuing to advocate for a city charter and against the Proctor proposal. It reported that on October 23, during the period that testimony was being taken in the county, that a large protest meeting occurred in the center of Rutland Town. While the Herald featured a sampling of pro and anti Proctor letters, the newspaper was not squeamish in printing correspondence that severely criticized the proposal. For example, one letter characterized Proctor as the principal dictator seeking his own dominion."

After all the testimony was concluded, the committee issued a report favoring the division. It cited the town's mountainous topography and the isolated location of Proctor and West Rutland. The committee found that a majority of the village, with several prominent exceptions, still favored a city charter for all of Rutland Town. While the committee was willing to consider the feasibility of a city charter for the village and its immediate vicinity, it was, "convinced that no plan to include the whole town in a city can be proposed which will not meet the most earnest objection and protest from the petitioners of this bill [H.17 , the Proctor Bill].

Regarding the complaint from many opponents, stated both openly and privately that the lack of a popular vote was unfair, the committee cited the constitutional role of the legislature to establish municipalities, and also responded that of the 19 new town charters issued since 1783 , only South Burlington's had involved a popular vote. In that instance the committee found that the reason for the popular vote was the adoption of a city charter for the remainder of the town.

As for Pittsford, which included a portion of the proposed town of Proctor, the committee cited the support from the current and prior representatives of that town to the General Assembly. Lastly, the committee found Proctor Village as being capable of managing its own affairs and a : "model village." After all, the expansive 1884 village charter nearly gave the village the authority of a town except that it was still ultimately beholden to the towns of Rutland and Pittsford. With amendments relating to

the apportionment of the town's assets, responsibility for the expenses of the new Memorial Hall in Rutland Town and some boundary modifications, the committee recommended the division.

When H.17 came before the House, two roll call votes resulted.. One proposed that the establishment of Proctor Town be conditioned on a public vote of all the citizens of Rutland Town and was defeated by a vote of 134 to 84. Certainly this result was evidence that the Proctor proposal had strong, but not universal, legislative support. Within Rutland County, James Hogan from Rutland voted in favor of the voting requirement, while Pittsford's Franklin Denison opposed the amendment. As for the balance of the county's legislative delegation, it was almost evenly divided favoring the voting condition by a tally of 13 to 11 with one absentee. On final passage the roll call was fairly similar with a positive vote of 128-91. Hogan and Dennison changed sides and the county's delegation voted 13-11 against Proctor town with most, but not all, members voting in the opposite on the second roll call. The support in the Senate was far more unified.

The special committee similarly recommended the incorporation of West Rutland Town based on the ninety percent support within the community,. and rejecting the East Rutland voters' request for a town wide vote. The committee cited the four criteria that it had used with respect to Proctor, area, population, wealth and capability to manage municipal affairs. A similar amendment to Proctor's bill relating to the apportionment of assets was included in the committee's recommendation of passage. However, approval of third reading by a tally of 119-101, the chamber's roll call on the West Rutland question was a little narrower than the Proctor votes on the previous day . The West Rutland incorporation was overwhelming approved in the Senate by a vote of 27-1.

Thus the town charters of Proctor and West Rutland were adopted. After a century of municipal stability, Rutland County suddenly had two new towns. Rutland Town was considerably smaller, less wealthy and with a potentially more dominant urban core.

A casualty of the 1886 deliberations was the right of the voters of Rutland Village to elect the municipal judge. Henceforth, the

judge would be annually appointed by the governor with no provision for advice and consent by the Senate. During the debate on municipal division, the prior occupant of that post had been very critical of the Proctor proposal and supportive of the village's city incorporation aims. A second victim of the village's campaign for town wide city incorporation were all of the village's justices of the peace who had been elected on the United Labor ticket formed by the Knights of Labor. These posts were declared vacant with their immediate successors to be appointed. Both of these legislative decisions were intended as a rebuke of the labor political activity in Rutland Village.

The first government of Proctor Town was under the direct control of Redfield Proctor while West Rutland elected a pro labor government, albeit much more subdued than that elected in 1886 by the village's electorate.

6. Rutland City – A Reality at Last

Finally in 1892, the General Assembly adopted legislation incorporating the city of Rutland. The circumstances had changed considerably from 1880, and even 1886. Proctor and West Rutland Towns were well established. Redfield Proctor had assumed his duties in Washington as Secretary of War in President Harrison's Administration, and more recently had been elected to the United States Senate. Most importantly, the territory encompassed in the 1892 charter only encompassed the village and not the city. While the same issues of labor vs industry, native American vs immigrant were still present, these new conditions made approval of the charter far more palatable for the General Assembly.