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Dillon's Rule Versus Home Rule: A Comprehensive, Comparative Review of the Impacts

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DILLON'S RULE VERSUS HOME RULE: A COMPREHENSIVE, COMPARATIVE
REVIEW OF THE IMPACTS

by
Joseph Randall Latham

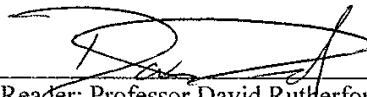
A thesis submitted to the faculty of The University of Mississippi in partial fulfillment of
the requirements of the Sally McDonnell Barksdale Honors College.

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May 2016

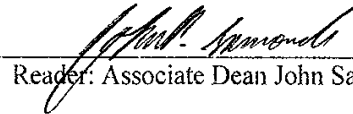
Approved by



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Reader: Professor David Rutherford



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DEDICATION

To my first teachers: my parents, Ann and Randy Latham, whose unflagging, unequivocal, and selfless support of my academic engagements and my aspirations for the future has been critical to every achievement I've laid claim to in 22 years of life. To my mother, I am indebted for having been shown how to persevere in even the most dire of circumstances, for having been shown the value of honesty, diligence, and attention to detail. To my father, I am indebted for having learned early on the importance of equanimity under pressure, rational decision-making, and striving for fairness and accuracy in all that one says and does. Indeed, to the extent that I am a good researcher – and, more importantly, a good man – much can be traced back to some basic lessons I learned in a pink-bricked, ranch-style house in Tuscaloosa County.

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Most evidently, I am thankful for the steady and reliable guidance of Dr. Joseph “Jody” Holland, who served as my primary advisor in the long, arduous, but ultimately rewarding journey of crafting this thesis. Dr. Holland was the ideal mentor to have in the midst of writing what I consider to be the definitive work of my academic career to-date, helping me to reorient my efforts with penetrating and pragmatic insight when I felt lost in the denseness of the source material but, at the same time, never undermining my autonomy in the creation of what’s bound up in these pages. I am also indebted to the other members of my thesis committee, Drs. David Rutherford and John Samonds, both of whose perspectives have proved absolutely invaluable.

Additionally, I extend my thanks to the institutions that have brought me into contact with each of these gifted teachers and researchers. By this, I wish to convey my gratitude not only to The University of Mississippi – a great and still-burgeoning public university that I will always be proud to call my alma mater – but also to two entities within the university that enticed me to become a UM student in the first place and that have largely defined my time in Oxford since the day I set foot on campus: the Trent Lott Leadership Institute and the Sally McDonnell Barksdale Honors College. Each of these unique and selective academic programs deserves praise for instilling within UM undergraduates a profound love of lifelong learning and a sense of duty as a citizen scholar: a duty to apply one’s accrued wisdom for the betterment of the community, state, nation, and world.

ABSTRACT

There are two primary configurations of the American state-local relationship. The status quo configuration, pure Dillon's Rule, is a top-down organizational structure in which the state, primarily through its legislature, exercises close-to-complete oversight over decision-making at the local level – in municipalities, counties, towns, etc. An alternative configuration may be brought about by the institution of home rule, a constitutionally or legislatively conferred devolution of powers to substate governments that allows, at least nominally, for greater autonomy at the local level. This study utilizes institutional theory and a systematic review of the current body of literature concerning the tangible impacts of differences in state-local power dynamics to comparatively assess pure Dillon's Rule systems and home rule systems of state-local interaction. Through the utilization of OneSearch, an aggregate search engine, 518 independent search results relevant to the substantive impacts of these systems were gathered from the contemporary body of literature. After subjecting these 518 search results to screening based on predetermined selection criteria and an even more in-depth critical appraisal process, 60 sources were ultimately chosen to constitute the study's literature sample. Eight themes were extracted from this literature sample, four of which point to differences between the systems in terms of their on-the-ground impacts. Home rule does appear to make governing institutions better equipped to respond to local voices and local problems: home rule localities' budgets are more sensitive to emergent community needs, autonomy at the local level corresponds to more dramatic shifts in budgetary allocations based on electorally expressed wants, and local governments' legal capacities under home rule do allow for a wider range of innovation on social policymaking at the local level. However, efficiency gains through home rule are suspect at best; home rule tends to engender more bureaucratic sprawl in service delivery, not less, and any local economic gains are more or less contingent on that locality being part of a metropolitan area. Thus, this systematic review's results alter the conversation fundamentally, asserting that the question of home rule is not properly understood as one of efficiency, but as one of effectiveness in local representation.

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Chapter 1: Introduction

In the late summer of 1980, former California governor Ronald Reagan became the first presidential candidate to ever knock upon the door of “Mississippi’s Giant House Party,” the famed Neshoba County Fair. There, addressing a sizable crowd from the grandstand, Reagan recounted witnessing an Ole Miss triumph on the gridiron against Tennessee. He joked in characteristic, anecdotal fashion about the perceived incompetence of the federal government’s fiscal management (Congress is like “a fellow sitting in a restaurant. He's ordered dinner. He knows he doesn't have any money in his pocket to pay for it, but he's hoping maybe he'll find a pearl in his oysters”). And then, in a moment that would live on in the nation’s collective political memory long thereafter, Reagan turned his attention to the topic of federalism:

I believe that there are programs...like education and others, that should be turned back to the states and the local communities with the tax sources to fund them, and let the people [applause drowns out end of statement]. I believe in states’ rights; I believe in people doing as much as they can for themselves at the community level and at the private level. And I believe that we've distorted the balance of our government today by giving powers that were never intended in the constitution to that federal establishment. And if I do get the job I'm looking for, I'm going to devote myself to trying to reorder those priorities and to restore to the states and local communities those functions which properly belong there.¹

The exact import of Reagan’s remarks on states’ rights in that address remains a subject of contention among political historians, whose thoughts tend to fall in line with one of two narratives. Perhaps the on-the-rise presidential candidate, who would go on to win the White House and become the *pater familias* of the “devolution revolution” of the

¹ “Transcript of Ronald Reagan's 1980 Neshoba County Fair Speech,” *Neshoba Democrat* (Philadelphia, MS): Nov. 15, 2007.

1980s, was simply offering an earnest profession of his beliefs about the roles various units of governance ought to play in the American political system. Or perhaps, speaking in a county that was infamous for having been a hotbed of racial strife and violence during the Civil Rights Movement, Reagan's mere mention of the issue at all – and the use of the phrase “states' rights” as an encapsulation of his beliefs in particular – ought to be understood as part of a larger ploy to continue the work of Nixon's Southern Strategy, stoking the racial animus of many white Southern voters of the time as a means of criticizing the intervention of the federal government more broadly and thereby seeking to erode support for the Democratic Party in the once-solid South.²

Whether the former or the latter account is more accurate, there is certainly one central element at work in this historical moment that is not in dispute: the position that states ought to maintain a relative degree of autonomy in tending to affairs within their respective borders is one that, then, as now, was well received in the South. Indeed, decentralization of power has been a definitive plank of the Southern platform in national politics since at least the time of the Kentucky and Virginia Resolutions.

Why is it, then, that the popularity of devolution down south seems to stall out past the federal-state relationship? In Alabama, the proverbial “Heart of Dixie,” there have been calls “before and during every legislative session in recent memory,” to allow local governments – municipalities, counties, etc. – greater control over their own affairs

² For an in-depth discussion of the context and the historical and political ramifications of Ronald Reagan's Neshoba County Fair speech, please see:

David L. Chappell et al., *Ronald Reagan's Neshoba County Speech*, Video, presented by the Organization of American Historians (2010; Washington: CSPAN, 2010.), Web. <http://www.c-span.org/video/?293124-1/ronald-reagans-neshoba-county-speech>

than exists in the status quo, but “despite the media attention that has been focused on this issue, it never reaches serious agenda status in the Alabama Legislature.”³ Similarly, in Mississippi, despite the passage of a 1985 law conferring greater authority to municipal governments, “cities have been reluctant to use the power granted them,” and have instead continued to request local and private legislation to approve of actions that they undertake, rendering any devolution of authority achieved through the act nominal at best.⁴

Increasingly, this is an inconsistency played out not just in the South, but nationally. A 2014 report published by the Cato Institute concludes, based on a compilation of recent polling regarding division-of-powers issues, that “Americans generally have shifted in favor of a more devolved federalism,” being, on the whole, “more supportive of decentralized policymaking on many issues where they previously supported a stronger national role.”⁵ Gallup polling also originating in 2014 corroborates this shift, revealing that even in the midst of historic declines in popular trust of the American central government,⁶ “Americans’ trust in state and local governing institutions maintained their respective confidence levels,” with Americans “continu[ing] to trust their local governments (72%) more than their state governments (62%).”⁷

³ Douglas J. Watson, “Home Rule in Alabama and in the South,” *Alabama State University Center for Leadership and Public Policy: Alabama Issues Series* (2013): 1.

⁴ *Ibid.*, 18.

⁵ John Samples and Emily Ekins, “Public Attitudes toward Federalism: The Public’s Preference for Renewed Federalism,” *Cato Institute Policy Analysis*, no. 759 (2014): 3; 1.

