

# TOWN BOUNDARIES<sup>1</sup>

## Introduction

Knowing your boundaries is essential, whether you are a landowner, selectboard member, governor, or president. Boundaries separate obligations, divide loyalties, and define identities. They may be determined by geographical features, ethnic and cultural differences, and politics, yet no imaginary line is permanent. People go to war over boundaries, as nations, states, towns, or individuals.

Here our subject is town boundaries. Like all boundaries, town lines establish portions and proportions. They may be marked by blazes on trees and piles of stones at corners, and the traditional green highway signs, like the one that separates Montpelier and Berlin, right through the middle of the Wayside Restaurant. They may depend on the recollections of elderly residents or ancient field books kept in the town vault. Town boundaries count in Vermont, for all sorts of reasons, including taxes and tax rates, judicial jurisdiction, and voter registration. We are born, raised, schooled, married, and die in a town. Candidates are qualified to run for legislative office according to where they live.<sup>2</sup> The lines identify where a town truck raises its plow in the middle of a snowstorm.

This essay is about the law of town lines—how lines were drawn, set on the ground, fought over, and won or lost. The subject is, by definition, historical in nature. Law is like that. It only looks backward.

**1. The Challenge.** In the beginning there was all this vacant land. It was vacant and unappropriated, meaning that although it was the subject of many competing claims, no one could say precisely who owned it. This land was alternately claimed by the Iroquois, the Mohawks, the French, the British, the Colony of Massachusetts Bay, the Colony of New Hampshire, the Colony and later the State of New York, and finally by its settlers, acting on their own brazen instincts. The settlers won out, and New Hampshire charters prevailed over New York patents as a matter of law.

Governor Wentworth of New Hampshire had been issuing charters to Vermont land since 1749. New Hampshire went out of the charter business in 1764, on the King's order. By the time Vermont declared its independence in January of 1777, Wentworth had chartered 129 towns and six grants, most of southern Vermont and the areas east of Lake Champlain and west of the Connecticut River.<sup>3</sup> After the first Vermont Constitution was adopted in July of 1777, the first legislature met in March of 1778, Vermont began issuing its own charters. Eventually 128 Vermont towns were chartered.<sup>4</sup>

Reasonable people would say it was an impossible challenge: surveying and marking the town lines in remote places, with crude equipment, frozen feet and hands, severe terrain and meager provisions, over a relatively short number of years, in the midst of war, privation, and political uncertainty, as settlers grew restless to know precisely where in Vermont they were to live. It is a wonder that some lines are as sound and reliable today as they were when James Whitelaw laid them out. Many more appear on the topo maps as “indefinite,” while others appear confident at first glance and later seem to vary in ways unknown to the charter that established them.

At the heart of the problem was bad science. Whitelaw described gores as “the result of man's frustrating attempt to lay out right-angled plots of land upon a spherical

earth's surface.”<sup>5</sup> But politics and money were also at fault, as legislators tried to maximize the settlement of Vermont and the receipt of charter fees. Sometimes in their haste they granted more land than there was or the same land more than once.

When Vermont started granting charters, the process took several steps. First there was necessarily a petition, signed by those who wanted to purchase the land from the freemen of the State of Vermont. This was presented to the General Assembly, and if agreeable the Assembly would resolve that a township of land named in the resolution be granted to the company of petitioners, occasionally with some boundaries identified. For instance, on November 3, 1780, the Assembly

*Resolved* that there be and hereby is granted unto Aaron Stores & sixty eight of his Company whose names are annexed to the said petition a township of land situate and lying in this State being part of the tract called Middlesex bounded as follows viz. as drew on the Charter or plan exhibited by the Surveyor General and marked N<sup>o</sup> 4 containing six miles square. And the Governor and Council are hereby requested to issue a grant or charter of said tract by the name of RANDOLPH unto the said Stores and Company being sixty eight in number, under such restrictions reservations and for such consideration as they shall judge best.<sup>6</sup>

The legislative role was to grant the township, but the charter was to come, after the Assembly “requested” it and the charter fees were paid, from the Governor and Council. The Surveyor-General acted on instruction of the Governor and Council. It was always his hope that he would be able to survey the lines or at least examine existing surveys before a charter was issued, but this was not always the case.

Before getting to the law, a few introductions are in order.

**2. The Principal Characters.** The principal characters in the law and history of Vermont town boundaries are Ira Allen and James Whitelaw. They are not the only ones, but they are the leading players.<sup>7</sup>

**a. Ira Allen.** Before there was a Vermont, before Vermont created the office of Surveyor-General, Ira Allen fulfilled that role. He was regularly employed as a surveyor in Vermont from as early as 1771, where he run the lines of 10,000 acres of land his uncle Heman Allen had purchased in the town of Hubbardton.<sup>8</sup> When he returned from that first adventure, he studied surveying under a master surveyor for one week, which was all the formal schooling in the science he had. As a surveyor for the Onion River Company, with his brothers, he surveyed lands in the Champlain Valley. He was always busy with surveying work, but his work has frustrated many who followed him. Franklin H. Dewart says of him that “he customarily with great delicacy waives all clues as to which of the twenty-odd towns of the Onion River domain has for the nonce attracted his needle.”<sup>9</sup>

Ira relates a story in his *History of Vermont* (1793) about a New York surveyor named Cockburn, who was surveying New York land patent lines in the New Hampshire grants in 1772. “At length Ira Allen discovered his destination, by traversing the wilderness, and Captain Warner and Baker, with a number of men, went in the pursuit; they found and took him in Bolton, near one hundred and thirty miles north of Bennington: great part of this way was in the Wilderness. They broke and destroyed his instruments, and tried him by a court martial; he was found guilty, and banished the district of the grants, on pain of death if he ever returned.”<sup>10</sup>

Ira Allen served as the first Vermont Surveyor-General, from 1779 to 1787, and he did well in an office that allowed him to speculate in the land he was surveying. It also cost him dearly. Taking the charter of Woodbridge in return for compensation, as offered by Governor Thomas Chittenden, Allen and Chittenden both lost their public offices (Allen at the time was State Treasurer) at the next election. Eventually a committee of the legislature exonerated him, and discovered the state owed him money, instead of what many people feared. It is difficult to imagine how much attention Ira actually gave to the position, since he was doing so many other jobs during those years, from writing and publishing pamphlets justifying Vermont independence, speculating in land, while serving as State Treasurer, among other preoccupations. Ira Allen's surveying book is in the State Archives. It is entitled, "Ira Allen, His Book, Containing the most Usefull Rules in Surveying, Wrote with my own Hand and Agreeable to my Invention." It contains his surveys of Burlington, Essex, New Huntington, Georgia, and Williston, among other work. It is dated "Salisbury, March 23, 1775."<sup>11</sup>

**b. James Whitelaw.** James Whitelaw is the major figure in the history of town boundaries, even as Ira is remembered for being the first Surveyor-General. More Vermont towns were surveyed by Whitelaw than any other person. He was born in 1748 in New Mills, Scotland, and came to America in 1773 as part of the Scots-American Company of Farmers, after thorough training as a surveyor. The Company purchased land in Ryegate, and Whitelaw was one of the first settlers. His first surveys were done in Ryegate, on behalf of the Company. He served as town clerk for several years. His surveying skills were in high demand, and in 1783 Ira Allen appointed him his assistant.<sup>12</sup> He took over after Ira's term ended in scandal, and was annually reelected Surveyor-General until 1804.<sup>13</sup>

Whitelaw was a tall and hardy man. He was 6'10". Although he often spent weeks in the wilderness living without shelter, he seldom wore gloves or mittens, even in the coldest weather.<sup>14</sup> His surveying compass and other instruments, along with his papers, are part of the collections of the Vermont Historical Society. Whitelaw had ordered this compass to be made for him in Scotland.

One of the fringe benefits of being the first official government surveyor in an area is giving names. Whitelaw named Caledonia County, the Clyde River, and Echo Pond in Charleston.<sup>15</sup> He also had an opportunity to speculate in land. He was a proprietor of Ryegate, Cabot, Plainfield (St. Andrews), Cambridge, Waterville, and Groton.<sup>16</sup> His assistants included William Coit and James Savage, who along with Whitelaw were granted land in exchange for services as surveyors. His biographer Thomas Goodwillie wrote of Whitelaw, "He was uniformly very exact and prompt in performing his work."<sup>17</sup> Whitelaw maintained his land office in Ryegate, where he also kept all the records he had assembled as Surveyor-General and Deputy.

One letter from James Whitelaw to Ira Allen survives, dated July 2, 1784. In it, Whitelaw describes his work laying out a road in the northern part of the state:

. . . With respect to the road from Missisque to St Johns we set out from Mr. Metcalfs house and followed the road leading down to the meadows about ½ mile and Just beyond a bridge marked a tree pretty well and steered N 5 or 6° W about 8 or 9 miles when we heard drums beat at St. Johns which by that means we found to be about N.W. which course we steered about 3 miles and struck into the upper end of Col: Hazzens clear land Just opposite St. Johns fort. As I

have no Minutes of the Survey cannot be positive that the above is the exact course and as we did not measure we only guessed at the distance and computed the distance from Mr. Metcalfs to the provision line 6 miles from thence to Brochet river 6 miles and from thence to St. Johns about 12 miles . . . .<sup>18</sup>

**c. Others.** After Whitelaw was done, Joseph Beeman became Surveyor-General (1805-1812). Then came John Johnson (1813-1816), Caleb Hendee, Jr. (1817-1820), Joseph Beman (1821), Alden Partridge (1822-23), Calvin Weller [Waller?] (1823-1828), Isaac Cushman (1829), John A. Pratt (1830), Isaac Cushman (1831), and finally John Johnson (1832-38).<sup>19</sup> The office was abolished in 1838, even as requests for new surveys continued to be made to the General Assembly.

