



Pivot Point for Democracy

*In the coming months the legislature will be making decisions
before which even the most heralded policy judgements
of the decade pale in significance.*

*It will be deciding its own future and, in that, the
future of popular governance in Vermont.*

By Frank Bryan

For starters, let it be clear: Vermont's legislature is the heart of our statewide democracy. It is to the state, what town meeting is to the town. It is the voice of the people, the fruit of our electoral process, the extension of our local essences. It is the expression of the commonweal. As it is strong, so too are we. As it is wise, we are wise. As it is good, we are good. If it lives, we live. If it dies, part of us dies. The reverse, of course, is also true. This is the way of things in representative democracies.

There is no escaping these linkages. Should the legislature lose its capacity to make sound law and fashion wise public policy, the fault will be our own. For every chair, every carpet, every nail, every light bulb, every painting, every piece of tile, every speck of varnish in that great building by the Onion belongs to us. Every phone call made, every sentence written, every message sent, every button holed, every lobbyist's plea, every wink, arched eyebrow, whisper or cry of outrage is ours. Every law that finds its way through that complicated quagmire

of give and take, point and counterpoint, compromise and confusion bears our imprint as surely as a cotton-tail marks the deep snows of January.

We tend to take our legislature for granted. We tend, let's face it, to beat up on it. The legislature is easily bullied because of the kind of thing it is. It is big, bifurcated, and always seems befuddled. There is no spokesperson for the legislature, no public relations office, no center from which organized resistance to criticism can be mounted. Legislators who might speak for it have enemies within the assembly itself. The leadership of the minority criticizes the leadership of the majority. And vice versa. One House blames the other House. Governors are apt to blame both whenever they are angry with policy gone astray or they need a scape-goat for their own failures. The legislative process is BY NATURE slow and deliberative. It is a place where conflict is inherent and reason and passion bash heads by design. The task it is asked to perform is monstrously complicated, maddeningly subtle, fraught with dilemma. In

an age of fast lane politics and cheap shot critique, where quick and simple is always defined as good, and anything else is called "inefficient," the legislature is a sitting duck.

It's time for us to lay off a bit — long enough to walk a mile in the shoes of the Vermont legislature. For it is facing a hinge point in its history. Push has come to shove on a problem that has been growing throughout this century. It is one that the citizenry has been studiously ignoring for far too long. Now, in this age of media-hype, meteors of crisis appear constantly in the heavens above the public agenda. Crying wolf has become an accepted method of communication. Yet how else does one say it? The proper word is crisis, but that word has been castrated. The truth of it is the legislature is struggling for its very existence as a policy-making body. The hell of it is that it seems helpless to do anything about it. And make no mistake. The problem is our problem. On its proper resolution rests the future of representative democracy in Vermont. We are in the eleventh hour.

page 123

A People's Parliament: The Heritage

"The Green Mountain Parkway was defeated and the legislature went home. The golden dome of the Capital stared into the Winooski and the river stared back. There was no indication that both were not completely satisfied with what they saw."

RALPH NADING HILL
The Winooski: Heartbeat of Vermont, 1949

Someone once observed that if a Vermonter fell into a river, she would float upstream. Indeed, we have always been, as Ralph Nading Hill says in the title of another of his books, a "Contrary Country." Nowhere has this cussedness been more poignantly portrayed than in our politics and nowhere is our politics more visible than in the General Assembly in Montpelier. Progressives have always delighted in poking fun at the legislature and many still do. And yes, many have had difficulty hiding the fact that they actually despise much of what the legislature does and has stood for.

A recent Speaker of the House, for instance, referred to deliberations of the (then) Fish and Game Committee as "raccoon debates" and wished aloud that they be kept off the floor. This from the man who presides over a body that governs a state where fish and wildlife are absolutely generic to its being. Why is it that progressives have so often sighed or smirked and apologized to out-of-state friends when the legislature spends time debating questions such as these. They are as meaningful to Vermont as oil is to Texas. To banish them from the democratic process is to banish democracy from a substantial chunk of the public interest.