⁶ Jeffrey M. Jones, “Trust in Federal Gov’t on International Issues at New Low,” *Gallup.com*, last modified September 10, 2014.

⁷ Justin McCarthy, “Americans Still Trust Local Government More Than State,” *Gallup.com*, last modified September 22, 2014.

Yet, for the moment, the state-local relationship – which can lay claim to no Constitutional enumerations or reservations of powers that might serve as a guiding light – remains haphazardly defined in most states, and where defined with clarity, the relationship is decidedly state-dominant. This is because the most nationally relevant legal decree concerning the nature of state and local government interaction is an 1868 opinion penned by Iowa Supreme Court Justice John Forrest Dillon (then one of the nation’s most preeminent scholars of municipal law), which asserts that “Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature...As it creates, so may it destroy. If it may destroy, it may abridge and control.”⁸

Dillon’s Rule, or the Dillon Rule, as the logic advanced by this pronouncement has come to be known, quickly rose to prominence in the American legal system, becoming, in short order, the final word concerning disputes of authority between state and local units of governance. However, not fully a decade into the existence of Dillon’s Rule, a countervailing development was made: local home rule conferred through either the passage of state constitutional provisions or legislative enactment – which undermines state centrism while nonetheless working within the conception of the state-local relationship advanced by Dillon.

At present, several states have passed some form of municipal and/or county home rule-enabling constitutional provision or general legislative enactment, and where such actions have not been taken, home rule is often seen by at least some policy actors as, if not a panacea, certainly a viable means of improving on the status quo of state and

⁸ *Clinton v Cedar Rapids and the Missouri River Railroad*, (24 Iowa 455; 1868).

local governance in multiple respects. For example, the Alabama Policy Institute, an influential voice in Montgomery, has advocated for what it calls a “uniform system of limited home rule” since the early 2010s not solely on the basis of perceived potential benefits in service delivery and accountability, but also on the basis of a state-specific concern: Alabama’s notoriously long and confounding state constitution, which is all the longer for the 35,000 local acts it contains.⁹

As it happens, recent efforts to usher home rule into existence in state-local relationships that were previously state-dominant have been met, where enacted, with considerable favor by the citizenry and by officials at both levels of government.¹⁰ It is the opinion of the author of this research effort that this fact, along with the increasingly pro-devolutionary deportment of the American public and persistent political pressure in many state-centric systems to make a fundamental change in the state-local relationship, urges forth a new discussion about the substantive differences between state-local relationships governed purely by Dillon’s Rule and those in which municipal home rule brings about more parity of authority. By “substantive” is meant “tangible.” What extant theory presumes about the differences between these systems is fairly clear and serves as a useful means of framing observations. An infinitely more engaging question is this: what salient information might be culled from approximately 150 years of actual, on-the-ground experience with both types of state-local relationships?

In order to engage this question in a meaningful way, the research presented herein utilizes institutional theory and a systematic review of the current body of

⁹ “Home Rule in Alabama,” *API Guide to the Issues* (2012): 1-2.

¹⁰ “West Virginia Code §8-1-5a. Municipal Home Rule Pilot Program,” *West Virginia Legislature*, accessed May 2, 2016, <http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=08&art=1§ion=5A>.

literature concerning the tangible impacts of differences in state-local power dynamics to comparatively assess pure Dillon's Rule systems and home rule systems of state-local interaction.

The following chapter, Chapter 2, will lay bare the theory of institutionalism in which this study is couched with a discussion of its history, its general means of application in scholarly research, and its aptness for exploring the subject at-hand. Chapter 2 will also probe that subject at-hand by offering an in-depth look into the formation and development of both Dillon's Law and municipal home rule and by defining a few terms and concepts crucial to the state-local relationship. Chapter 3 will explain in detail the methodology of the systematic review process employed by this study. In Chapter 4, the results of that systematic review will be presented, and discussion in Chapter 5 will place the results in a broader context, merging theoretical expectations with the study's empirical observations to engender new connections, insights, and conclusions.

Chapter 2: Preliminary Literature Review

I. Institutional Theory

Where theories of management and organization are concerned, few have proven to be more impactful and more interdisciplinary in their scholarly reach than that of institutionalism, or institutional theory. This is because, more than any other of the prominently featured entries in the catalogue of organizational theory, institutionalism offers an integrative, holistic approach to thinking about (1) why organizations are and (2) why they are the way that they are. Resource dependency theory, agency theory, and a host of other common theories focus almost exclusively on *internal processes*, and in most cases, only focus on internal processes *from a single perspective*; each has important contributions to make to our collective understanding of organizations' formation and development, but ultimately, the most these narrowly focused theories can hope to do is illuminate the contours of the cogs at work in the organizational machine.

Institutionalism, on the other hand, carried to its logical terminus, leaves the thorough and thoughtful researcher with a diagram explaining not only how these cogs fit together, but also how the machine they make tick interacts with its operating environment and vice-versa. Institutional theory, that is to say, is a *multifaceted* model of systemic organization, one that is inherently cognizant of and sensitive to the *external as well as the internal forces* that shape organizational character, processes, and culture. In this regard, early developments in open systems theory can be counted among institutionalism's principal forebears – and in order to properly explore that connection,

one must look to organizational theory as it existed in the early decades of the twentieth century.

A. The Historical Roots of Institutional Theory

At the turn of the 19th century to the 20th, German scholar Max Weber became to the burgeoning, intertwined fields of organizational and managerial theory what John Maynard Keynes would soon become to economics – the only substantive barrier to the analogy being that economics had existed for centuries prior to Keynes’s arrival at the forefront, whereas “recognition of *management* as an identifiable function – in any organizational setting – is relatively recent in the scope of history.”¹¹ In fact, a paper by Henry Towne that some point to as the point of origin of management “as an independent field of study with its own literature” was written in the year 1886, and America’s first school of management was founded two years later in 1888.¹² Regardless, in the early 1900s, Weber’s scholarship, unique in its prescriptiveness at the time, ascended to hegemonic status in these newly probed corners of academia. His principal contribution to these fields was the advancement of a vision of bureaucracy as an ideal model of organizational and managerial relationships, through which he “sought to replace authority based on tradition and charisma with legal authority and to prescribe an impersonal and merit basis for selecting, hiring, and promoting employees.”¹³ The six principal characteristics of the Weberian theory of bureaucratic management are (1) clear

¹¹ Michael J. Worth. *Nonprofit Management: Principles and Practices, Second Edition* (Los Angeles: Sage, 2012), 8.

¹² Ibid.

¹³ Daniel A. Wren and Arthur G. Bedeian, *The Evolution of Management Thought, Sixth Edition* (Hoboken, NJ: Wiley and Sons, 2009), 234.

divisions of work and authority, (2) a rigid hierarchy of positions, (3) written guidelines prescribing performance criteria, (4) specialization and expertise as the bases of recruitment/advancement, (5) career office-holding, and (6) insuring that a person's duties and authority are prescribed by his or her office alone.¹⁴ As Worth recounts, Weber was of the opinion that bureaucracy's definitional focus on "rules and a formal hierarchy of positions" ought to be particularly suited to the achievement of efficiency and effectiveness.¹⁵ For several ensuing decades, Weber's wisdom was paramount, with contemporary researchers frequently devoting their efforts to the furtherance of the concepts of Weberian bureaucracy.¹⁶

To be sure, in the world that Weber inhabited, one in which the basic functioning of status quo administrative systems was perpetually marred by "personal subjugation and cruelty, as well as...capricious and subjective judgments," a "decidedly unjust" world "dominated by class consciousness and nepotism," his model of the bureaucratic ideal – a direct reaction to these perverse realities – was a remarkably preferable alternative in terms of both efficiency and effectiveness, to say absolutely nothing of equity concerns.¹⁷ In this context, the concept's meteoric rise to acceptance among early scholars with a managerial/organizational focus is hardly cause for puzzlement. Its longstanding hegemony, in turn, explains Weber's continued influence on organizational and managerial theory; the vestiges of his theoretical perspectives are alive and well in the literature to this day – and it is of particular significance, given the topic at-hand, that

¹⁴ David Jaffee, *Organization Theory: Tension and Change* (Boston: McGraw Hill, 2001), 90.

¹⁵ Worth, *Nonprofit Management*, 58.

¹⁶ Ibid.

¹⁷ Wren and Bedeian, *Evolution of Management*, 229.

among these vestiges is a continued focus on formally structuring power and task-completion relationships among distinct organizational components.