Others served as deputy or assistant to the Surveyors-General during the years 1779-1838, and should not be forgotten. They include Ebenezer Judd, who recorded much of the material in the Papers of the Surveyors-General.<sup>20</sup>

Governor Samuel C. Crafts is remembered fondly for making a set of plans, which are respected as beautiful and scholarly.<sup>21</sup> The name of Franklin H. Dewart, who not only produced the first volume of the State Papers series, but who did a series of town maps during the early years of this century, should be added to this list, as should Virgil McCarty, for his diligent work on county boundaries.<sup>22</sup>

There are others to remember. Henry Stevens, the antiquarian book collector from Barnet, was alone responsible for saving more early records than anyone else. His collections of surveyors-general records were first offered to Vermont in 1870 and then, after Vermont would not agree to the price, to the State Library of New York. Some were returned to Vermont on May 15, 1902, due to the good work of Hiram Huse.<sup>23</sup> The remaining papers were retrieved in the 1980s and now reside at the State Archives.

The Rev. Samuel Williams has a place in this story. Williams, the author of the first history of Vermont (1794),<sup>24</sup> appears briefly on the stage to answer the call of the legislature in 1804 to find the true location of the 45<sup>th</sup> parallel. The Treaty of Ghent (1783) following the end of the Revolutionary War had established the line legally and no one disputed that. But Governor Isaac Tichenor and others believed the line had been surveyed in error by Valentine and Collins in 1774 and that the actual line was north of that line, meaning that Vermont had 17 or more townships than believed. Williams hired a Newport blacksmith to construct a quadrant and he set out along the line. To the legislature's delight, Williams confirmed the veracity of the rumor about the international boundary. He was wrong. Subsequent surveys revealed a slight confusion, but nothing that dramatic. The northern line of Vermont was finally settled by the Webster-Ashburton Treaty of 1842.

**3. Narrative of the Law of Town Lines.** The 1777 Vermont Constitution does not mention the office of Surveyor-General. The first constitutional reference to the office, which remains a part of the Vermont Constitution today almost 160 years after the office was officially abolished, came in the 1786 Constitution. Today's Chapter II, Section 54 provides: "No person in this State shall be capable of holding or exercising more than one of the following offices at the same time: Governor, Lieutenant-Governor, Justice of the Supreme Court, Treasurer of the State, member of the Senate, member of

the House of Representatives, Surveyor-General, or Sheriff.” So far no one has violated this rule.

The law of town lines is really a series of legislative acts, beginning in 1779 and continuing to the present. It takes the form of statutes directing how lines should be run, including the science, art, and licensing of land surveying, and the laws of recording. This is the legislative record. In the next section is the judicial record. Here also are petitions to the legislature by people unhappy with the location of their town lines.

**a. During the Tenure of Ira Allen.** Ira Allen was first elected Surveyor-General on June 4, 1779.<sup>25</sup> At the time of his election, the authority of the office was undefined, but the next fall the Assembly appointed a committee to draw up a bill to describe the office and duty of the Surveyor-General. The bill explained the duty “to form a general map or maps of this State for the use of this State according to a resolve of the General Assembly at their Session in June last and that it be done at the cost of this State.” It allowed the Surveyor-General to deputize “one or more meet person or persons” to help him lay out lands, run lines, and ascertain boundaries upon oath. The Surveyor-General was not expected to survey every line himself. He had the authority to “examine all surveys and plans that shall be made by any of his deputies, or any previous survey or plan that has been made by any approved surveyor to obtain grants of land within said State, and approve or disapprove of said survey as it may appear to said Surveyor-General to comport with the true intent and meaning of the General Assembly. . . .” The Surveyor-General was also to stand ready to lay out any line as ordered the Assembly.<sup>26</sup> In early years, the Assembly did a good deal of its business by resolution, rather than by formal act. Although later amendments of the law directing the Surveyor-General in his duties would be acts, this first one became *law* when the Assembly *resolved* to accept it.

The Assembly then resolved on October 23, 1779 to direct the Surveyor-General to advertise in the public papers for all Charters of land that have been granted by either of the States of the Massachusetts Bay, New Hampshire or New York to be recorded in his office at the expense of this State.<sup>27</sup> This was the first of many attempts by the legislature to ensure that all of the basic evidence of the existence of Vermont towns was preserved. The process is still continuing, as new information is being rediscovered every year. These acts always came with a deadline, after which former charter lines would be dissolved, but these were mostly empty threats. No one wanted to move that quickly to work out the equities and law of boundaries. There was too much at stake.

The previous February, the Assembly had begun work on the challenge of ensuring good title by the surveying and marking of reliable town and division lines by enacting a law authorizing the appointment of county surveyors. These officials were elected by the Assembly. They were responsible “for laying out of lands, and for the running of the bounds of lands already laid out, according to their original grants, as need shall require; and for the running of lines, and other services proper for a surveyor to do; who shall be sufficiently skilled in the surveyor’s art, and be furnished with instruments suitable and sufficient for that service.”<sup>28</sup> The act provided that county surveyors would not be guilty of trespass while running a random line to find the certain and true course across the property of others. But surveyors could only enjoy this exemption for work done during March, April, October or November. The law also provided a fine if anyone

attempted to interfere with the county surveyor's work or should attempt to change the lines run. The penalty was five pounds.

Timothy Andrus petitioned the Assembly in the fall of 1779 on behalf of the proprietors of the towns of Guildhall and Granby, complaining of encroachment by other towns and asking that the Surveyor-General survey their lines, reminding the Assembly that those towns were the first to be chartered in this area.<sup>29</sup> His petition, the first of many to follow asking for legislative assistance in settling intertown disputes, was granted and a committee of five appointed to arrange for the survey of Guildhall, Granby and either other towns "under the direction of the Surveyor-General."<sup>30</sup>

The following year, the legislature took the first steps toward the creation of a plan of the state. The first mention in any legislation of this plan comes on March 16, 1780.<sup>31</sup> James Whitelaw would complete the project with the publication of his Map of Vermont in 1796.

Petitions were received during the early spring of 1780 calling for the Surveyor-General to survey land of the town of Royalton. In October of 1779, proprietors of Clarendon asked the legislature to make certain the lines that separated them from Wallingford and Tinmouth, to address the "uneasiness" of the inhabitants who "fear Great Difficulty will arise . . . ."<sup>32</sup> In response, the Assembly adopted a resolution on town charters. It agreed that the "conveniency, quality, and situation of the lands" would be considered in any grant and that no charter would be issued "until a plan thereof be laid before this House by the Surveyor General or such plan or plans as have been previous to their beings laid before the Assembly been properly approved by the Surveyor General and duly certified."<sup>33</sup> The confusion of town lines throughout Vermont was just beginning to become known.

On November 3, 1780, the Assembly addressed the problem of the lack of responsiveness to their call for charters. Ira Allen had advertised, as instructed, in three different ads, for grants and charters and "sundry persons have neglected" to do it. A deadline was established of May 1, 1781. If the Surveyor-General did not get the charters by then, the lands would be regarded as "vacant lands, so long as any town line may be established on any such town or towns for want of such Charter, as also so far as any grant from this State will interfere with any such town or towns." The law excepted charters that were burnt or lost, but required evidence of these disasters to be given to Ira by May 1<sup>st</sup>.<sup>34</sup>

On November 4, Ira Allen made his report to the legislature on what he had received. He reported that it was "impracticable at this time, to grant the prayer of each petition, partly for want of proper Surveys, and partly . . . for want of unappropriated lands [in] this State to make such grants." As early as the end of 1780, they were running out of land in Vermont. Ira listed all the grants he had found, and this was published in the journal of the House.<sup>35</sup> Three days later, the General Assembly granted charters to twenty-four towns--Brookfield, Vershire, Hardwick, Waterford, Groton, Cambridge, Warren, Eden, Salem, Roxbury, Northfield, Pittsfield, Hancock, Concord, Starksboro, Lincoln, Wardsboro, East Haven, Westmore, Sheffield, Granville, Braintree, Elmore and Wolcott.<sup>36</sup> No other day in Vermont's history exceeds that record of chartering.

On February 15, 1781, a committee was appointed at the beginning of the session to "wait on the Surveyor General and see whether there is any land that can be granted

with safety this Session.” In its report on February 22, the committee reported there was a gore of land adjoining Readsboro and another next to Wallingford.<sup>37</sup>

The following day, the proprietors of Royalton were discharged from further payment of granting fees, on account of the hardships they had suffered as result of the Indian raid on that town.<sup>38</sup> This is the first instance of legislative largesse to a Vermont town.

The seeds of Ira Allen’s fall from grace as Surveyor-General were planted on February 23, 1780. The Assembly resolved to grant Ira “so much lands as may in the opinion of the Governor and Council be equal to the balance that may be then his due in such place or places as the Surveyor General may return a survey Bill (in good form) and the Governor and Council are requested to make out a Charter or Charters under such regulations, reservations and restrictions as they may judge proper not exceeding the quantity of two townships six miles square each.”<sup>39</sup> Thomas Chittenden and Ira Allen were both to lose their public offices in 1787 as a result of Chittenden’s issuing a grant for the town of Woodbridge [later rechartered as Jay] without the approval of the Council.

The following spring, the legislature directed the Surveyor-General to locate a grant to Abel Thompson of 24,000 acres adjoining towns of Middlebury, Salisbury and Leicester.<sup>40</sup> Later that year the legislature received the petition of William Barton, asking that a committee be appointed to confer with the Surveyor-General and report their opinion on where he might be given land. The committee reported that Barton should have a township of land contiguous to Lake Memphremagog, and the Surveyor-General directed to make out a survey “as soon as may be upon the unappropriate lands,” and the Governor and Council was to issue him a charter.<sup>41</sup> A Vermont grant was finally issued to Barton and company in 1789, after James Whitelaw completed running the lines in 1787.<sup>42</sup> The town of Barton does not have lake frontage.