But as everything else in Vermont, time is the best measure of wisdom. What may have been considered bull-headedness in yesteryear is now blessed by the very kinds of people who earlier were least patient. It was considered backward in 1935, for instance, when the legislature would not give the

federal government permission to blacktop the Green Mountains with a Massachusetts to Canada highway along the very ridge line of the mountain peaks. Many said this was another example of those stubborn Yankees clinging to the Nineteenth Century. Yet show me a politician today that would suggest such a thing and I'll show you a masochist.

It was also judged "contrary" when (about the same time) the legislature refused to turn fifty-five percent (Yes! Over half.) of Vermont over to the national government after it had been defined by federal officials as "sub-marginal" land unfit for human habitation. Washington's plan was to purchase it, move the people off, and then develop it, promising to turn it back to Vermont through a long term lease. There was only one hitch. We must agree, in the words of George Aiken, to "never again permit any of this land to be occupied as homes." The hill farmers would be "resettled" on valley farms. Aiken, with his Yankee eyes atwinkle, puts it this way in *Speaking from Vermont*:

The federal officials placed before the members of the Legislature the astonishing story that... Vermont was very, very sick. It would continue to be sick until fifty-five percent of its area had been transformed to Federal control. What of the fact that the people in the areas concerned did not care to be moved from their homes? Well, possibly these people weren't of high enough mental capacity to understand that they were really unhappy... The Vermont legislators exchanged strange looks on hearing the story from Washington... (and) authorized the appointment of a committee to confer with Federal authorities... there was irony in this legislative action in making the Speaker of the House a member of the board, for the legislators knew that the Speaker lived comfortably in an area which was not a hundred percent sub-marginal (at least) miles in all directions from his home.



How many people today who cast the legislature of those days as parochial and conservative are themselves living "comfortably" in areas that fifty years ago Washington was willing to define as forever unfit for homes?

The quintessential cause of progressives (rightly enough) in the 1950's was anti-McCarthyism. Senator Joseph McCarthy was a crazed flatlander from Wisconsin who thought there was a communist in every haystack and it was his duty to fork them out. Here is how Vermont legislative cussedness dealt with that particular threat: In the heat of "McCarthyism" a bill was introduced that would have established a censorship board to examine Vermont school books to determine if they were free of pro-communist ideas. The House Education Committee reported the bill "without comment." The Appropriations Committee voted "no" — fourteen to one! When it got to the floor the vote was Joseph McCarthy eleven, Good Sense 202. There would be no censorship committee. And that, b'God, was that. The legislature's critics were strangely silent.

Perhaps the best example of the modernists' impatience with the Vermont legislature is found in William Jay Smith's article "My Poetic Career in Vermont Politics," published in *Harper's* magazine in January of 1964. Smith makes much of his progressive credentials. He doesn't like small town legislators and he doesn't like the things that interest them. Reading his article you get the idea he doesn't like cows or hillsides either. In fact you begin to wonder if maybe he doesn't like Vermont. For him, being in the House of Representatives was "like a journey back into the Eighteenth Century." Listen to his words:

Ours is a benevolent aristocracy; our small towns tell us they will be perfectly happy as long as their way is paid. They dislike any state control, but as long as they control the state and the state pays most of the bills (and those bills are, of course, paid by those other acres on which there are at least as many people as cows), they will be happy; that is as long as they are taken care of and do not have to face reality.

One of the "realities" that the House faced that Smith found particularly funny (he called it "happy hooliganism") was an attempt to ban non-returnable bottles. In his own words, dripping sarcasm, "The nonreturnable beer bottle is a beer bottle that you cannot return; so what do you do with it? You throw it on a Vermont hillside; and what happens to it then? It is eaten by a cow. We were treated in public hearings to endless photographs of cows' intestines, showing how the creatures did not particularly relish this diet of brown beer glass. We were also given interminable statistics on the number of tractor tires slashed by this lethal sweep of glass over green hills."