However, in the present day, there is, undeniably, a foundational disconnect with Weber's bureaucratic prescriptions¹⁸ – to the extent that Wren and Bedeian feel compelled to reiterate that “Weber did not use the term bureaucracy in the disparaging, emotionally tinged sense of red tape, endless lines, and rule-encumbered inefficiency,” but “as a noncritical label referring to what he regarded as the most modern and efficient method of organizing yet developed.”¹⁹ While the causality of popular sentiments, whereby bureaucracy became a term “tinged” in these ways, is difficult to prove definitively, it is certain that, with the passage of time and the accrual of new information, experiential and otherwise, organizational and managerial scholarship began to turn a critical eye to the monolith of Weberian bureaucracy and charted a new course in society's understanding of what an organization is and how one can – and should – operate. Weber's scholarship, while revolutionary, was certainly not immune to criticism. In his intentness to resolve issues of nepotism and bias that hampered important institutions in his day, Weber took an approach to theory that was stringently focused on

¹⁸ Before departing from the subject of Weber's work, it is worth mentioning that some scholars of organizational/managerial theory have asserted that characterizing Weber's work on bureaucracy as prescriptive is a mistranslation – figuratively and perhaps even literally. For an in-depth assertion of this position, see:

Richard M. Weiss, “Weber on Bureaucracy: Management Consultant or Political Theorist?,” *The Academy of Management Review* 8, no. 2 (1983): 242-248.

Regardless, as the above article freely admits, the common perception of Weber's scholarship has been (and, in large part, continues to be) that it is prescriptive, making the point, while worthy of note, essentially moot.

¹⁹ Wren and Bedeian, *Evolution of Management*, 229.

organizations' internal dynamics, and this was a trait that was carried on in the research of many who followed him.

In the mid-20th century, a new wave of scholarship began, prominently advanced by Daniel Katz and Robert Kahn in the 1966 text *The Social Psychology of Organizations*, that sought to resolve this deficiency by looking beyond the organization to perceive of influencing factors in the organization's external environment, as well.²⁰ This was the dawn of open systems thinking in the context of the organization, and as Katz explains, writing retrospectively, this brave new world in organizational theory came about as a reconciliation of the "micro approach of the psychologist" with the "macro account of the sociologist":

Though most of our lives are spent within the confines of organizations...few social psychological approaches go beyond the family or the small informal group. On the other hand, the conventional accounts of sociologists or economists tend to leave out people in their explanations of social structure. Between the micro approach of the psychologist and the macro account of the sociologist there is a need for a bridge to interrelate the concepts of the two levels. Our book was an attempt to apply such a bridge through the framework of open system theory...*Specifically, open system theory suggested two important lines of attack. One derived from the notion of systems and suggested that the problems of organizations could be viewed as a function of the type of structuring in which they occurred...the second line of attack is the search for social dynamics in the interdependence of organization and environment as the organization relies upon energetic and informational input from its surround and processes this input to achieve a product which the larger society needs. Organizations are not self-contained, though they seek to control their environs and extend their boundaries.*²¹

Thus, just as no man is an island, no organization instituted among men is, either.

Furthermore, in another similarity with their human progenitors, organizations are, in a way, organic: agents of change as well as the changed in their interactions with their

²⁰ Worth, *Nonprofit Management*, 58.

²¹ Daniel Katz, "This Week's Citation Classic (Number 29)," *Current Contents* July (1980): 242.

respective environs. And in this back-and-forth exchange, there is adaption, as well. “The simplest system,” Worth summarizes, “includes inputs, a transformative process that...changes or manipulates [the inputs] in some way...and the outputs resulting from that process. Systems also include feedback loops...to learn and alter...behavior accordingly.”²²

B. Traditional Approaches to Institutional Theory

To say that recognizing organizations as adaptive, systemic wholes with multifaceted external contexts represented a major shift in the literature would almost be an understatement, and concurrently with and subsequently to this revolution in thought, the seeds of institutional theory were sown and nourished. Interestingly, even in this primordial stage of institutionalism, one can already begin to see its suitability as a frame for analyzing the issue of substate home rule taking shape, as it was conceived of in an academic environment that contended “that the problems of organizations could be viewed as a function of the type of structuring in which they occurred” and that had eschewed past theories that “accepted the existing structures as givens and did not deal adequately with problems of restructuring or social change.”²³

At its core, institutional theory rests on the intuitive but nonetheless profound observation that those elements of a society’s ordering that are so thoroughly embedded within the social whole as to be “institutionalized” are of profound importance, demarcating, among other things, the boundaries, expectations, and the negative and positive rights of organizational behavior – and as a corollary to this observation, the

²² Worth, *Nonprofit Management*, 58.

²³ Daniel Katz, “This Week’s Citation Classic, 242.

process of institutionalization itself is also worthy of scholarly consideration when analyzing an organization's structure and behavior. Polski and Ostrom summarize institutionalism's driving force perfectly, declaring that "Institutions are everywhere, governing our lives in fundamental ways"; the implication, of course, is that those who would engage in scholarly analysis of a situation without properly pondering the institutionalized forces at play do so at the peril of their research's accuracy.²⁴

But what exactly is an institution, and how does this term, so often synonymous with "organization" in colloquial usage, differ from that which it affects? Again Polski and Ostrom's descriptions are instructive and are archetypal within the wider body of institutional theory. An institution is "a widely understood rule, norm, or strategy that creates incentives for behavior in repetitive situations...that [require] coordination among two or more individuals or groups of individuals." These entities can arise formally ("in the form of a law, policy, or procedure") or informally ("as norms, standard operating practices, or habits") and may arise singularly or, as is more often the case, "in a set of related arrangements."²⁵ An organization, meanwhile, is properly defined within institutional theory as "a set of institutional arrangements and participants who have a common set of goals and purposes, and who must interact across multiple action situations at different levels of activity"; they are "the product of human effort to order relations by removing uncertainty in repetitive interactions."²⁶

One of the most influential takeaways from institutional theory generally has been the development of the concept of isomorphism, a notion that holds that there is a

²⁴ Margaret M. Polski and Elinor Ostrom, "An Institutional Framework for Policy Analysis and Design" (1999), 2.

²⁵ *Ibid.*, 3-4.

²⁶ *Ibid.*, 4.

palpable “tendency for organizations in the same field to become more like each other as a result of facing similar influences from their environments.”²⁷ And interestingly, one can, in a sense, see this concept at work in the development of the theory itself. Over the roughly six decades since its inception, institutionalism has progressed from a web of similar, interconnected, but substantially differentiated theoretical interpretations to a much more extensively unified perspective.

Writing in the late 1980s, a period he deemed to mark the “adolescence” of institutional theory (“a phase of more deliberate development, accompanied by efforts aimed at self-assessment and consolidation”), W. Richard Scott, a prominent sociologist and advocate of institutionalism, remarks that “the beginning of wisdom in approaching institutional theory is to recognize at the outset that there is not one but several variants...Although there seems to be an underlying similarity in the various approaches, there is little agreement on specifics.”²⁸ Scott goes on to identify and describe “four sociological formulations all claiming an institutional focus” – in essence, the four dominant traditions within the theory at its coming-of-age:

1. *Institutionalization As a Process of Instilling Value* – Advanced by Philip Selznick and those he instructed, this early strain of institutional theory perceives of organizational structure “as an adaptive vehicle shaped in reaction to the characteristics and commitments of participants as well as to influences and constraints from the external environment” – and perceives of institutionalism as the process of organizational

²⁷ Worth, *Nonprofit Management*, 62.

²⁸ W. Richard Scott, “The Adolescence of Institutional Theory,” *Administrative Science Quarterly* 32, no. 4 (1987): 493

adaptation.²⁹ The institutionalism process is seen as a gradual occurrence that is “subject to conscious design and intervention” and in which contextualizing elements such as an individual organization’s history are of great significance. Processes that are institutionalized are said to derive their value, at least in part, from the “nesting of these processes into the [organizational] whole.”³⁰

2. *Institutionalization As a Process of Creating Reality* – Berger, Luckmann, and Zucker have been among the leading voices of this school of thought regarding institutionalization, a process that they contend “occurs whenever there is a reciprocal typification of habitualized actions by types of actors.”³¹ That actors are typified as well as actions, such that “certain forms of actions come to be associated with certain classes of actors; e.g., supervisors give orders, workers follow them” is an important point of departure from Selznick’s work. Indeed, this strain of institutionalism arguably concerns itself more substantially than any other with determining the precise process by which man conceives of institutions and his role amidst them. According to Berger and Luckmann, the whole of institutionalism can be fleshed out in three phases, which they call “moments”: “We and our associates take action (externalization), but we together interpret our actions as having an external reality separate from ourselves (objectivation); further, the objectivated world is internalized by us, coming to “determine the subjective structures of consciousness itself (internalization).”³² It follows that, as Zucker later wrote, “Institutionalized acts... must be perceived as both objective and exterior,”³³ as

²⁹ Ibid., 494.

³⁰ qtd. in Ibid.

³¹ qtd. in Ibid., 495.

³² qtd. in Ibid., 495.