That year the Surveyor-General asked the legislature to hold off granting any more towns until “lines can be properly ascertained,” excepting the towns of Woodbridge and Newport.<sup>43</sup>

By petition dated January 14, 1782, the proprietors of Dorset asked for a resolution of a dispute with Manchester, “and especially between those persons in each town, whose land lays Contiguous to said line—n consequence of which, many of your petitioners are involved in very unhappy circumstances; not being able to ascertain their boundary lines; and thereby wholly prevented from giving, or receiving conveyances of the land adjoining said line—beside a train of evils which arise from a supposed intrusion by the inhabitants of each town, upon each others property—.”<sup>44</sup> No area of Vermont it seems was immune from conflicts over town lines.

In 1782, the Assembly appointed a committee to “arrange the most necessary business” and among its priorities was “That the Surveyor Gen’l be called upon to lay before the House a survey of the State, as far as he has obtained it, as also a plan of all the townships granted and the vacant lands ungranted.”<sup>45</sup> During that term, the Assembly received a letter from the Surveyor-General asking direction on how to make out the bounds of Cambridge and Fletcher. The Assembly resolved that the bounds “be ascertained agreeable to the petitions for said townships . . . and the Surveyor-General is hereby directed to Govern himself accordingly.”<sup>46</sup> Here again the legislature acted by resolution, rather than by involving the Governor and Council.

A dispute arose over the south-easterly location of Guildhall that threatened the boundary of Lunenburg in early 1782. The line, according to the report of a legislative committee, should be as Surveyor-General found it.<sup>47</sup> That session Londonderry Gore was identified.<sup>48</sup> The Surveyor-General was ordered to “perambulate and ascertain the Boundaries of the” towns of Bennington, Shaftsbury, Arlington, Sandgate, Ruport, Pawlet, Sunderland, Manchester and Dorset.”<sup>49</sup>

When the legislature convened in October of 1782, it began by asking the familiar question of the Surveyor-General, whether there were any vacant lands to be granted.<sup>50</sup> On the heels of this prayer, it also enacted the first law for the regulation and establishment of town lines. Again the General Assembly ordered that all charters or attested copies of them be sent to the Surveyor General’s office for recording before February 1, 1783. The penalty was forfeiture of the grant. Certain rules were laid out. The Surveyor General was “directed to proceed as soon as may be after the rising of the next Session of the Assembly to perambulate the Lines of the towns of this State, by himself or Deputies.” They were to begin where the respective Charters began: to run the lines he could find and run new lines where the old lines where needed. On his maps, the legislature directed that partial lines be in black ink and the lines as specified in the charters in red ink. “And in case any town should be in fringed on, by the establishment of such Lines by the neglect of not sending in their Charters as aforesaid, they shall have no right of Action, at Law or otherwise, for the recovery of their Property, lost by the Establishment of Town Lines, as aforesaid but are hereby forever debarred therefrom; and this Act shall be given in Evidence.”<sup>51</sup>

A few days later, the Assembly resolved to suspend the Surveyor-General “for the time being drawing bounds for any towns granted by this State where he may judge they cannot be drawn with that exactness which ought to be both for the interest of the State & grantees.” The Assembly directed All to “regulate the surveys adjacent to the upper Cohoos (Coos) towns and lay the lines in that vicinity . . .” Where grants were found to overlap one another (other than Coos), he was to return to the legislature for adjustment and direction he drew bounds for any such towns.” Furthermore, “[t]hat as a general instruction the Surveyor-General be directed to comport as near as may be to the tenor of the respective grants laying the towns in as good shape as the situation of the lands will admit observing the priority of grants.”<sup>52</sup>

The 1782 act relating to town lines was enlarged on February 24, 1783. This act established the wages of the Surveyor-General, deputies, chainmen, line markers, and pack bearers. The general and deputies would make twelve shillings a day, chainmen five, line markers four, and pack bearers six. The fees were paid by the town, and apportioned between towns. If survey fees were not paid within 30 days, in gold or silver, then the Secretary of the Council would make out an execution against the town, with the sheriff advertising in the Vermont newspapers, three weeks successively, and sale at public vendue followed of so much undivided land as needed. If there were insufficient undivided lands to raise the fees, then the law directed the sheriff to sell so much land as was allotted to each right to pay their equal proportion.<sup>53</sup> This act first provided that one-thirtieth part of each measurement “be allowed for Swag of Chain” and that “proper Allowance be also made for the Variation of the Compass, and that proper Allowance be made for the Altitude, so as to make Horizontal Lines.”<sup>54</sup>



At the 1783 legislative session, the Assembly resolved to include among its priorities for the term, “That proper measures be taken to compleat the Survey of this State.”<sup>55</sup> The Assembly also learned for the first time that a gore had been discovered between Sharon and Strafford during that session. It passed a law for qualifying chainmen. They didn’t need any qualifications, but they would have to take an oath of office: “You AB and CD being desired to assist [Ira Allen] Surveyor in carrying the Chain, do swear by the everliving God, that you will faithfully assist the said Surveyor in his Service: and that you will keep a true Account of all Lines or Measures by you taken, agreeable to said Surveyor’s Direction, and the same give up to said Surveyor, at his Desire; according to your best Skill and Ability—So help you God.”<sup>56</sup>

The proprietors of Cabot petitioned the General Assembly during that session to resolve what they believed was the encroachment of Lyndon. The problem was explained this way in the petition:

. . . . Col Arnold Had obtained a moving Grant, and on being Informed that this Town Lay Adjoining North of Those in which he had an [Agency?]*—*Waited on His Excellency—*(a Considerable Number of the Council Present)*, in Company with Capt Jesse Leavenworth, Aggent for one half of the Town of Cabot. To know the truth of that *Report*—but was Informed in that official Manner That Col Arnold, had Liberty to move his Grant, East or North, on unappropriated Lands, *but by No Means* to move South to the Injure of any other Grant . . . .<sup>57</sup>

No action was taken on this request, after the legislature learned that Lyndon had never been informed of the dispute.

In March of 1784, the Assembly resolved that the general employ chainmen, line markers, pack bearers, “by the month in the cheapest manner.”<sup>58</sup> Gone were the minimum daily fees of a few years before.

The law governing town lines from 1782 and 1783 was amended again on March 9, 1784 to give the town tax collector the duty of selling lands of original proprietors to raise money on undivided lands, in order to pay surveying fees.<sup>59</sup> On October 29, 1784, another amendment allowed the Surveyor-General and his Deputies to hire chainmen and other assistants “as Cheap as may be by the month,” authorizing payment for those who furnished necessary subsistence to surveying parties, through the Governor and Council. It also adjured the general to keep fair records of expenses.<sup>60</sup> This act is unusual as it is the first instance of the state taxing towns for roads and bridges, in this case roads in the “northern part of this state” where there were no roads. This act was criticized by the 1786 Council of Censors because it was “calculated for the emolument of individuals, by arbitrarily taking and disposing of property of others, rather than for the true interest of the community at large,” and because the law appears to usurp a judicial function of determining the right of property. In 1787, a new law authorized select boards to lay out roads and to provide compensation for the taking of land for highways, which quickly became the principal mechanism for road work in Vermont.<sup>61</sup>

That October, the Assembly also called on the Surveyor-General to return the surveys he may have completed.<sup>62</sup> This continued the long fight to assemble all the charters and surveys of Vermont towns in a single place.

On May 27, 1785, inhabitants of Panton complained that they had lost nearly two-thirds of their town when Addison was created, and asked for part of Ferrisburgh in exchange, claiming that Ferrisburgh was larger than it needed to be. Nothing ever came of this idea.<sup>63</sup> By a petition filed on June 2, 1785, Silas Williams and Elias Stevens,

agents for Royalton, complained that they were suffering as a consequence of a change in the town line. The same day inhabitants of Bethel made the same complaint. In fact the wording is nearly identical. Both towns wanted their former lines restored. No action came of the complaint.<sup>64</sup>

On June 3, 1785, the legislature restated its call to the Surveyor-General to return surveys he had completed.<sup>65</sup> It also heard from Randolph proprietors on June 13, 1785 yearning for restoration of their former town lines, despite the new survey. Their petition was quickly dismissed by the Assembly.<sup>66</sup> That term it received a petition from Dartmouth College asking for a grant of vacant land.<sup>67</sup> The Assembly then directed the Surveyor-General to survey a tract of 23,000 for the college, “if that quantity of ungranted Land, proper for cultivation, can be found in one Parcel; or otherwise survey the like quantities, in different Parcels, under the direction, and to the approbation, of the President of the Institution.”<sup>68</sup> The charter of the town of Wheelock to Dartmouth College and Moor’s Charity School followed.<sup>69</sup>

Rochester proprietors asked for the return of their old town lines in a petition signed by Dudley Chase on October 6, 1785. Bethel had been moved one mile eastward by the Surveyor-General’s new surveys and this “disconcerts the allotments of lands made in their township, obstructs their settlements and lays a foundation for endless suits at law and controversies with their neighbors—That a removal of the lines renders it uncertain where to find the township, and the proprietors cannot therefore go on to fulfill the conditions of the Charter in the midst of those confusions which arise from a removal of the lines . . . .” While taken seriously at first, this petition was eventually dismissed, like so many others before and after it.<sup>70</sup>

By petition dated February 19, 1787, people of Winhall requested that the legislature annex them the gore recently discovered on their eastern border. The gore had already been granted to Londonderry.<sup>71</sup>

In March of 1787, the Surveyor-General reported that the “towns of Hungerford, Smithfield & Fairfield cannot be surveyed according to charter.” He told the Assembly that it was impossible to survey Fairfield because it was “so situated & lies in such shape that it is impossible to survey the adjacent unappropriated lands into townships of convenient form unless the proprietors of those townships will reduce the same to better shape.”<sup>72</sup>

In October of 1787, the legislature learned that Salisbury and Leicester claimed the same land. Leicester claimed priority of charter, Salisbury the sanction of the state survey. The petition from inhabitants of both towns described the harm:

Lawsuits Commenced for trespass riots &c <we you Petitioners have a Sence of our distressed and Diagreeable Situation which Gives us courage to and we hereby> In which situation we cannot ascertain our Juresdiction consequently cannot raise money to defray our Public or Privat charges Militia affairs under the same Perdikerment Children with out Schools, and Highways unprepared &c . . .