Representative Smith, the progressive from Pownal, born in Louisiana, educated in Cleveland, Saint Louis, New York City and Oxford, along with other modern thinkers of the time (many of them grocery store owners), voted in 1961 against returnable bottles for Vermont and against what has become the beacon light of Vermont's nationally heralded environmental movement of the 1970's — our bottle ban. Voting to keep trash off the highways and hillsides was just another example of Eighteenth Century farmers up in arms to protect their silly old cows! How embarrassing. Representative Jim Jeffords, that great Vermont conservative, was so mired in the past that he tried for years to get the Vermont model adopted by the United States Congress.

Citizens. The body that swatted down McCarthyism contained eighty-four farmers, thirty-five housewives and twenty blue collar workers. Over half of the members were born in the Nineteenth Century. Under forty percent had a college education. About three quarters were native born Ver-

monsters. The mean population of the towns they represented was 1,535. Even this statistic is deceiving for it is swelled by the few larger places in Vermont, like Burlington, Rutland and Bennington. The median district in the House (town) had well under a thousand residents and most of the members were chosen in elections that did not exceed 500 total votes. In a typical legislature of the mid-1930's, 199 of the 248 members were born in Vermont and nearly seventy-five percent of these had never served in the legislature before and would never serve in it again. Despite the old joke (not always spoken in jest) that the small towns sent their poorest to the legislature to get them off relief rolls, the huge majority of legislators had held at least one local office before coming to Montpelier and most had held several.

The point is this: Prior to 1965 Vermont's citizen legislature was overweighted with rural members. They were small town people. Common people. Good people. Each town sent one representative to the House and only one. This meant Victory or Stratton or Marlboro could cancel Burlington and Brattleboro or Rutland on a roll call vote. While modernists and cosmopolitans were busy moaning this circumstance, (Noel Perrin, Vermont's own "First Person Rural" was one of the very few *anywhere in America* to defend rural people. His article "In Defense of Country Votes" appeared in the *Yale Review* and signaled the passion and commitment Perrin has for the backbeyond.) the Vermont legislature acted as a very progressive body, even while many so-called progressives acted in ways that have proved anything but. There was a certain wisdom in that parliament of citizens which transcended the modern myopia of progress at any cost and fastened on enduring truths. They made mistakes, of course, and they made bad ones. But by and large, when the chips were down and they were dealing with the great questions such as McCarthyism or the essences of ecological balance, they spoke well for the little green state they served.

Richard Winters of Dartmouth, one of the country's most respected

students of comparative state politics, has traced the genesis of Vermont's modern progressive credentials to the presence of a progressive and elastic tax system that existed in Vermont between the years of 1955 and 1965. According to Winters, Vermont's "malapportioned legislature passed an early income tax in 1931, changed it to a graduated tax in 1947, and increased the graduated or progressive quality of the tax three more times in the next ten years." He concludes: "For many states, such as Vermont, current policies were shaped decades ago with the adoption of a state income tax." (Winters also credits [as do we], institutional forces, and the dynamic leadership of Vermont's Franklin Roosevelt, Philip Hoff, who in my view was and is to this day, an honest, courageous, look-you-in-the-eye, New Deal liberal.) Please note that all this happened when Vermont was governed by a small town citizen's legislature of common people long before the great post war political revolution took hold. As one small town legislator told me in the 1960's with a twinkle in his eye, "It was us hicks that done it." Protecting the Green Mountains, saving, literally saving, hill farmers, stomping on tyrants, creating progressive tax systems, fighting for clean roadsides and pastures; yes indeed, it was mountain people that done it.

Citizens, Legislators and Post Modern Vermont

While the main phase of the transition from the American legislative to the American administrative state may have occurred in the 1930's, the main phase of the transition from an American democratic to an American bureaucratic state took place in the 1950's.