³³ qtd. in Ibid., 496.

basic truths of social ordering that are no longer merely manmade constructs. Thus, this strain of institutional theory was instrumental in the creation of isomorphism, with its assertion that “institutionalization is rooted in conformity... operat[ing] to produce common understandings about what is appropriate and, fundamentally, meaningful behavior.”³⁴

3. *Institutional Systems As a Class of Elements* – A truly remarkable turning point in the development of institutional theory, this perspective has its roots in the writings of John Meyer. Though Meyer’s first prominent contribution to the literature of institutionalism was a widely celebrated article in the institutionalization-as-creating-reality vein, he gradually developed an independent and competing conceptualization of the theory that was remarkably differentiated from the two aforementioned approaches. Rather than positing that institutionalism is a process that can simply be deliberately undertaken by an organization and effected for just any sort of trait, structure, or behavior for which permanence is desired, Meyer envisions institutional systems as being “a distinctive class of elements that can account for the existence and/or the elaboration of organizational structure.” Furthermore, Meyer states that the elements comprising this class are derived not from any single source, but rather from “a variety of...loci of ‘rationalized and impersonal prescriptions that identify various social purposes’ and ‘specify in a rulelike way the appropriate means’ to pursue them.”³⁵ Thus, in this conceptualization, there is no definitive path to institutionalism, nor is there one particular source of received wisdom regarding organizational structure and behavior that is paramount. As a result, this

³⁴ qtd. in *Ibid.*, 497.

³⁵ *Ibid.*

perspective suggests a major change in how organizational/managerial theory scholars think about an organizations environment. Scott notes:

In contrast to the prevailing theories of organizational environments...that call attention primarily to technical requirements, resource streams, information flows, and influence relations, the new formulation stresses the role played by cultural elements – symbols cognitive systems, normative beliefs – and the sources of such elements.³⁶

Furthermore, because there is no end-all, be-all font of institutionalism, “Organizations do not necessarily conform to a set of institutionalized beliefs because they ‘constitute reality’ or are taken for granted;” instead, they are understood as being incentivized to conform in order to attain the benefits of “increased legitimacy, resources, and survival capabilities” that arise from acting with requisite respect for external cultural pressures.³⁷ Lastly, because it is a perspective cognizant of the multiple sources of “rational myths” in a society, analysis conducted in this strain of institutionalism is particularly attuned to types of actors that were previously insufficiently considered, actors “such as the state...that shape organizational life both directly by imposing constraints and requirements and indirectly by creating and promulgating new rational myths.”³⁸

4. *Institutions As Distinct Societal Spheres* – This final tradition of thought within institutional theory is intriguing in that it builds upon the operative assumptions of the class-of-elements perspective by linking them to proto-institutionalism sociological literature. Friedland and Alford, this perception’s key proponents, borrow from that early 20th century scholarship “the structural-functional assumption,” relatively underutilized in

³⁶ Ibid., 497-498.

³⁷ Ibid., 498.

³⁸ Ibid., 499.

institutional theory until their efforts, “that basic needs or survival requisites [are] set and that the differentiation of institutional spheres constitute[s] an adaptive societal response to these requirements.”³⁹ In other words, not only are there multiple sources of institutionalized elements that bring to bear different structural and behavioral outcomes on different kinds of organizations, but also, this multiplicity of structural and behavioral outcomes is desirable from the standpoint of organizational adaptation and stems directly from that fact. Yet, there’s more still to this perspective, given that it holds that “Any given activity – the carrying on of productive work, the attempt to govern – can have multiple meanings and can be the focus of conflicting and contradictory definitions and demands.”⁴⁰ In bridging this gray area, scholars of the distinct-societal-spheres tradition tend to emphasize “substantive content,”⁴¹ by which they mean the essential, tangible objectives of the particular organizations being considered.

Developments within institutional theory from the 1990s onward have been especially geared toward the formal introduction and application of institutional analysis to a number of humanities disciplines theretofore somewhat isolated from institutional theory’s reach. Most notably, this has invigorated a renewed fusion of political and economic studies known variously as political economy studies, public choice theory, and institutional economics.⁴² Working in close conjunction with scholarship in other fields, institutional theory has found cause not only to unleash its exceptional power to integrate perspectives from multiple disciplines, but also to turn its integrative efforts

³⁹ Ibid., 500

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Polski and Ostrom, “An Institutional Framework for Policy Analysis and Design,” 2-3.

inward, condensing its four somewhat disparate traditional interpretations into a more unified and coherent whole.

Undoubtedly, one of the more impressive and tangible achievements in this regard to-date has been the creation of the Institutional Analysis and Development (IAD) framework, which is “the collective product of the many and diverse social scientists who have participated in the Workshop in Political Theory and Policy Analysis over...25 years.”⁴³ The IAD’s uses are threefold. First and foremost, it is a research method that crystallizes institutional analysis as a definite series of steps. Secondly, through the work of Polski and Ostrom, the framework has been fine-tuned for use “as a tool for policy analysts who are evaluating policy effectiveness, initiating policy reform, or designing new policy interventions.”⁴⁴ Lastly, given these first two roles, the IAD’s structure implicitly conveys much about how the various factors that have an impact on institutionalism fit together. In so doing, it is, further still, an interesting means of synthesizing the four major traditions of institutional theory. As can be observed in Figure 2-1, the IAD conceives of institutionalism as an adaptive influence on organizational structure and behavior that is shaped by primary inputs emanating from the external environment (Institutionalism As a Process of Instilling Value), with a particular emphasis on communal and cultural factors (Institutional Systems As a Class of Elements), that affect the particular characteristics of the action area (Institutions As Distinct Societal Spheres) to produce habitualized patterns of interactions (Institutionalization As a Process of Creating Reality).

⁴³ Ibid., 2.

⁴⁴ Ibid.

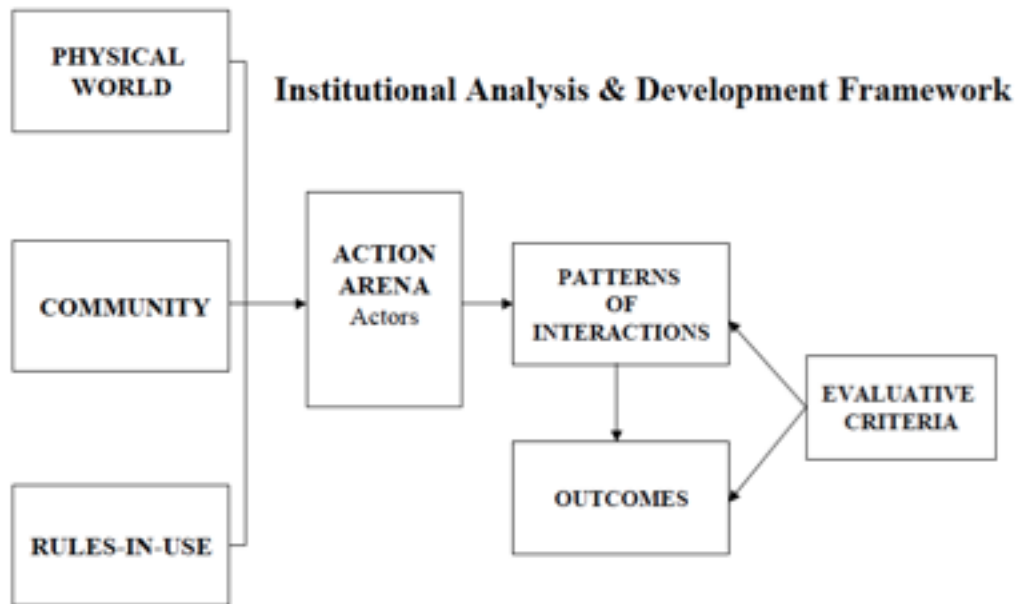


Figure 2-1 *Source: Polski and Ostrom, 1999*

Given the topic at-hand in this thesis, which is ultimately a question of altering rules-in-use, it is important to note that Polski and Ostrom have granted especial focus to this element of the framework:

Rules are frequently nested in other sets of rules that define how lower-level rules function. Whenever we address questions about policy change, we must distinguish three levels of rules that cumulatively affect the actions taken and outcomes obtained...Operating rules affect participants' day-to-day decision making in specific political and economic settings...Collective-choice rules determine who is eligible to participate in activity affecting the operating level and how operating rules may be changed...constitutional rules determine who is eligible to participate in crafting collective-choice rules and how these rules may be changed.⁴⁵

The order of this nesting of rules-in-use according to Polski and Ostrom is illustrated above in Figure 2-2; constitutional rules set forth the boundaries of collective-choice rulemaking, while collective-choice rules set forth the boundaries of operating rules.

⁴⁵ *Ibid.*, 19.