<sup>73</sup>

They wanted relief. Would the legislature order the Surveyor-General to run a new line? The committee appointed to review the petition suggested the petitioners agree among themselves on the town line, and the petition was dismissed.

Ira Allen resigned as Surveyor-General on October 13, 1787.<sup>74</sup> In his final report to the legislature, he explained that the lines of Fairfield, Smithfield and Hungerford were in disorder.<sup>75</sup> There was trouble on the other side of the state as well. “In consequence of

the Legislature giving wrong bounds of Topsham, the lines of Topsham Orange & Wildersburgh will need alteration—several grants have been made in vague terms and the grantees have requested bounds to contain more lands than has where the grants were explicitly made which has been refused and the charters were not issued . . . .”<sup>76</sup>

During his last years as Surveyor-General, Ira Allen was frequently frustrated by the Assembly’s practice of granting charters before their boundaries had been surveyed. This led frequently to confusion and conflict when settlers arrived to start their new lives on land already occupied by others, each claiming a valid title from the State of Vermont. One of these conflicts was the “Brownington-Johnson” controversy. The full story is best told by Virgil McCarty, in a 1947 article in *Vermont Quarterly*, but the heart of the problem was poor mapping compounded by miscommunication between the General Assembly and the Surveyor-General. One map suggests the complexity of the situation. See Figure 1.<sup>77</sup> The trouble was mostly sorted out in 1790 and 1792, but the story is a good illustration of the science and politics of land grants in early Vermont.

**b. During the Tenure of James Whitelaw.** On October 23, 1787, James Whitelaw was chosen Vermont’s second Surveyor-General. A few days earlier Whitelaw, along with William Coit and James Savage, his assistants, petitioned the legislature for lands as payment for their running of town lines.<sup>78</sup> Specie was scarce in Vermont, as was gold and silver. The economy used goods and services as the medium of exchange. That state surveyors would earn land instead of money for their work was simple and practical. Their prayers were answered in 1788, when they were given Coit’s Gore, a 10,000 acre parcel in present-day Waterville and other land in what is now Plainfield.<sup>79</sup>

In March of 1789, Jacob Bayley reported to the Assembly for the committee appointed to “enquire what grants & charters of land have been made by this state”:

Your Comt find that 91 townships of land & 12 gores have been granted 64 townships & gores have been chartered as appears from the list from the Secretarys office & those crossed on the list of charters are surveyed—The greatest part or all of said gores are within the surveys made by the Surveyor-General & the New Hampshire Grants within the lines of Vermont—Your Comt are of opinion that no charters ought to issue only for those grants already surveyed and restricted to certain bounds or pitches made agreeable to their grants. . . .” and suggests altering Smithfield, Hungerford, and Fairfield lines to bring them into proper shape . . . keep Whitelaw’s surveys as they are in the north east part of this state . . . survey other northerly lands, advertising in Vermont Journal & Gazette.<sup>80</sup>

A new act directing the Surveyor-General in his office and duty was adopted October 28, 1789. The Surveyor-General was directed to complete the survey of town lines in the northern parts of the State, and to return a chart or plan to the Governor, Council, and General Assembly.<sup>81</sup> His pay was to be nine shillings a day (compared to twelve shillings a day when Ira Allen was Surveyor-General).

Many acres of Vermont had been sold at vendue during the past several years for back taxes or as a result of Vermont’s Tory and Yorker confiscation policy. To ensure that no one could rely on charters or grants for title to the land sold at these auctions, by the new Surveyor-General law of 1789, all previous acts relating to the establishment of town lines were repealed.<sup>82</sup> To ensure the vendues were respected, the Assembly voted,

“That no survey bill, or record of survey, of any land, surveyed and laid out by authority of the aforesaid acts, of land sold at vendue by direction of the aforesaid acts, shall be received in any Court of record in this State, as evidence of a title.”<sup>83</sup> But it extended the grace period for redemption of these lands for an additional year.

On October 29, 1789, the legislature appointed commissioners to settle with Ira Allen and James Whitelaw. Nothing more would be paid to Ira Allen while the audit was conducted. The committee was directed to adjust his “accounts upon principles of equity, agreeable to the several laws and restrictions of Council and Assembly in force at the time said Allen sustained the office of Surveyor-General, computing interest on either side as shall appear to them equitable.”<sup>84</sup>

The Surveyor-General finally produced his “chart of the state” on January 13, 1791. The legislative committee reported:

. . . that they find an interference of the township of Derby and Salem, of 5710 acres; they also find 10645 acres of land situated between the townships of Lewis and Warren; [Warrens Gore] 3936 acres east of Hoplins’s grant 10118 acres adjoining Kellysburgh 8744 acres lies between Ripton and Kingston; [Granville] also a trad west of Duncansburgh [Newport] and east of Carthage [Jay] and Westfield, containg 23040 acres; being 56,523 acres in the whole which has never been granted by this state.<sup>85</sup>

The problem with Fairfield was straightened out in 1792. Smithfield was divided into Bakersfield and Fairfield, Hungerford was renamed Sheldon, and part of Fairfield was given to Bakersfield.<sup>86</sup> There were five gores, including four in Essex County, granted to various individuals in 1791. Five of them were granted to Samuel Avery.

A gore is defined in the dictionary as a “triangular tract of land, esp. one lying between larger division.” Vermont had as many as 32 gores. They represent the failures of early surveys or charters, but no one was sad when a new gore was found. In 1791, Vermont was hungry for land and anxious to solidify town lines statewide. Where unknown territory was found, there was a zeal to grant it to settlers and annex it to a town. What was given could be taken away. Consider Jackson’s Gore as an example. First identified and granted to Abraham Jackson and his associates, it was annexed to Wallingford and then in 1792 incorporated into Mt. Holly.<sup>87</sup> New gores continued to be discovered and granted through the next decade, but the map was coming together.

Proprietors of New Haven petitioned the General Assembly in October of 1793, asking that they be authorized to tax their inhabitants to pay for new surveys to straighten out problems with missing boundary markers and irregular measurements. They also asked for permission to pitch undivided lands in the town.<sup>88</sup> Their prayers were answered in 1796, when the legislature agreed.<sup>89</sup>

On October 31, 1793, the General Assembly concluded that “it is absolutely necessary, as well for the good as the dignity of this State, That some proper method be adopted to furnish a map thereof.” New emphasis was placed on getting plans to the Surveyor-General, with a new deadline of March 1, 1794. There would be a three pound fine for further neglect.<sup>90</sup> Getting all towns to act proved a continuing problem.<sup>91</sup>

New laws governing the validity of survey bills were adopted on October 21, 1795. From that time forward, no survey bill was “good and valid in law, unless the same is recorded in the town clerk’s office of the town in which such survey is made.”<sup>92</sup>

The following year, William Coit, Whitelaw's assistant, came to the legislature looking for a grant. A committee appointed to investigate the availability of unappropriated land reported, "they have conferred with the Surveyor-General of this state and have heard Mr. Coit on the subject of the within resolution, and from any inquiry cannot ascertain that there is any vacant land, as represented in said resolution, and in their opinion it is not eligible for the Legislature at present to take any measures respecting the same."<sup>93</sup>

James Whitelaw published "A Correct Map of the State of Vermont" in 1796. This is most important. Facsimiles are available at the front of Volume XVI of the State Papers and on-line through Harvard University's Hollis Library catalog, in a digital format that allows downloading and use of a zoom function to highlight specific areas of the state. It shows Vermont as essentially chartered, with a few gores and uncertain areas properly marked. The map would change after 1796, notably with the creation of Washington (originally Jefferson) and Lamoille Counties, but most town lines were set by that date.

A new fee system was enacted on October 26, 1798. The Surveyor-General's fees were set at \$1.50 per day, which was the same for state representatives and council members. Travel fees were six cents per mile, each way.<sup>94</sup> By comparison, county surveyors got \$1.00 a day.

The new compilation of Vermont statutes was enacted on October 30, 1797, entitled Laws of Vermont 1797. Chapter LIII of that compilation is entitled, "An Act directing the appointment of a surveyor general and county surveyors, and regulating their office and duty." It was not much different from previous acts, although in the new law the Surveyor-General was authorized to go onto lands between the first day of October and the last day of April, without trespass.<sup>95</sup> From that time forward, county courts would appoint county surveyors. The work of the Surveyor-General and county surveyors would also be recognized as prima facie evidence in Vermont courts of law.

Petitions for new surveys continued to be received by the Assembly throughout the years. Thomas Hodgkins, on behalf of the proprietors of Pittsfield, asked for a new survey in 1799. He was rebuffed.<sup>96</sup> The latest was presented in 1997, when Rutland and West Rutland asked the legislature for funds to monument the line that separates them. They were granted their request, and in 1998 the line was finally established and monumented.

**c. Beyond Whitelaw, to the Present.** The office of Surveyor-General, along with that of the county surveyors, was abolished in 1838, and the instruments of the office directed to be delivered to the Secretary of State.<sup>97</sup> These were engineering instruments purchased by the state for him in 1826.<sup>98</sup> In 1824, the legislature had ordered all charters in the Surveyor-General's possession to be turned over to the Secretary of State.