JOHN ELKAS, 1964
Outgrowing Democracy: A History of the United States in the Twentieth Century

Vermont is, to use the words of futurist Daniel Bell of Harvard, "beyond modernism." We are in the post-modern age. As land and labor defined the agrarian period and capital drove the industrial period, information is the key ingredient, the energy, the "strategic resource" of today. As data replaced money, as keyboards replaced rivet guns, and as organized





enclaves of theoreticians (think tanks) replaced the genius of individual experimentation, something very important happened in politics as well: Bureaucracies replaced legislatures as the central decision-making instruments of the political system. The important thing for Vermonters to remember is that precisely the same process is happening here. It's happening late. But it's happening.

As noted in the work of the eminent historian John Lukas (above) the demise of the legislative process has been of concern for decades. It is apparent at all levels in information age societies — in Congress, in the legislatures of the states, in city councils, and in other developed countries. In Canada the McDonald Commission (Report of the royal Commission on the Economic Union and Development Prospects for Canada.) has warned: "The aggrandizement of government tends to strengthen executives at the expense of legislatures. . . Legislatures have been weakened by the general trend to executive dominance characterized by big government." The highly respected American political scientist, Theodore Lowi of Cornell, discussed the eclipse of legislative democracy in his book *The End of Liberalism* as early as 1969, decried the growth of policy by administrative discretion, and called for a radical strengthening of the legislative process and the rule of law.

I say all this because it is absolutely essential to understand that the great threat facing Vermont's democracy today is not an isolated event, but is part of a wider malfunctioning that concerns observers across a wide sweep of political views and partisan colorations. Yet in Vermont we do face a unique situation, one that offers a potential that may be unmatched in any other American state. We are unique because the confrontation between legislature and bureaucracy has come late.

Despite the changes that have occurred since 1965 when the legislature was "reapportioned" so that each district contained equal numbers of voters and the House of Representatives contained 150 rather than 246 members, Vermont still has, to a great extent, preserved its citizen character. Charles Morrissey could say as late as 1981 in his book *Vermont: A History*, "Legislators have no offices. They have no secretaries. Instead a legislator and a visitor will sit on a Victorian sofa in the lobby outside the legislative chamber and talk over their knee caps like neighbors on a porch back home." While the number of farmers and small town legislators has decreased dramatically and there have been other changes as well, each legislator in the House still represents only about 3,500 people and each senator about 18,000.

Simply stated, we face the crisis of legislative salience in a "post modern" world with a rural-agrarian style (citizen-based) legislature, rather than an urban-industrial style (professional politician-based) legislature. As I have pointed out in some detail in two books (*Yankee Politics in Rural Vermont* and *Politics in the Rural States*), Vermont leapfrogged the urban-industrial period because, as historian Arnold Toynbee said of us, we were "above the optimum climatic area of the United States." We also leapfrogged the politics of the urban-industrial period and our legislature emerged in the post-modern period more or less free of the baggage associated with it, such as powerful interest groups, disciplined parties, and the like. Bear in mind: The legislatures of the urban-industrial states were not successful in their confrontation with bureaucracy. So there is no particular reason to think going that route would help us here.

The important question is therefore: Can a citizen legislature survive in the bureaucratic age? I think it can and I think we have a better chance now than we would have had twenty or thirty years ago, had the confrontation taken place then. Because Vermont is technologically advanced but politically "underdeveloped" (most of us say "thank heavens" to this given the kinds of atrocities of governance that have occurred in the more "advanced" states) the inevitable battle between

legislature and bureaucracy has been postponed and now the legislature has the capacity to compete with the bureaucracy for the resource that determines the focus of power in the post modern period. That resource is information. The argument reads as follows:

While Vermont sat out the urban-industrial revolution, it has shared fully in the information revolution.

The computer can be an instrument of democratization and decentralization rather than an instrument of oligarchy.

The old adage "Knowledge is Power" has never been more true.

In the current period bureaucracies control policy making by controlling information. Yet it was easier for bureaucracies to control information between 1900 and 1960 (when the gathering and analysis of data was labor intensive and performed by hierarchal structures) than it is now becoming. The personal computer is, therefore, both a metaphor and an instrument for the potential break-up of overarching centers of administrative power.