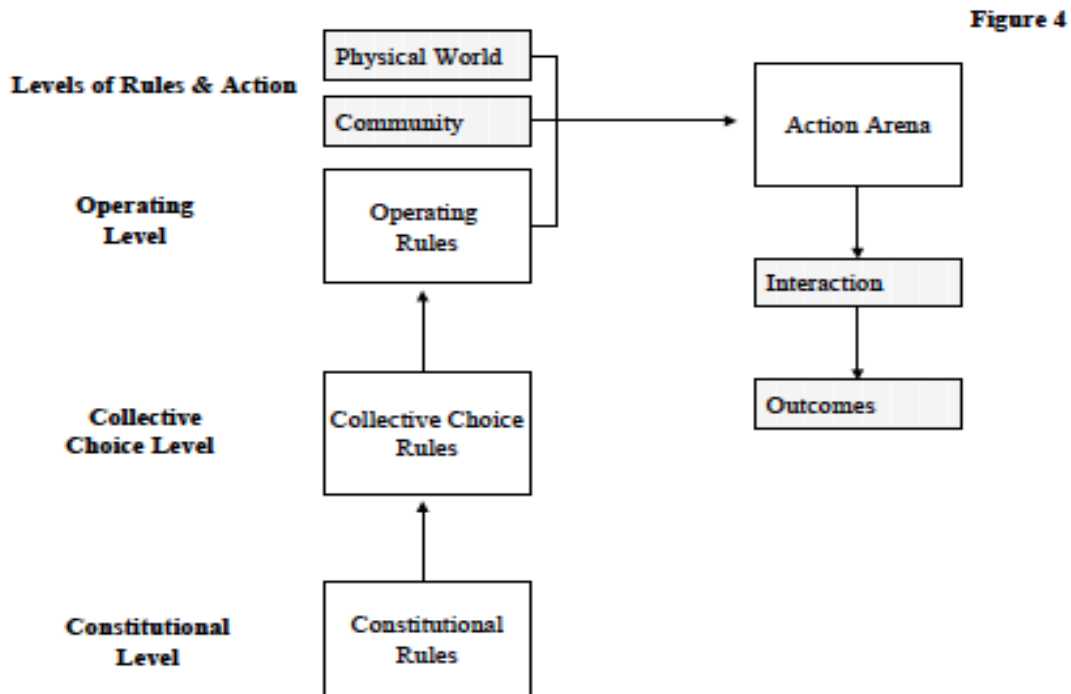


Figure 2-2 Source: *Polski and Ostrom, 1999*

II. Home Rule in America

To couch the subject matter of this study in terms relevant to contemporary issues, given lagging the lagging economic growth faced in many corners of America, planning scholars Blakely and Leigh, in their text *Planning Local Economic Development: Theory and Practice*, assert that, in spite of the inexorable presence of factors beyond their powers to control, local governing institutions in the United States must take on an active role in the process of promoting economic development within their respective borders – that such activity is beneficial and, indeed, of the essence for success in the midst of today’s vast and ever-changing economic landscape:

...localities cannot control what happens in the global economic system, and neither can their state government, or even the federal government. However, this does not mean that local economies must simply be victims of unknown forces. Communities need to learn about the external economic forces shaping them and work to position themselves to take advantage of opportunities and avoid threats from outside their reach. They must be entrepreneurial in seizing opportunities,

cutting losses, investing in strategic programs, and leveraging their assets to compete in the new economy.⁴⁶

However, in much of America, the matter of whether or not localities have been invested with the rights and powers essential to their capacity to fulfill Blakely and Leigh's charge remains open to debate, as does the equally fundamental question of whether or not local control on this order should be a goal of policy in the first place. Not an unsubstantial number of local leaders have contended that their capacity to effect positive change at the communal scale is hindered systematically by entities far more concrete and substantive than mindset; as Richardson, Gough, and Puentes observe, many local policy leaders have sought to "look to their state governments for relief,"⁴⁷ "contend[ing] they are handcuffed by...strict interpretation of state laws" and "often yearn[ing] for greater 'home rule' authority."⁴⁸

This object of their yearning, home rule, is a highly important feature of the modern landscape of community-level governance in the United States and possesses a rich history extending back to establishment of the American central government. However, it is not an easy thing to encapsulate on paper. "Any discussion of 'Home Rule' should begin with a definition of the phrase," Ice asserts at the beginning of an article on municipal home rule in Indiana, only to immediately concede that "The balance

⁴⁶ Edward J. Blakely and Nancey Green Leigh, *Planning Local Economic Development: Theory and Practice* (Los Angeles: Sage, 2010), 66.

⁴⁷ Jesse J. Richardson, Jr., Meghan Zimmerman Gough, and Robert Puentes, "Is Home Rule the Answer?: Clarifying the Influence of Dillon's Rule on Growth Management" (a discussion paper prepared for the Brookings Institution Center on Urban and Metropolitan Policy, Washington, D.C., 2003), vii.

⁴⁸ Ibid.

of this Article could be consumed with that subject.”⁴⁹ Indeed, there is not only great complexity, but also great confusion involved in discussion of the concept. In 1954, the Chicago Home Rule Commission submitted that “there is perhaps no term in the literature of political science or law which is more susceptible to misconception and variety of meaning than ‘home rule,’”⁵⁰ and for myriad reasons, this remains the case today, some 60-odd years later. These reasons will be laid bare in detail in the literature review to come. For now, home rule is best understood in the most inclusive manner possible. It is, at its essence, “the devolution of state power to local governments” – put a bit more precisely, it is the means whereby state-to-local devolutions of power are brought into effect, “a state constitutional provision or legislative action that provides a city or county government with a greater measure of self-government.”⁵¹ Intertwined with and carried forth by the concrete entity of home rule is a more abstract and fundamental aim that Krane, Rigos, and Hill identify as the “ideal” of home rule, “the ability of a local government to act and make policy in all areas that have not been designated to be of statewide interest...”⁵²

Currently, although observations regarding the presence or absence of home rule in each state tend to vary, home rule authority is available to municipalities in a majority of states, and in several of the state policy regimes in which it exists, the concept has extended beyond its traditional scope of existence to apply to entities like county

⁴⁹ Harry T. Ice, “Municipal Home Rule in Indiana,” *Indiana Law Journal* 17, no. 5 (1948): 375.

⁵⁰ Chicago Home Rule Commission, “Modernizing a City Government” (local government commission report, Chicago, IL, 1954), n pag.

⁵¹ Richardson et al., “Is Home Rule the Answer?,” 10.

⁵² Dale Krane, Platon N. Rigos, and Melvin Hill, *Home Rule in America: A Fifty-State Handbook* (Washington: CQ Press, 2001), 2.

governments, as well.⁵³ This superficial glance at home rule's geographical spread, however, fails to adequately account for factors that might mitigate the reality of home rule where it nominally exists.

At a fundamental level, the history of American policymaking might best be understood as a narrative of the efforts of countless citizens and citizen-statesmen alike to make sense of one particularly cumbersome question: namely, what a government invested with authority and power through the express consent of the governed really ought to look like in practice. Imbedded within this inquiry are those critical, definitional aspects of a political system's existence famously crystallized by Lasswell: who gets what, when, and how. And as specifically concerns the "how" of governance in America, perhaps no one concept has played a more significant role than that of federalism, "the theory or advocacy of federal principles for dividing powers between member units and common institutions."⁵⁴ Indeed, even now, many of the domestic programs and issues that consume the attention of the nation's political press and the dockets of its highest courts – from the Affordable Care Act to the Common Core State Standards Initiative to disputes over the legality of same-sex marriage – involve, whether directly or indirectly, specific, normative ideas about how the power transmitted by American citizens to their system of government might best be distributed among the institutions comprising that system.

⁵³ Stephanie Cole and Samuel K. Gove, "Home Rule in Illinois: Final Report, Background Papers, and Speeches" (report on proceedings of the Assembly on Home Rule in Illinois, Lake Bluff, IL, 1973), 17.

⁵⁴ "Federalism," *Stanford Encyclopedia of Philosophy*, March 4, 2014. <http://plato.stanford.edu/entries/federalism/>

The research effort presented herein can be seen as situating itself within this ongoing conversation about scalar divisions of power in America's system of governance. More precisely, it seeks to investigate and elucidate the particulars of an aspect of these scalar divisions that is markedly underserved in the current body of literature on the subject: the structural power relationships between state and local governments.

In the midst of decades, indeed centuries, of high-profile struggles for power and authority between the American federal government and state governments, considerations of the proper structure of states' relationships with the localities contained within them have not loomed especially large in the national consciousness. In its seminal report "Local Government Autonomy: Needs for State Constitutional Statutory, and Judicial Clarification," the U.S. Advisory Commission on Intergovernmental Relations (ACIR) notes that "Experience with local government, which is shared by all Americans, has rarely given rise to sustained and systematic reflection about the relationship between local government and the state," but cautions against the continuation of this reality, asserting that "no account of American federalism that omits the dynamic interplay of local governments with the federal and state governments does justice either to historical experience or contemporary practice."⁵⁵ To the Commission's point, just as notions of American federalism at the national level have evolved through the succession of decades and through exposure to new challenges of governance, so, too, have the legal parameters defining states' interactions with more localized governing institutions undergone

⁵⁵ U.S. Advisory Commission on Intergovernmental Relations, "Local Government Autonomy: Needs for State Constitutional Statutory, and Judicial Clarification" (public report of the ACIR, Washington, DC, 1993), 7.

considerable transformation, and the public policy implications of this transformative process demand scholarly attention and analysis.