In 1870, the General Assembly enacted a chapter on town lines.<sup>99</sup> This law, now amended, included a provision that, "In the absence of a clearly definable charter line boundaries acquiesced in by the towns involved for one hundred years or more shall be deemed to be the charter line."

An effort to set out and establish true meridian lines in Vermont towns was established in 1886.<sup>100</sup> The governor is obliged to appoint persons to see that select

boards “erect suitable stone or iron posts at the extremities of such meridian line, setting the same firmly in the ground, the north post to be marked with the letter M, and the south post with the initial letter or letters of such town or city.” A written description of the location of the marker is to be recorded in the town records. The pay is \$8.00 a day. 1 V.S.A. §§ 731-732.

An index to the Papers of the Surveyors-General was funded in 1902.<sup>101</sup> The work of Franklin H. Dewart was finally published in 1918.<sup>102</sup>

The Vermont Coordinate System began in 1945, adopting systems of coordinates for “defining and stating the horizontal positions or locations of points on the surface of the earth within the state of Vermont.” Today it is codified at 1 V.S.A. §§ 671-679.

The first laws regulating land surveyors were enacted in 1967.<sup>103</sup> The same year Vermont law defined what constitutes a proper plat for recording purposes were adopted.<sup>104</sup> They are now codified at 27 V.S.A. § 1403.

In 1984, the legislature recognized a new gore of approximately 300 acres, lying between Bakersfield, Montgomery, and Enosburg. It was named Perley’s Gore, after the well-respected representative from Enosburg Merrill Perley, and in 1986 it was divided among the three towns.

The law on setting town boundaries changed in 2006, creating a new system for resolving conflicts between towns.<sup>105</sup> When towns agree on their boundaries, the selectboards of each vote to adopt the location, after a public hearing. The boards then must file a copy of a survey of the line, along with certified copies of the minutes and a list of property owners whose location has changed by the agreement, with the Secretary of State and the Vermont Enhanced 911 Board.

When towns cannot agree, or in the absence of a clearly definable charter line, the boards must arbitrate the dispute. This begins with an agreement, and the appointment of arbitrators, using the system established in 12 V.S.A. Chapter 192.

If the arbitration does not result in the alteration of a line, the arbitrators’ award is filed with the Secretary of State and the clerk of each town. If the award results in a change, a survey must be prepared, the cost apportioned between the towns. Then one or both municipalities petition the legislature to adopt the line. The selectboards are also required to post a notice of this petition in two public places and the clerk’s office at least three weeks prior to filing the petition.

When towns agree on a line but an alteration is necessary, they are directed by the law to have a survey conducted, and petition the legislature for an act to confirm the location. The same notice provisions as with the arbitration award must be followed before the petition is submitted to the General Assembly.

When a line is changed by this process by ratification by the legislature, monuments are required wherever lines change direction, paid for by the State. If additional monuments are required, the towns must pay for them.

The request for proposal process to be used by the towns is established by the Secretary of State in consultation with the Agency of Transportation.

The clerk must file a list of the property owners whose land has been added to the municipality by the process in the land records, and index the same.

#### 4. Arbitration.

Vermont's Arbitration Act describes how the process should work. It begins with the arbitration agreement. Ideally, the agreement includes a method for appointing arbitrators and replacing them if there is a vacancy. If not, the Superior Court must be engaged to make the appointments. Three arbitrators is the obvious choice. Although the law does not mandate it, one arbitrator should be a surveyor.

Arbitrators have the power to issue subpoenas to order witnesses to attend a hearing and documents to be produced, and have the power to swear in witnesses. The fees of the arbitration are paid as provided in the final order, and may include attorney's fees if the arbitration agreement requires it.

Hearings are called on five days' notice, and a written decision is required.

The Superior Court is authorized by the act to issue orders relating to the arbitration, including the power to compel or stay arbitration, modify or even vacate an award, and enforce judgments, unlike mediation, where the process is designed to avoid having to go to court.

Attached as Appendix A is the agreement used in the Shelburne/St. George arbitration, and B is a copy of the commissioners' decision.

#### 5. The Cases.

The movement for Vermont independence had no official starting date or event. There must have been many encounters between good people thinking they owned land others had settled, each claiming a proper grant. Many of these necessarily ended up in court. The first trial has not been forgotten.

Ethan Allen presented official copies of New Hampshire charters to the New York Supreme Court in Albany as evidence in a suit tried in June of 1770, and the copies were refused as irrelevant. Ira Allen reported the reaction of our greatest hero, Ethan Allen:

Thus a precedent was established to annihilate all the titles of land held under New Hampshire Grants, west of Connecticut river. Mr. Ingersoll [Vermont's lawyer] and Mr. Allen retired from the court, and in the evening Messrs. Kemp, Banyar, and Duance, lawyers and land speculators of New York, called on Mr. Allen, and among other conversations, Mr. Kemp, the King's attorney, observed to Mr. Allen, *that the people settled on the New Hampshire Grants should be advised to make the best terms possible with their landlords, for might often prevailed against right*: Mr. Allen answered, *The Gods of the valleys are not Gods of the hills*; Mr. Kemp asked for an explanation, Mr. Allen replied, *that if he would accompany him to Bennington, the phrase should be explained.*<sup>106</sup>

The majority of early cases before 1824 are unreported. One 1799 trial is recalled in a petition for a new trial filed with the General Assembly by Samuel Avery (of the many Avery's Gores). Avery explained that he had obtained a grant of 1,380 acres south of Grafton in 1791. Soon after, he wrote, Amos Hale moved onto that land and refused to move. The trial was held at Newfane before the Vermont Supreme Court, which at that time was a trial court as well as an appellate court. Avery lost and tried to persuade the legislature to give him another trial. Avery explained,

Your petitioner would remark to Your Honours that he has been at the Expense of making an actual Survey beginning at the Massachusetts line and

perambulating the Liens of Halifax Marlborough New Fane Townsend Athens & Johnson's Gore and is abundantly able to Show could he be admitted to a new tryal that there is sufficient Land to satisfy his Grant without inerfering with Either of the before mentioned towns. He would further remark that no less than [four?] Surveyers have been employed at different times and have all disagreed .  
107  
...

Avery's petition was dismissed and no new trial held, but the petition illustrates the extent to which he was willing to go to prove his title.

The line between Rockingham and Grafton was the cause of a lawsuit that ended in 1853. The fight began over a road, which plaintiffs agreed to build at \$1.50 per rod. The highway was laid out along the western line of Rockingham, but occasionally crossed the line into Grafton. Plaintiffs showed that for nearly the whole distance of the highway there was a stone wall serving as a wall fence between farms in the two towns and had been recognized by the owners of those farms as the town line. The defendant Town of Rockingham, seeking to limit its costs in paying for the road, offered a survey, based on the charter lines, showing that the stone wall was not the town line. The question presented to the jury was whether the line had been recognized for twenty years. If so, they were directly to hold Rockingham liable for the cost of the road east of the wall. The Vermont Supreme Court disagreed, reversed the decision and awarded the town a new trial. It explained:

The line of the town, is not to be settled in that way. If the charge had been, that the towns had recognized the wall as the line of the towns for a period of twenty years, it would have been well enough; but the acts of adjoining owners cannot in law bind the towns . . . .<sup>108</sup>

In 1889, the Court faced a new question—who gets the swag? The law originally enacted in 1783 had allowed one chain in every thirty measured for the deflection of the chain in passing various obstacles. A dispute arose over the old line of Philadelphia (later annexed to Chittenden and Goshen). The defendant asked for a charge to the jury that “each proprietor and his grantees would be entitled to the land so allotted, notwithstanding it overran in width the surveyor's description.” The jury were told that before they applied that rule they needed to be satisfied that the lots were run that way and that a deviation was made by the surveyors. Since the jury was unconvinced, it held for plaintiff. The Supreme Court found no error, and affirmed the jury decision.<sup>109</sup> It did not take a position on the swag charge. It preferred to avoid the question altogether.

The first reported case of a town suing another over its common boundary came in 1889, when the Somerset/Glastonbury line was questioned. A commission had been appointed by the superior court. At its hearing, over the objections of counsel for Glastenbury, two witnesses were allowed to testify about “declarations of persons deceased relating to a certain tradition concerning the location of the line in dispute.” The committee reported its decision in Somerset's favor, explaining that the hearsay was not considered in arriving at its decision. That was enough for the Supreme Court. The hearsay objection was put aside, and the commissioners' decision upheld.<sup>110</sup> The case is also remembered for the proposition that a town cannot object to the process after the report of the commission is submitted; the time for objection is at the time the commission is empowered to act.