To argue that if Vermont provides its legislature with the instruments to save itself, that is, tools of information gathering and analysis, it will lose its "citizen flavor" is to argue that Vermont's citizens are incapable of using modern technologies of information management. Anyone who believes that should visit a Vermont dairy farm. Vermonters *especially* are fully capable of dealing with post-modern technologies.

To argue that if Vermont "modernizes" its legislature it will become a "professional" legislature like "those other states" is to miss a fundamental truth about Vermont. That truth, outlined above, is that the mainstream American model of political development is inoperative in Vermont because, having missed it, there is no going back to the urban industrial period. (Most Vermonters would say: "Who'd want to anyway.") The fusion of a citizen legislature with modern methods of information management represents a *new* chemistry of politics in America.

Continued on page 74

Combating Information Monopoly: Saving Democracy

We are in the dark most of the time over there in Montpelier and we are kept in the dark.

SENATOR THOMAS CROWLEY
*In testimony before the Burlington Citizen's Committee
for Charter Reform, 1984*

In the last half century the role government plays in our lives has increased as dramatically as the capacity for cows to give milk or humans to travel to the moon. It is downright awesome to compare what the government does now compared to 1920. In the face of this there is a curious set of notions at large in Vermont these days: The legislature spends too much time in Montpelier. It should go back to meeting once every two years (Richard Snelling recommended this before a luncheon sponsored by the Vermont Chapter of the American Society for Public Administration, 1984). We should go back to the old days when the legislature met less frequently. Sessions "drag on" too long.

If the legislature is the chief policy making body in a democratic government and that government begins to increase its activities by quantum leaps, then by what logic do we conclude that the legislature should meet LESS often? It seems to me reason tells us the legislature must increase its deliberative functions at least apace with the growth of the public sector if democracy is to endure. Unless, of course, we are willing to concede that administrative policy-making is preferable to legislative policy-making. (Many political scientists are. I am not.) Our only other option is to decrease the role government plays in our lives and/or decentralize functions back to the towns and cities. While many might approve of these solutions (I especially like the latter) as long as we insist on locating power in Montpelier, we must at a minimum make sure we centralize it in the hands of our elected representatives. Conservatives who believe that if the legislature simply does not meet, if it would only go away, then less law would be passed and the government would intrude less in our lives, have failed to take account of the single most impressive political development of this century — the growth of the administrative state.

There is another notion at large in the legislature itself. That is the idea that legislators, armed with their own wisdom and the testimony of contending interest groups, have the resources

to cross swords with the bureaucracies, that "truth will out" in the give and take of the legislative arena. Yet interest group testimony is almost never metered out in equal doses. The poor, for instance, have far less resources to bring information to light before legislative committees than the rich. Dam builders have more resources than muskrats and brook trout; highway engineers more than hill people on a winding country road; fish and game experts than deer hunters; generals than citizens. Secondly, in an age of specialization there is simply no way that legislators can rely on wisdom and "common sense" alone. Given a choice of only one, most of us would stick with common sense. But anyone who believes that's enough in the modern world has an inflated view of his own intellect and/or has not taken his car in to be fixed and been given the "trust me" look along with a bill for \$722.56.

Finally there is the notion that if legislators were given such high tech devices as offices and telephones, it would somehow diminish the democratic process, that legislators would "hide behind their secretaries," that office doors would become "barricades." How silly! First of all, there is every reason to believe that it would be immediately easier to locate a legislator who has a phone, an office, and someone to leave a message with than the reverse. Secondly, the condition that exists now is preposterous. Think about it... there is NO PHONE SERVICE IN THE STATE HOUSE for individual legislators.

I once spent three and one-half days trying to get a hold of my friend Senator Bill Doyle despite the heroic efforts of an overworked Sergeant at Arms office and any number of Pages. And he was not trying to hide! Even college professors have secretarial staff and phones! And I can tell you they both make it tough to ignore students. Students can at least document their efforts so it's impossible to pretend you didn't know. While it may be cute and romantic to think of democracy as being enhanced when the common citizen can wander about the halls of the State House, spy a lawmaker, "button hole" her and make his point amid meandering clusters of legislators, the fact is that confusion and informality at this level obfuscates democracy, it does not promote it.