It has been widely remarked that changes in the federal government's division-of-powers relationship with state governments in the past century have, on the whole, made manifest a shift from a regimented system of dual federalism to a new American take on the system that values inter-scalar cooperation and has enabled the central government of the United States to play a more active role in the lives of its citizens. Thus, it perhaps seems counterintuitive to observe that a strong undercurrent of regionalism and local autonomy has long made itself apparent in the developments of state-local relations, both prior to and contemporaneous with these federal-state developments. That observation, though, is no less than fundamental to ascertaining a sense of states' and localities' progressions in thought over the course of more than a century about the powers that ought to be afforded to each in accordance with their scalar differences.

A. Defining Key Terms: Local Government Autonomy

Before delving into the past or present details of the American state-local relationship, it is, of course, fundamental to establish one's bearings amidst the web of terminology weaved by legislators, judges, and scholars past and present who have devoted an earnest degree of attention to subnational intergovernmental relations.

Ultimately at issue in this nationwide, centuries-long struggle to define the power boundaries of state and local governments – and it is and has been, most assuredly, a struggle – is local government autonomy, a condition of independence in communities' decision-making that requires the broad conferral of some combination of powers, rights,

and privileges to substate political entities. This definition, though nominally an original take on the term, is rooted firmly in the findings of preceding studies and is only original insofar as it seeks to build upon and establish compatibility with conceptual nuances revealed through previous scholarship.

It does so, firstly, by positing that local government autonomy is a “condition,” a state of being, rather than a system in and of itself. Therefore, policy actions directed toward the devolution of powers to localities can be understood as a necessary but not a sufficient condition for the achievement of autonomy at the local level.

Secondly, it makes no attempt to proffer what specific conferrals are required to bring about a state of local government autonomy. Declining to set an arbitrary basket of rights, powers, and privileges allows for the reality that local government autonomy exists in any particular place during any particular policy regime much as concepts like liberty and economic opportunity do – rarely if ever either totally absent or totally present but, instead, often at some point on a continuum between the two – that point being, ultimately, the result of the policy decisions and both the official and unofficial opinions of multiple governing officials, as well as the opinions of the public at-large. It is especially important to account for this truth in one’s scholarly observations of U.S. substate intergovernmental relations, because states, the “laboratories of democracy” as Chief Justice Brandeis famously termed them, have held fast to that moniker in their dealings with the topic of devolution to localities. As the National League of Cities explains, “The Tenth Amendment reserved authority-giving powers to the states. It is not surprising, then, that there is a great diversity in state-local relations between, as well as within, states. This means that to speak of local government in the United States is to

speak of more than fifty different legal and political situations.”⁵⁶ Table 2-1 provides quantitative evidence of this reality that is culled from a 2010 study by Wolman et al. Local government discretion, as Wolman et al. define it, is comprised of three quantified subdimensions: (1) Degree of Local Government Structural and Functional

Table 3. Local Government Autonomy Overall Ranking

| City | Rank | City | Rank |
|----------------|-------|----------------|--------|
| Kansas | 0.861 | Alaska | 0.029 |
| New York | 0.742 | Arizona | -0.025 |
| Wyoming | 0.643 | Utah | -0.03 |
| Tennessee | 0.582 | North Carolina | -0.036 |
| Texas | 0.471 | Indiana | -0.04 |
| Ohio | 0.431 | California | -0.063 |
| South Dakota | 0.356 | Wisconsin | -0.091 |
| Louisiana | 0.333 | Nevada | -0.098 |
| Illinois | 0.315 | Oklahoma | -0.133 |
| Alabama | 0.271 | Montana | -0.179 |
| Maryland | 0.248 | Minnesota | -0.201 |
| Florida | 0.247 | Oregon | -0.215 |
| Iowa | 0.225 | Idaho | -0.244 |
| Mississippi | 0.22 | Michigan | -0.273 |
| Colorado | 0.204 | Arkansas | -0.278 |
| Massachusetts | 0.185 | Washington | -0.298 |
| South Carolina | 0.177 | Connecticut | -0.324 |
| Missouri | 0.173 | Pennsylvania | -0.336 |
| Georgia | 0.166 | Vermont | -0.339 |
| Virginia | 0.151 | New Hampshire | -0.339 |
| New Mexico | 0.143 | Kentucky | -0.449 |
| North Dakota | 0.125 | Rhode Island | -0.494 |
| Nebraska | 0.113 | West Virginia | -0.706 |
| Maine | 0.075 | Delaware | -1.13 |
| New Jersey | 0.062 | Hawaii | -1.231 |

Table 2-1 Source: Wolman et al., 2010

Responsibility and Legal Scope, (2) Fiscal Discretion Limits on Local Governments, and (3) Local Government Unconstrained Revenue; these were assessed together in order to create a holistic picture of local government autonomy as it exists in each of the 50 states and, in turn, to arrive at definitive state-by-state rankings (both cardinal and ordinal in

⁵⁶ “Local Government Authority,” *National League of Cities*, accessed April 1, 2016. <http://www.nlc.org/build-skills-and-networks/resources/cities-101/city-powers/local-government-authority>

nature) of local government autonomy.⁵⁷ The rankings, of course, lend implicit support to the notion of local government autonomy as existing on a continuum. It is also important to note that states not deemed to be “Dillon’s rule states” in this study (those in bold in Table 2-1) fall all over the map in terms of comparative substate autonomy; this is influential to the study at-hand in that it provides a clear justification for what the preceding paragraph conveys – an understanding of the actualization of the *goal* of local government autonomy as, to some degree, separate from the *specific policy action* of enacting home rule.

Lastly, this study’s definition of local government autonomy makes no presumptions about the origins of the conferrals of rights, powers, and privileges that it deems to be a necessary condition of local government autonomy. The need for breadth in dealing with this facet of local government autonomy is less grounded in the practical than it is in the philosophical, stemming from a very fundamental question that has accompanied the debate about local government’s proper scope of authority since its infancy: what is the ultimate source from which local autonomy is derived? While the answer to that question may appear obvious, given the long history of state governments undertaking assorted policy actions in order to effect such conferrals, there is a tradition of American governmental philosophy that would maintain, in spite of this, that at some level, local rights, powers, and privileges are not the states’ to give – that, instead, there is an inherent right to local self-governance in the United States and that powers, privileges, and other rights necessary to exercise that right should be considered to be the innate and

⁵⁷ Harold Wolman, Robert McManmon, Michael Bell, and David Brunori, “Comparing Local Government Autonomy across States,” *Proceedings of the Annual Conference on Taxation* 101 (2008): 377-378.

fundamental prerogatives of local governing institutions. These sentiments are perhaps most clearly delineated in an 1871 decision rendered by Michigan Supreme Court Justice Thomas Cooley in the case *People v. Hurlbut*. Cooley, in a bold assertion of local self-governance as an inevitable and inalienable right stemming from “constitutional freedom” and the American experience, counts this matter among those “things [that] are too plain to be written”:

If this charter of state government which we call a constitution were all there was of constitutional command; if the usages, the customs, the maxims that have sprung from the habits of life, modes of thought, methods of trying facts by the neighborhood, and mutual responsibility in neighborhood interests, the precepts which have come from the revolutions which overturned tyrannies, the sentiments of manly independence and self control which impelled our ancestors to summon the local community to redress local evils, instead of relying upon king or legislature at a distance to do so; if a recognition of all these were to be stricken from the body of our constitutional law, a lifeless skeleton might remain, but the living spirit, that which gives it force and attraction, which makes it valuable and draws to it the affections of the people...this living and breathing spirit, which supplies interpretation of the words of the written charter, would be utterly lost and gone...With [the men who framed our institutions] it has been an axiom that our system was one of checks and balances; that each department of the government was a check upon the others, and each grade of government upon the rest...The State may mould (sic) local institutions according to its views of policy or expediency; but *local government is matter of absolute right; and the State cannot take it away*. It would be the boldest mockery to speak of a city as possessing municipal liberty where the State not only shaped its government but at discretion sent in its own agents to administer it or to call that system one of constitutional freedom under which it should be equally admissible to allow the people full control in their local affairs or no control at all.⁵⁸

The above passage, in particular the portion transcribed with emphasis added, has come to be known as the Cooley Doctrine, and the critical role its philosophical underpinnings have played in the evolving understanding of local governments’ roles and powers in the United States ought to compel any scholarly effort requiring a comprehensive definition of local government autonomy to accommodate for them.

⁵⁸ *People v. Hurlbut*, 24 Mich. 44, 108 (1871).

B. Defining Key Terms: Home Rule

Although it is fine and well to argue, on principle, that the existence of local autonomy should be more than evident without codification owing to the character of the American political system and the collective experiences of its citizens, it also bears mentioning that, by virtue of the same American political system, the United States possesses what has been widely recognized and celebrated as “a government of laws, not of men.” As the Founders themselves conceded through the passage of the Bill of Rights, authority that goes un-codified in a government of laws cannot be expected to endure indefinitely, and from this paradox arises the concept of home rule as it exists in America. Home rule refers to any system of state-local relations that empowers local governments to make certain administrative decisions without the necessity of seeking legislative approval for them. It *is*, quite simply, the necessary condition of local government autonomy; whenever and wherever increased local stature in governance is an explicit desire of a state’s policymaking community, home rule proposals are the most direct step that can be taken toward making that desire a reality. Because it is a far less ephemeral concept than the goal that prompts its existence, home rule lays claim to a somewhat less nuanced definition. However, it should be noted that, just as local government autonomy exists on a continuum, there are many gradations that exist between the complete absence of home rule and its absolute, unfettered presence.