Timber cutting frequently involves questions about town lines, as one logger harvests trees outside property lines defined by town boundaries. The action is trespass



and the penalty is treble damages. In 1891, 180,125 feet of spruce and fir timber brought \$450.31. Three times that was the amount of the damage claimed by the plaintiff. He alleged the logger had cut beyond defendant's boundaries, crossing the town line onto the plaintiff's land. The cutting outside the lines was done without defendant's knowledge or negligence. The Supreme Court agreed defendant was not then liable for the damage, leaving the plaintiff no choice but to proceed against the logger.<sup>111</sup>

Two years later the Court handled another dispute over who owned trees in an area of disputed land lying on the boundary between Wallingford and Mt. Tabor. The question was whether a field book could be admitted as an "ancient record," one of the exceptions to the hearsay rule. The field book contained early surveys of the town of Wallingford. The former town clerk testified that it had been in the town office for as long as he was there. The Court agreed the field book should have been admitted, explaining:

The case comes exactly within the familiar maxim as expounded by Lord Bacon: "Ambiguitas verborum latens verificatione suppletur; nam quod ex facto oritur ambiguum verificatione facti tollitur." "Ambiguitas latens" is that which seemeth certain and without ambiguity for anything that appeareth upon the deed or instrument, but there is some collateral matter out of the deed that breedeth the ambiguity." Bac. Max. 25. Among other things, it purports to be a field book of ancient date, showing the survey of certain divisions of lots in Wallingford. It came into possession of the present town clerk of Wallingford, as town clerk, with the other books of record of the town, "a large number of years ago." Several deeds of land in Wallingford, executed as early as A. D. 1845, introduced in evidence, referred to a field book. The genuineness of a document of this kind, on its face purporting to be sufficiently ancient, is shown prima facie by proof that it comes from the proper custody.<sup>112</sup>

The town of Glover sued to enjoin county commissioners from assessing it for repairs to a bridge it believed was not Glover's responsibility, in a case reported in 1898. Everybody admitted that the bridge was in Greensboro, but it was near the border of Glover. The Court held that the bridge should be regarded as if it were on the line. "It serves the same practical purposes, and deflects from the exact line, no doubt, for the purpose of procuring a better road at less expense. The expenses of repairs may be apportioned, not necessarily in equal proportions, but as the commissioners deem just."<sup>113</sup> Town line law takes a little twisting when it comes to highways and bridges near town lines, when both towns are benefited by the road. The statutes treat these roads as the joint responsibility of both towns. The reason is simply the overriding purpose of roads, which is to serve the traveling public, not the more narrow interests of towns. It is for this reason that the law does not acknowledge the authority of one select board to discontinue a highway passing through or near a town line unless the select board of the neighboring town follows the same procedure.<sup>114</sup>

Franklin H. Dewart made an early appearance as a private surveyor in the trial of an 1899 case involving a town line. The reported case describes his background. "Before the excluded question was put to him, he had testified that he was a graduate of Harvard University and the Lawrence Scientific School, had taught surveying and trigonometry for fourteen years, and had been a practical, operating surveyor since 1880." Dewart was asked whether he could tell the age of certain markings on trees in a contested area of land. "I can tell some things. I can't tell the precise age," he replied. After he testified that he had examined the trees for this purpose, he gave his opinion

about the age of the marks, and his answer became the subject of an objection that was one argument against the verdict when the case reached the Vermont Supreme Court.

The surveyor's judgment was on the line. Defendant's counsel argued that "the witness had not testified that he had ever counted or attempted to count the rings upon a tree, or that he had any knowledge how to determine the age or marks upon trees, or that he knew of any method by which the age of a mark upon a tree could be determined, and no evidence had been offered tending to show that the witness had any skill in this particular." Dewart had testified that he had used a magnifying glass every week day for 10 or 15 years, and that he had examined and counted rings on wood to determine age.<sup>115</sup> Should that evidence be allowed? The Court's explanation follows:

It is argued that the age of a tree cannot be told by counting the rings in its grain, and the case of *Patterson v. McCausland*, 3 Bland, 69, is cited. However ingenious and learned the reasoning of the court in that case may be, it fails to convince us that mankind has lived under an hallucination in that respect for centuries. Almost every one acquainted with the subject treats it as true that the age of a tree can be approximately told by counting the concentric layers in its grain, one of which, as a general rule, is made annually. Even the tree itself in "The Talking Oak" of the late poet laureate, Tennyson, voices the popular belief when it says: "That though I circle in my grain Five hundred rings of years."

It is further urged that the counting of rings in a block of wood is not the work of an expert, but that the jury, having the block before them, were as competent to determine the number of rings as any other person. We hold otherwise. Such experience and familiarity with matters of this kind as is had by woodsmen and surveyors constitute peculiar knowledge, and give a person special skill in determining the age of wood or trees; and, if a person has special skill upon a subject, he may be called as an expert.<sup>116</sup>

The Searsburg/Woodford line was at stake in a 1904 case. Commissioners were appointed by the county court and found an ancient line of marked trees, about 100 rods east of the charter line. Searsburg argued that for so long a time "that no witness could recollect otherwise, the parties hereto and their inhabitants have recognized said last-mentioned line as the town line, and that in Searsburg the allotments of the town were made to said line, and that Woodford had maintained the highways to said line, and placed all the land west of it in her grand list, and collected taxes thereon, and that the deeds of conveyance of lands between said lines had been recorded in the town clerk's office in Woodford, and that said easterly line had been recognized in all ways as the true town line, and had never been questioned by Searsburg in any legal proceeding until this petition was brought." The issue that was left unsettled in the case of *Walker v. Collins*, 61 Vt. 542 (1889), discussed above, was finally before the Court. Was the town line where the charter described it or where the towns had believed it to be?

It seems clear that the statute contemplates that the charter line is the one to be located and established; not necessarily absolutely and precisely according to the charter, which might in some cases be quite impracticable, and, perhaps, impossible, but as nearly according to the charter as it reasonably can be.<sup>117</sup>

The Court went beyond the statute to the Vermont Constitution in its reasoning. Since the constitution gives the legislature to sole and non-delegable authority to create towns, "[a]ny substantial change of the charter boundaries of towns would necessarily enlarge or diminish their municipal jurisdiction, and to that extent would constitute an

amendment of their charters.” In the end, the charter, not the line of marked trees respected as the town line for so long, prevailed.

Commissioners appointed to locate the true line between Morgan and Brighton concluded they had found two blazed spruce stubs, both long dead, that were “undoubtedly, in their opinion, of the age of marking done by Surveyor General James Whitelaw” from his survey of 1788. The statute at the time required such reports to be filed with the Supreme Court. Finding no objection from either town, the Court ordered the commissioners to mark the line and make a record of it in each town, dividing the expense between both towns.<sup>118</sup>

Jericho and Underhill fought over the line separating them in the late 1920s, and that fight has left two reported decisions of the Supreme Court. Early on, Jericho questioned whether Underhill even had authority to bring a petition to the courts, pointing to a defect in the wording of the article in the Underhill town meeting warning supporting Underhill’s involvement in the case. The voters had agreed to “resurvey” the line, while the statute says the process is to “locate” the line. The Court disagreed with Jericho, explaining that the “word ‘resurvey’ as used in the vote taken obviously means to locate the calls in whatever deeds, charters, grants, or surveys are material and relevant to the matter in dispute. Consequently, we have jurisdiction.”<sup>119</sup>

By the time of the second decision, two years later, Jericho had lost the fight and was now fighting over having to pay the entire cost of the proceeding. Jericho believed it was being punished for losing. Jericho had remained adamant that the line it understood as the charter line should be recognized, and apparently given little in any effort to compromise. Underhill argued Jericho should pay for the costs of the commissioners’ work, based on sound principles of equity and common practice awarding the substantially-prevailing party the advantage. The Court agreed, and gave the full bill to Jericho to pay.<sup>120</sup> In explaining itself, the Court restated the holding of the *Searsbury* case discussed above, that “while the statute contemplates that the charter line is the one to be located and established, it is not necessarily absolutely and precisely according to the charter, which might in some cases be quite impracticable, and perhaps impossible, but as nearly according to the charter as it reasonably may be.”

A question of who owned the timber cut on a disputed parcel arose again in 1930, in a case involving division lines in the town of Moretown. At stake was a field book prepared by surveyor Abel Knapp. Plaintiff claimed the charter prevailed over the field book, and should have preemptive authority. The Court found the field book as an extension of the charter, and favored the defendant’s view of the line as more specific and of greater reliability. The case is important principally for the view it presents of the work of the surveyor, in this case Franklin H. Dewart.

Defendant called a 70-year-old man named Julius Converse, who had always lived in Moretown and had owned the disputed lot until five years before the controversy. His father had shown him the corners, including a hollow stump with a stake in it as the southeast corner. When he went to view the land the Saturday before he testified, Converse found the stump gone. He testified that he “was present at this old stump in 1925 when Mr. Dewart started his survey around some lots from it. He went with Dewart through two lots, but Dewart’s compass must have varied, because he was about 2 rods from the stump when he came back.” In the end the Court found Converse’s testimony authoritative. It explained, “All lands are supposed to be actually surveyed, and, where a

deed describes a lot by its number according to a plan, the intent is to convey the land according to that actual survey. Consequently, if marked lines and marked corners are found, courses and distances must yield to them.”<sup>121</sup>

How the commission appointed by the county court should act is the subject of a case involving the town lines of Brookline and Newfane from 1966. The chair of the commission was unsatisfied with the evidence presented at the hearing, and undertook to locate better evidence in the field and the town offices. For this the commission’s judgment was reversed, as he had stepped outside the bounds of judicial discretion, in effect making himself an unsworn witness. He should have made the parties bring him the evidence he needed.<sup>122</sup> The hearing should have been conducted as a trial, with proper recognition of the methods courts use to find facts and reach conclusions.

The case also provides an interesting discussion of the familiar question of acquiescence. The Court had already explained in two or three prior cases that what mattered was the charter line. Here the towns of Putney, Brookline and Newfane had all agreed to a line in writing in 1829, but the commission refused to admit it, since there was no legislative authority for such agreements prior to 1870. All three towns had recognized and respected the 1829-established line, but the Supreme Court found that evidence unavailing. It is the charter that prevails. “But this is not to say that where the true division is uncertain or obscure, historic observance of a boundary marked upon the ground, coupled with acquiescence long endured is without probative value to indicate where the charter line might be found. As with private line disputes, acquiescence alone can have no prescriptive effect nor transfer any territory. But it may have evidentiary value in the search for the location of the true boundary.”