The fact is it does not take a professional politician to legislate professionally. The fact is Vermont legislators are hamstrung by a lack of resources for policy

Continued on page 79

research. (Vermont's Legislative Council, which provides excellent service, is woefully understaffed. Drafting legislation alone is a massive job and there is precious little time left for policy research.) The fact is the legislature is steadily losing ground because it can't begin to compete with administrative units for information resources. Several years ago it left, for instance, what then Governor Snelling called "the most important energy decision Vermont would make" in the remainder of this century up to the Public Service Board because, as the Speaker of the House said, "What do 180 legislators know about power lines, anyway?" This was the same person who doesn't like "raccoon debates." Question: What does he like about the legislative process?

Ironically, the fight to save Vermont's legislature is now led by former Governor Philip Hoff — ironic because he once was Vermont's chief bureaucrat. Perhaps he senses that being pro-legislature is not being anti-bureaucrat. The best public managers like to work from good law, not amorphous globs of discretion. They know that legislators kept busy figuring out (using the best information possible) what government should do and (to a lesser degree) how government should do it, will not have the time to be leaning over their shoulders and, as Madison said long ago, telling them how to "dot the i's and cross the t's." Senators like Edgar May and Hoff seem to understand that the democratic process cannot survive at the state level without a healthy, boisterous legislature. The tools of information management are to decision-making institutions in the modern age what oxygen is to deep sea divers. Cut it off and they will die. The movement to save the legislature seems to be dominated by Democrats. Let it be known that if the Republican Party does not want to join in the fight to prevent the eclipse of legislative democracy in Vermont, that fact will not go unnoticed by history.

Those who oppose improving the "staff-information" resources of the legislature are content to conjure up visions of highly paid, string tied, "professional politicians" holed up for twelve months a year in fancy offices, staring into a CRT, and surrounded by lush carpets and secretaries. This is worse than garbage. It is dishonest garbage! What is needed is judicious improvement of information management service developed in innovative ways. What is needed is imagination and intellect. Most of all what is needed

is faith in Vermonters. From the first grade on, they are using computers. They have the capacity to use staff services. The know-how to use a push button phone! As long as we elect citizens we will have no problem maintaining our citizen legislature. To suggest that they cannot use modern instruments of information management is a fundamental insult. There is no inherent contradiction between a modern *and* citizen-based legislature anymore than there is a contradiction between a modern and citizen-based Vermont. Philip Hoff understands that. Vermont would do well to heed the wisdom of its most experienced politician.

The Winooski rolls on in a rhythm of ice and thaw, season and centuries. On its banks lies the smallest capital city of any American state. For nearly 200 years it has been home ground for a people's parliament. The world has known few more democratic. This body, truly, has thrived on the wisdom and good sense of common people making judgements for themselves on matters of import to the commonweal. They were often cussed decisions, but they reflected the kind of land and people from whence they came. In that they paid our democracy the highest possible compliment by rigidly adhering to the quintessential moral imperatives of all representative assemblies "to thine own self be true." They were true to Vermont.

To assume that this tradition, born in the drama of Eighteenth Century revolution, weaned in the social and political chaos of the Nineteenth Century's first half and toughened through the hard times of a hundred winters following, will wither under the influence of gadgets like telephones and computers is to sell the soul of Vermont very short indeed. To deny our people the tools of their time to make decisions for the current Republic of Vermont would be like taking the pen from the hand of a George Aiken or the musket from the hand of an Ethan Allen. It is conservatism at its worst. Insuring that strong democratic values of the past such as our citizen's legislature survive in an ever-changing world is conservatism at its best. There is a stiffness of moral fiber in the Vermont legislative tradition that yet endures. Let us have faith in it. We have but to continue to elect citizens to the State House, give them the proper tools, and the tradition will continue. Like the waters of the great Winooski, it will wind forever through our "Habits of the Heart." □