Where home rule is concerned, the elusiveness of its definition in this particular nation-state is more than likely a function of the history of local governments’ collective

legal status in the United States – a history that, as the National League of Cities notes, is marked by omissions of state-transcendent establishment and, in turn, by a confounding degree of interstate variation.⁵⁹

Yet, in spite of the complexity inherent in pinning down the concept of American home rule, there are important commonalities to be detected within pertinent scholarly literature. While, as Richardson notes, “Many different definitions exist for home rule,” this multiplicity of proposed meanings rarely stems from differences of opinion concerning home rule’s fundamental nature or intention. Richardson himself, by defining home rule “Most generally” as “a state constitutional provision or legislative action that provides a local government with a greater measure of self-government ability,” corroborates this statement.⁶⁰ What’s more, a widespread understanding of home rule under American law is presented in much of the literature on the subject through discussion of home rule efforts’ broad points of contrast with the more specific pronouncement of Dillon’s Rule, a “rule of interpretation...named for Judge John Dillon of the Iowa Supreme Court, who established it firmly in a landmark 1868 case.”⁶¹

Dillon’s Rule operates under the logic that, “As corporations are the mere creatures of law...and derive all their powers from the acts creating them, it is perfectly just and proper that they should be obliged strictly to...be confined in their operations to the mode, and manner, and subject matter prescribed.”⁶² In essence, then, a system of state-local relations emphatic of Dillon’s Rule is one wherein “local governments operate

⁵⁹ “Local Government Authority.”

⁶⁰ Richardson et al., “Is Home Rule the Answer?,” 10.

⁶¹ U.S. Advisory Commission on Intergovernmental Relations, “Local Government Autonomy,” 32.

⁶² qtd. in *Ibid.*

only on those powers that have been explicitly granted to [them] by the state legislature,”⁶³ and this system of more limited conferrals of rights upon government at the local level is, therefore, pitted dichotomously against the more conferral-rich nature of home rule. The historical-definitional narrative of home rule presented in this body of literature is most aptly described in a 1993 study authored by the U.S. Advisory Commission on Intergovernmental Relations:

Two legal concepts of local government have contended for ascendancy in the American federal system: home rule and creatures of the state. The home rule concept of granting greater discretionary authority to local governments has been gaining ground on the creatures-of-the-state concept of strict limits on local discretionary authority. Most states have adopted a system of devolved powers for local governments within which they can act freely.⁶⁴

These points of consensus, though, fall well short of addressing the nebulosity of the concept of home rule in its entirety. As the Advisory Commission’s aforementioned quote intimates, most states have, at the very least, cordoned off a selection of policy areas for the discretion of local governments, and this has occurred irrespective of the distinctions between home rule and the lack thereof; in Mississippi, for instance, one of the few remaining states identified as “not provid[ing] for municipal home rule,” 1985 legislation established a still-extant enumeration of municipal home rule privileges and prohibitions that resulted in a limited conferral of decision-making to municipal governments.

For the alleviation of this continued ambiguity, one must turn toward efforts that seek to evaluate home rule facet by facet. Seminal in this regard is Krane, Rigos, and

⁶³ Ann Bowman and Richard Kearney, *State and Local Government: The Essentials, Sixth Edition* (Stamford, CT: Cengage, 2015), 231.

⁶⁴ U.S. Advisory Commission on Intergovernmental Relations, “Local Government Autonomy,” iii.

Hill's *Home Rule in America: A Fifty-State Handbook*, arguably the most comprehensive treatment of American home rule yet to be published. The text is, upon inspection, far more than an overview of home rule policies; rather, it is, itself, a research effort, one conducted to address what Hanson identifies as a "blind spot" in academic research regarding "the constitutional, political, and fiscal ties that bind states and localities," as well as "the complex interactions between state and local governments engaged in the delivery of public goods and services."⁶⁵ More specifically, Krane et al. seek to assess each state's manifestation of home rule along a uniform set of categories, presenting these assessments individually and, additionally, presenting categorical results in appendices enabling interstate comparisons. Among the principal topics considered are Governmental Setting, Home Rule, Functions of Local Government, Fiscal Autonomy of Local Governments, Citizen Access to Local Government, and State-Local Relations.⁶⁶ The data sources chosen as a means of achieving measurements in these categories are multitudinous, commonly arising from "interviews with or surveys of local government officials" or "from government documents...or...newsletters produced by the state association of municipal or county officials."⁶⁷ Within the individual state reports, qualitative data is typically synthesized into statements of summary, while quantitative data is expressed through the presentation of descriptive statistics, frequently as percentages, and the graphical representation of those statistics. The results of these individual state evaluations are many and varied, but their primary importance for the

⁶⁵ R.L. Hanson, "The Interaction of State and Local Governments" in *Governing Partners: State-local Relations in the United States*, ed. R. Bish and E. Ostrom (Boulder, CO: Westview Press, 1998), 3.

⁶⁶ Krane et al., *Home Rule in America*, xi.

⁶⁷ *Ibid.*

proposal at hand arises from their use as a final source of data for the comparative portion of the study, which constructs 16 appendices to analyze the states' qualitative categorizations; the appendices present the general type, eligibility criteria, and legal authority of each state's home rule system, as well as their essential structural (difficulty of incorporation, number of available annexation methods, and difficulty of annexation), functional (governing responsibilities, economic development authority), and fiscal (balanced budget requirements, diversity of revenue sources, debt limits) characteristics.⁶⁸ In this way, it is concluded, among other things, that "most states do not put eligibility restrictions on home rule," that "states vary dramatically in the number of methods by which a municipality can annex areas..." that "the property tax continues to be the primary source of local government revenues only for about half of the states listed," and that "the new economic development authority granted to counties and municipalities greatly expands the discretion of local communities to shape their futures."⁶⁹

⁶⁸ Ibid., 471-474.

⁶⁹ Ibid.

Chapter 3: Methodology

In assessing the proper path forward for the study at-hand – which, to reiterate, seeks to comparatively analyze the substantive implications of Dillon’s Rule and substate home rule through the lens of institutional theory – it is perhaps edifying to begin by referring back to Polski and Ostrom’s public policy-oriented interpretation of the Institutional Analysis and Design framework (see Figs. 2.1 and 2.2). While the research effort presented in this paper is not itself a policy analysis per se, its orientation is inherently toward playing a role in the wider process within public administration scholarship of critically assessing what are, at present, the two major alternatives of organizing American state-local power structures. Given the specific nature of these policy alternatives, it is proper to say, referring to Figure 2.2, that this paper is directed toward determining how *outcomes* differ based on variation in *constitutional rules* regarding local autonomy, with an ancillary interest in how *interactions* lead to the outcomes.

To use another, more prevalent framework of policy analysis as a means of contextualization, Bardach’s Eightfold Path, this study is envisioned not as a self-contained exploration of each of Bardach’s eight steps, but rather, as a contribution to the outcomes projection stage as that path is played out in full in the wider scholastic community.⁷⁰ But why focus so intently on what is, ultimately, only one stage of the policy analysis process? Quite simply, the entire field’s analysis of these alternative

⁷⁰ Eugene Bardach, *A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving* (Los Angeles: CQ Press, 2012), xvi.

means of organization is inhibited from moving forward to properly assess tradeoffs between the two and prescribe a course of action in light of these tradeoffs without first rigorously establishing outcomes related to Dillon's Rule and home rule that extend beyond the abstract.

There is, additionally, intrinsic value for practitioners of public administration in the completion of a project with this focus. As the preliminary literature review makes evident, extensive accounts exist that are concerned with how Dillon's Rule and home rule-guided relationships stack up against each other based on abstract notions of autonomy and the like, and indisputably, such efforts hold a certain degree of value for the practitioner as well as the scholar. Yet, infinitely more valuable for practitioners, who have to anticipate and react to tangible situations, would be a detailed, comparative, non-prescriptive, and concrete results-driven account of what one can reasonably expect from each mode of state-local relationship. The author of this paper expressly intends for it to be a first fruit of sorts in the development of this type of account.

I. The Systematic Literature Review

This is not to say that the current body of public administration literature contains no information whatsoever about the substantive impacts of Dillon's Rule and home rule. Yet, it is certainly true that studies regarding these on-the-ground implications are presently few and far between, scattered about numerous, issue-specific corners of public administration scholarship and oftentimes geared only partially, if at all, toward comparative analysis of the two systems' impacts. Thus, gathering and synthesizing what these distinct, isolated studies have to say about both state-local power structures is a worthy goal in furtherance of our collective understanding of the relationship between

state and local governments – and gathering and synthesizing relevant information in this way is the specific means whereby the study at-hand seeks to go about the business of presenting a comparative analysis of the on-the-ground impacts of Dillon’s Rule and substate home rule.