The town line separating Putney and Brookline was the subject of litigation that ended in 1967. Ten years earlier there had been a similar contest that ended with a stipulation on where the line should be located. This time around, a new select board member objected, complaining that the stipulation agreed to a line that was inconsistent with the charter line. The Court dismissed the action on grounds of finality. It explained that charter lines sometimes cannot always be located with precision on the ground, leaving select boards and court to locate the boundary “as nearly according to the charter as it reasonably can be.” There would be no new hearing. The earlier decision would stand.<sup>123</sup>

The relationship of zoning and town lines arose in a 1972 case involving the town of Waterford. An applicant for a zoning permit had purchased a plot of land without ascertaining the town line, although it knew its land was in two towns. One side of the line was zoning residential, the other industrial. After construction began, the company discovered it was building in Waterford by mistake. It asked for a variance, claiming the location of the town line was outside of its control and that the hardship was not created by itself. The Supreme Court did not buy the argument. This was no “unnecessary hardship,” as the variance statute used the term. The company was at fault, and must live with the consequences.<sup>124</sup>

Town lines can even play a role in criminal cases. A 1981 case involving a charge of attempted rape turned on where the crime took place. Was it in one county or another? Had it been across the line, another prosecutor would have had jurisdiction and the charges might have been wrong enough to justify dismissal of the case.<sup>125</sup> As it turns

out, the case did not turn on this issue, as the defendant generally denied the charge, but in another case the line might be an essential question.

In another timber cutting case in 1986, the town of Wolcott claimed a logger had cut over the line of Craftsbury into Wolcott town forest. The line was in doubt, argued the defendant, given discrepancies between deed descriptions, field evidence and maps of the town line. The Court found that “the Craftsbury-Wolcott Town line is marked in the field by old blazes, old fences, stone markers and other physical evidence in the field. The line has long been established in the field and conforms to deed records.” The defendant offered local, state and U.S.G.S. maps showing the line in a more northerly direction and the deed to the land in question, which was of little help (“the gore lands between lot number 68 and the town line.”) The plaintiff offered two licensed land surveyors. Admitting there was evidence supporting both points of view, the Supreme Court sided with the trial court, after stating that its authority on the facts is limited to reviewing if there is substantial evidence supporting the findings of the court below.<sup>126</sup> The lack of any ground evidence sunk the defendants’ case. “In these circumstances the lines and monuments actually marked and recognized on the ground in the distant past will constitute the survey.”

The State denied a business directional sign to the Peel Gallery of Fine Arts in part on the basis of an administrative rule that provided, “Official business directional signs shall be located in the same town as the business, service or point of interest to which the sign directs attention.” The Supreme Court avoided the rule. Locations of signs are to be chosen based on traffic safety, convenience of the public, and scenic views. “The existence of a town line bears no reasonable or logical relationship to any of these factors. Rule 14(a), therefore, is not authorized by the statute, and the Council has exceeded its statutory authority in the promulgation of the rule.”<sup>127</sup>

The 1992 legislative reapportionment was challenged in court and generally upheld by the Vermont Supreme Court. The decision is important in recognizing the central role played by town lines in identifying legislative districts. Defending the legislative decision to cross county lines in forming senatorial districts, Justice Dooley wrote, “County lines are of limited significance to house districts because of the very limited county government in Vermont. Where the county line follows a geographical boundary, the breach of the county line is significant because of the geographical boundary, not necessarily because of the county line. More significant are town lines, and this district crosses none of these. It is impossible in a rural state with a large number of towns to follow town lines without crossing county lines.”<sup>128</sup>

In 1926, when the Addison selectboard purported to discontinue a portion of an early road built by order of the General Assembly in 1798, the board held one hearing in town. In the mid-1990s, neighbors objected to the development of the land next to the “discontinued” portion of the highway, and the superior court agreed. The highway, in its mind, was no more. On appeal, the landowners questioned the validity of the discontinuance. The Vermont Supreme Court agreed with them and reversed the lower court, reaffirming the principle that discontinuance, being a statutory process, must be done precisely or it will not be respected. In 1926, the law provided that the supreme court, not the select board, had the power to discontinue highways running between towns. The 1926 “discontinuance” was done wrong; the road remains a public highway.<sup>129</sup> This decision precipitated the old roads crisis in Vermont, by focusing on

the need to understand the history of roads. Today, the ruling has been superseded by statute, in 19 V.S.A. § 717.

**6. Sources.** The basic kit for beginning the study of town boundaries is the State Papers of Vermont series. Volume One is the Index to the Papers of the Surveyor-General. Franklin H. Dewart was its editor. It was published in 1918, pursuant to No. 162, Acts of 1902, “An Act Relating to the Preservation of the Surveyor’s-General’s Papers.” Volume Two are the Vermont charters. Then come the journals for the various years through 1799, then petitions to the General Assembly, and the laws enacted each year from 1778 to 1799.

The charters of Vermont towns chartered by New Hampshire are found in Albert S. Batchelder’s *The New Hampshire Grants*, which is Volume 26 of the *New Hampshire Provincial and State Papers* (1895).

Esther Munroe Swift should be awarded the Vermont version of the Nobel Prize for Research for her extraordinary work, *Vermont Place Names* (1977, 1996 (second printing)). It provides great detail on the way towns were cobbled together out of the wilderness and provides leads to the use of land through the town over its history.

The State Archives’ web page includes an index to the laws affecting each municipality in the state, including charters and special acts. This resource is essential for ascertaining how towns grew, shrunk, and were redefined by the legislature.<sup>130</sup>

Books alone will not suffice. You must also come to Middlesex, to the State Archives to view the papers of the Surveyors-General that are recorded there, and to the Vermont Historical Society, for James Whitelaw’s papers. You must also go to the town clerk. Town records, of course, are essential sources. Plot plans, proprietors’ records, field books, road layouts, town meeting records, and deeds are basic to learning the answers, or at least to gathering the evidence, of what has come before.

Perhaps the most important source is your patience and diligence. Town line work is highly demanding. Hours and days may be needed to glean the smallest fact, and in the end there will be many unanswered questions. But then there is the occasional revelation, when everything comes together, to balance out the distress such questions have caused. Line after line, the work of Ira Allen and James Whitelaw is still being completed.

---

<sup>1</sup> This paper was first issued in 1998, and presented that year as a seminar at a VSLS forum. Its authors are Paul Gillies and D. Gregory Sanford. This is an updated version of the essay.

<sup>2</sup> Actually, there are two examples where the constitutional rule requiring a house member to be a resident of the town was not followed. One is Noah Smith who, while living in Rutland, was twice elected to the House of Representatives for the town of Johnson. The first time he attended the legislature, the Assembly voted not to sit him, on account of residency, exercising its rights under the Constitution to judge of the elections and qualifications of its members. The following year the people of Johnson again elected Smith, and he was seated. The House could do nothing, as the Constitution explained then (and now) that the body had the power to expel members, “but not for causes known to their constituents antecedent to their election.” Vermont Constitution, Chapter II, Section 14. Frank Fish, “Noah Smith” in *Vermont The*

---

*Green Mountain State* (1926) 63-64. The other nonresident representative was Gamaliel Painter, originally of Middlebury, from which town he had been elected. When new town lines were run in 1786 it was discovered he actually lived in Salisbury. Salisbury voters did not complain apparently, nor did they object to the “arrival” of Thomas Sawyer, formerly of Leicester, who also changed towns without moving from his home, on account to the running of these new town lines. Leonard Deming, *Catalogue of the Principal Officers of Vermont, 1778-1851* (1851), 20.

<sup>3</sup> Esther Munroe Swift, *Vermont Place Names* 14. Swift explains that 113 present Vermont towns trace their lineage to Wentworth charters.

<sup>4</sup> Swift, 601.

<sup>5</sup> Swift, 21.

<sup>6</sup> *Journals and Proceedings of the General Assembly of the State of Vermont 1778-1781*, III State Papers of Vermont (I) (Walter H. Crockett, ed., 1924), 149. It’s important to recognize that the resolution was not a formal act of the legislature. At this time, the legislature saw a distinction between what it could be by act and by resolution. Clearly more authority was granted to act by resolution at that time as today.

<sup>7</sup> The earliest surveyor in Vermont may have been Hubbertus Neal, who surveyed the corner of Guildhall for Benning Wentworth in 1762 or 1763. Crockett, *Vermont The Green Mountain State II*, 597-599.

<sup>8</sup> Robert E. Shalhope, *Bennington and the Green Mountain Boys: The Emergence of Liberal Democracy in Vermont, 1760-1850* (1996), 49.

<sup>9</sup> *Index to the Papers of the Surveyors-General*, I State Papers of Vermont (Franklin H. Dewart, ed., 1918) 7.

<sup>10</sup> III *Ethan and Ira Allen: Collected Works* (J. Kevin Graffagnino, ed., 1992), 23.

<sup>11</sup> I State Papers 16.

<sup>12</sup> Swift, 457.

<sup>13</sup> Thomas Goodville [Goodwillie], “Life of General James Whitelaw,” *Vermont Historical Society Proceedings, 1905-1906*, 103, 112.

<sup>14</sup> Goodville, 113-116.

<sup>15</sup> Switt, 115, 337, and 345.

<sup>16</sup> Swift, 36, 41, 86, 110, 221.

<sup>17</sup> Goodville, 117.

<sup>18</sup> *Ethan Allen and His Kin: Correspondence, 1772-1819* (John Duffy, ed., 1998), 149-150.

<sup>19</sup> John Johnson’s papers are at Special Collections at UVM.

<sup>20</sup> I State Papers 8.

<sup>21</sup> Id.

<sup>22</sup> McCarty’s work can be found in the Vermont Historical Society library.

<sup>23</sup> I State Papers 5-6.

<sup>24</sup> Samuel Williams, *The Natural and Civil History of Vermont* (1794).

<sup>25</sup> III State Papers (I) 71.

<sup>26</sup> III State Papers (I) 86-87.

<sup>27</sup> III State Papers (I) 88.

<sup>28</sup> *Laws of Vermont 1778-1780*, XII State Papers (Allen Soule, ed., 1964) 80-81.

<sup>29</sup> *General Petitions 1778-1787*, VIII State Papers of Vermont (Edward A. Hoyt, ed., 1952) 19.

<sup>30</sup> III State Papers (I) 92-93.

<sup>31</sup> “An Act Authorizing and Directing the Surveyor General to make a plan of this state.” XII State Papers 192-93. Following the title appear the words, “This act is omitted from the original volume.”

<sup>32</sup> VIII State Papers of Vermont 23.

<sup>33</sup> III State Papers (I) 83.

<sup>34</sup> III State Papers (I) 150-151.

<sup>35</sup> III State Papers (I) 153-56.

<sup>36</sup> III State Papers (I) 173-78.

<sup>37</sup> III State Papers (I) 198, 207-208.

<sup>38</sup> III State Papers (I) 199.

<sup>39</sup> III State Papers (I) 210.

<sup>40</sup> III State Papers (I) 228.

<sup>41</sup> III State Papers (II) 17, 25.

<sup>42</sup> I State Papers 34.

- 
- <sup>43</sup> III State Papers (II) 32-33.
- <sup>44</sup> VIII State Papers 52.
- <sup>45</sup> III State Papers (II) 46-47.
- <sup>46</sup> III State Papers (II) 51.
- <sup>47</sup> III State Papers (II) 65.
- <sup>48</sup> III State Papers (II) 76.
- <sup>49</sup> *Laws of Vermont 17881-1784*, XIII State Papers (John A. Williams, ed., 1965) 82-83.
- <sup>50</sup> III State Papers (II) 128.
- <sup>51</sup> XIII State Papers 151, 152.
- <sup>52</sup> III State Papers (II) 148, 149.
- <sup>53</sup> XIII State Papers 179-180.
- <sup>54</sup> XIII State Papers 181.
- <sup>55</sup> III State Papers (II) 190, 191.
- <sup>56</sup> XIII State Papers 223.
- <sup>57</sup> VIII State Papers 89.
- <sup>58</sup> *Journals and Proceedings of the State of Vermont 1784-1787*, III State Papers (III) (Walter H. Crockett, ed., 1928) 45.
- <sup>59</sup> “An Act in Addition to two several Acts therein mentioned,” XIII State Papers 260-61.
- <sup>60</sup> XIII State Papers 281.
- <sup>61</sup> *Records of the Council of Censors* (Paul Gillies and Gregory Sanford, eds., 1991) 35, 76-77.
- <sup>62</sup> III State Papers (III) 74.
- <sup>63</sup> VIII State Papers 124-125.
- <sup>64</sup> VIII State Papers 108-110, 115.
- <sup>65</sup> III State Papers (III) 119.
- <sup>66</sup> VIII State Papers 135.
- <sup>67</sup> III State Papers (III) 141.
- <sup>68</sup> *Laws of Vermont 1785-1791*, XIV State Papers of Vermont (John A. Williams, ed., 1966) 5.
- <sup>69</sup> I State Papers 161.
- <sup>70</sup> VIII State Papers 163-64.
- <sup>71</sup> VIII State Papers 183.
- <sup>72</sup> III State Papers (III) 312
- <sup>73</sup> VIII State Papers 374-375.
- <sup>74</sup> *Journals and Proceedings of the State of Vermont*, III State Papers (IV) (Walter H. Crockett, ed., 1924) 8
- <sup>75</sup> Proprietors of Enosburgh and Berkshire petitioned the legislature on October 22, 1787, claiming the lines of Hungerford, Smithfield and Fairfield were so confused that they “have long been prevented from making settlement.” A petition from inhabitants of Hungerford echoed the frustration. VIII State Papers 367-368, 371.
- <sup>76</sup> III State Papers (IV) 22.
- <sup>77</sup> Virgil McCarty, “Boundary Controversy: The Brownington-Johnson Problem,” *Vermont Quarterly* 15 (July 1947), 157-176.
- <sup>78</sup> III State Papers (IV) 26.
- <sup>79</sup> *Charters Granted by the State of Vermont*, II State Papers of Vermont (Franklin H. Dewart, ed., 1922) 221, 281; Swift, 291.
- <sup>80</sup> III State Papers (III) 330-331
- <sup>81</sup> XIV State Papers 499-500
- <sup>82</sup> The legislation repealed the acts of October 22, 1782, February 24, 1783, March 8, 1784, and October 29, 1784.
- <sup>83</sup> XIV State Papers 500.
- <sup>84</sup> XIV State Papers 508-13.
- <sup>85</sup> III State Papers (IV) 229, 236.
- <sup>86</sup> I State Papers 69, 133-134.
- <sup>87</sup> I State Papers 87.
- <sup>88</sup> *General Petitions 1793-1796*, X State Papers of Vermont (Allen Soule, ed., 1958) 39-40.



- 
- <sup>89</sup> *Journals and Proceedings of the General Assembly of the State of Vermont 1795-1796*, III State Papers (VII) (John A. Williams, ed., 1973) 354.
- <sup>90</sup> *Laws of Vermont 1791-1795*, XV State Papers of Vermont (John A. Williams, ed., 1967) 209-10.
- <sup>91</sup> *Journals and Proceedings of the General Assembly of the State of Vermont 1791-1792*, III State Papers of Vermont (V) (John A. Williams, ed., 1970) 47, fn. 1.
- <sup>92</sup> XV State Papers 381.
- <sup>93</sup> III State Papers of Vermont (VII) 328.
- <sup>94</sup> *Laws of Vermont 1796-1799*, XVI State Papers (John A. Williams, ed., 1968) 245.
- <sup>95</sup> XVI State Papers 490-93.
- <sup>96</sup> *General Petitions 1797-1799*, XI State Papers of Vermont (Allen Soule, ed., 1962) 428-429.
- <sup>97</sup> 1838, No. 25.
- <sup>98</sup> I State Papers 144.
- <sup>99</sup> 1870, No. 38.
- <sup>100</sup> 1886, No. 83.
- <sup>101</sup> 1902, No. 162.
- <sup>102</sup> *Index to the Papers of the Surveyors-General*, I State Papers (Franklin H. Dewart, ed., 1918).
- <sup>103</sup> 1967, No. 364 (Adj. Sess.), eff. Jan. 1, 1969.
- <sup>104</sup> 1969, No. 235 (Adj. Sess.).
- <sup>105</sup> Laws of 2005, No. 102 (Adj. Sess.).
- <sup>106</sup> III Ethan and Ira Allen: Collected Works 15-16. The Biblical origin of the phrase is 1 Kings 20:28, where the line is, "And there came a man of God, and spoke to the king of Israel, and said, 'Thus says the Lord, 'Because the Syrians have said, 'The Lord is God of the hills, but he is not God of the valleys,' therefore I will deliver all this great multitude into your hand, and you shall know that I am the Lord.'" Whether it was Ethan who actually said it or Ira who made it up, the phrase is inverted when first told, but thereafter nearly every other Vermont historian has put the hills first. See H. Nicholas Muller III, "Vermont's 'Gods of the Hills': Buying Tradition from a Sole Source," *Vermont History* 75:2, 125-133.
- <sup>107</sup> XI State Papers 367.
- <sup>108</sup> *Smith v. Town of Rockingham*, 25 Vt. 645, 647 (1853).
- <sup>109</sup> *Walker v. Collins*, 61 Vt. 542 (1889).
- <sup>110</sup> *Town of Somerset v. Town of Glastenbury*, 61 Vt. 449 (1889).
- <sup>111</sup> *Benton v. Beattie*, 63 Vt. 186 (1891).
- <sup>112</sup> *Aldrich v. Griffith*, 66 Vt. 390 (1893).
- <sup>113</sup> *Town of Glover v. Carpenter*, 70 Vt. 278 (1898).
- <sup>114</sup> See 19 V.S.A. § 794.
- <sup>115</sup> We see Mr. Dewart a second time as a witness in a 1913 case involving a former gore originally a part of Bolton that was given to Waterbury in 1851. *Randall v. Moody*, 87 Vt. 68 (1913).
- <sup>116</sup> *Baker v. Sherman*, 71 Vt. 439 (1899).
- <sup>117</sup> *Town of Searsburg v. Town of Woodford*, 76 Vt. 370 (1904).
- <sup>118</sup> *Town of Morgan v. Town of Brighton*, 95 Vt. 506 (1922).
- <sup>119</sup> *Town of Underhill v. Town of Jericho*, 141 Vt. 41 (1928).
- <sup>120</sup> *Town of Underhill v. Town of Jericho*, 102 Vt. 367 (1930).
- <sup>121</sup> *Neill v. Ward*, 103 Vt. 117 (1930).
- <sup>122</sup> *Town of Brookline v. Town of Newfane*, 126 Vt. 179 (1966).
- <sup>123</sup> *Town of Putney v. Town of Brookline*, 126 Vt. 194 (1967).
- <sup>124</sup> *L. M. Pike & Son, Inc. v. Town of Waterford*, 130 Vt. 432 (1972).
- <sup>125</sup> *State v. Young*, 139 Vt. 535 (1981).
- <sup>126</sup> *Town of Wolcott v. Behrend*, 147 Vt. 453 (1986).
- <sup>127</sup> *In re Peel Gallery of Fine Arts*, 149 Vt. 348 (1988).
- <sup>128</sup> *In re Reapportionment of Towns of Hartland, et al.*, 160 Vt. 9 (1993).
- <sup>129</sup> *In re Ruth Bill*, No. 97-203 (1998).
- <sup>130</sup> D. Gregory Sanford, *Vermont Municipalities: An Index to their Charters and Special Acts* (Montpelier, Vt.: Secretary of State, 1986). [https://www.sec.state.vt.us/media/46759/Index\\_to\\_Municipal\\_Charters.pdf](https://www.sec.state.vt.us/media/46759/Index_to_Municipal_Charters.pdf)