Technically speaking, this sort of research methodology is known as a systematic literature review or, simply, a systematic review. Originally a product of the biomedical field, in which costs associated with the execution of independent, original testing are especially steep, the systematic literature review has been co-opted, repurposed, and reimagined in recent decades to create a methodology suitable for both quantitative and qualitative research in the social sciences. To date, the most extensive account of systematic review protocol for such purposes is Petticrew and Roberts’ 2006 publication, *Systematic Reviews in the Social Sciences: A Practical Guide*,⁷¹ which serves as this research effort’s principal source of methodological guidance.

At the outset of this discussion, it bears mentioning that, while there are undoubtedly similarities to be observed, the systematic literature review differs in substantial ways from traditional literature reviews like the one carried out in the preceding chapter; these are most precisely perceived as separate entities within the same family. Elucidating these differences, Petticrew and Roberts maintain that the systematic review is “more ‘fit for the purpose’ of answering specific questions and testing hypotheses than the traditional review,” being “less of a discussion of the literature, and more of a scientific tool”⁷²:

⁷¹ Mark Petticrew and Helen Roberts, *Systematic Reviews in the Social Sciences: A Practical Guide* (Malden, MA: Blackwell, 2006).

⁷² *Ibid.*, 10.

...those who use research information, among whom we can number citizens, researchers, and people making decisions about the delivery or organization of services, rely on reviews to help organize and prioritize the most relevant information. Alongside “traditional” or “narrative” reviews, a new type of review has appeared in recent years: the systematic literature review...Systematic reviews are literature reviews that adhere closely to a set of scientific methods that explicitly aim to limit systematic error (bias), mainly by attempting to identify, appraise and synthesize all relevant studies (of whatever design) in order to answer a particular question (or set of questions). In carrying out this task they set out their methods in advance, and in detail...⁷³

Thus, the systematic review process is, on the whole, more targeted and more empirical in its approach than the conventional literature review and is a versatile means of bringing together the findings of disparate research efforts to engender new connections, insights, and conclusions. Two further points advanced by Petticrew and Roberts are instructive. The first is that assessing the effectiveness of a particular policy intervention or interventions is taken to be the single most suitable objective for this methodology; “in answering questions about effectiveness or causation,” they assert, “a well-conducted systematic review should be considered the most authoritative source of information.”⁷⁴ Secondly, they corroborate the value of a systematic review in a nascent or underdeveloped field, noting, “even when a field is immature, it is important to cumulate prospectively rather than wait for some later date when ‘enough’ evidence has accumulated, and consolidation can occur.”⁷⁵

II. Applying the Systematic Review Methodology

Petticrew and Roberts identify seven distinct steps to the execution of a comprehensive literature review:

⁷³ Ibid., 9.

⁷⁴ Ibid., 10.

⁷⁵ Ibid., 35.

1. Clearly define the question that the review is setting out to answer.
2. Determine the types of studies that need to be located in order to answer your question.
3. Carry out a comprehensive literature search to locate those studies.
4. Screen the results of that search (that is, sift through the retrieved studies, deciding which ones look as if they fully meet the inclusion criteria, and thus need more detailed examination, and which do not).
5. Critically appraise the included studies.
6. Synthesize the studies...
7. Disseminate the findings of the review.⁷⁶

The question that the comprehensive review at-hand seeks to answer is twofold. First of all, what are the substantive impacts of Dillon's Rule and home rule? And secondly, how do these impacts differ?

To provide sufficient answers to this line of inquiry, studies in the social sciences of three different kinds must be consulted; in descending order of preferability, these are (1) comparative analyses of the substantive impacts of home rule and Dillon's Rule, (2) case studies directly involving the substantive impacts of either Dillon's Rule or home rule, and (3) analyses that project substantive impacts in correlation to the degree of local autonomy exhibited. This preference ordering is rooted in the rather intuitive operative logic that studies whose missions most closely align with the systematic review are most desirable. Thus, research that examines the impacts of both systems of state-local relations in comparison with one another is clearly most relevant, followed by that which discusses the impacts of one of the two systems. Research efforts that assess or establish a relationship between the degree of local autonomy and real or projected on-the-ground outcomes also surely have relevance for this study, but these are less preferable owing to a basic fact revealed in the preliminary literature review: though local autonomy is

⁷⁶ Ibid., 27.

always and everywhere the stated aim of adopting home rule, this condition does not always and everywhere materialize under a system of home rule. Given the type of articles that will be sought after in this review, it seems probable that the body of resources surveyed in this research effort will be close to equal portions quantitative and qualitative, with perhaps a slight qualitative bent.

The literature search was conducted by utilizing One Search, an online “unified discovery service” provided by the University of Mississippi to its students and faculty “that searches the [University of Mississippi’s] library catalog, article databases, electronic resources, digital collections and more from one search box.”⁷⁷ In essence, One Search is an aggregate search engine through which one can conduct a simple Boolean search of all physical and electronic resources in the University’s possession and all e-books and articles accessible through the variety of academic databases to which the University subscribes, with the results of the search being sorted for relevance algorithmically. One Search is a particularly appealing means of conducting a literature search for a systematic review, given that resources of every kind and of every origin are granted parity in its search process, leaving relevance to the searched phrase or phrases as the sole factor for a resource’s inclusion in the search results and for its ranking within said search results. For an in-depth breakdown of the sources utilized, see Appendix 1.

The actual literature search process employed in this study modified the One Search algorithm such that the resources considered and ranked were limited to books and e-books, scholarly articles, and conference materials and, furthermore, such that the online databases consulted were constrained to the 10 databases that constitute One

⁷⁷ “One Search,” *University of Mississippi Libraries*, accessed March 30, 2016, <http://www.libraries.olemiss.edu/uml/one-search>.

Search's "Basic Database Set" and to those categorized by the University of Mississippi Libraries for "General Social Sciences," "General Humanities," "Government," "Political Science," and "Public Policy Leadership" use.⁷⁸ Three separate searches were conducted in this manner, in a pattern consistent with the aforementioned preference ordering of studies: first for " 'home+rule' + 'Dillon+Rule,' " then for " 'Dillon+Rule,' " and lastly, for " 'local+government+autonomy' + 'United+States.' " ⁷⁹

The results of these three searches were then screened in the same order in which they were conducted, with a particular emphasis on the content of abstracts, where included, and on the content of introductory and results/conclusions sections where they were not, with the goal of eventually arriving at a body of studies whose findings would be studied in-depth for synthesis. Throughout the screening process, the following six criteria, listed in no particular order, bore the greatest influence on inclusion/exclusion:

- Degree of alignment with the objectives of the review, as previously discussed
- Presentation of empirical research with a transparent methodology
- Recentness of the research effort presented by the resource
- Congruence of setting and chosen scale of analysis (United States of America, state government vs. local government – municipality, county, town)

⁷⁸ "Database A-Z," *University of Mississippi Libraries*, accessed March 30, 2016, <http://www.libraries.olemiss.edu/uml/database/glossary/all>.

⁷⁹ An as-yet unexplained portion of the operative logic behind the selection of these search phrases deserves discussion. " 'Home+rule' + 'Dillon+Rule' " requires no national modifier to ensure that it will yield a list tailored to the American state-local experience, because this dichotomy only exists in the United States. Nor does " 'Dillon+Rule' " require a national keyword to tailor the search results to ones with American implications, for much the same reason: Dillon's Rule is an American legal doctrine. However, local government autonomy is not a U.S.-specific concern, so the inclusion of keywords pertaining to the United States is a logical step to ensure the filtering out of several sources beyond the scope of this study.

- Generalizability of the resource's empirical findings
- Contribution to the diversity of issue perspectives among research efforts consulted for synthesis

Each of the articles selected for inclusion in the synthesizing process was then pored over in full and subjected to critical appraisal. Table 3-1, taken from Petticrew and Roberts, lists a number of questions that lend themselves to producing thorough critical appraisals of predominantly qualitative bodies of research; these questions constituted the primary foci of the critical appraisal process undertaken in this study.⁸⁰ This article-by-article appraisal process was conducted externally, rather than presented in full in the findings section; this is a part-stylistic, part-methodological decision that, in addition to economizing on valuable space for revelatory discussion of this review process's ultimate findings, provided an additional inclusion/exclusion failsafe: should any included sources abjectly fail to meet several of these criteria upon in-depth reading, they would be eliminated during this process. Nonetheless, for the sake of full transparency regarding the validity of the sources that were ultimately consulted to extract themes from the literature sample, the methodology of every study identified in Chapter 4 as a key corroborating source for a theme is summarized prior to discussion of their results.

⁸⁰ The literature search will almost assuredly produce a plethora of both qualitative and quantitative studies. Unfortunately, there is, as yet, little consensus among practitioners of this nascent social sciences-oriented systematic review process regarding how to achieve parity of appraisal requirements among studies of both kinds. Given this fact, it seems prudent to settle upon a "least common denominator," so to speak, of appraisal criteria, deferring to the least constrictive set of codified standards that exist. Upon careful consideration of the sparse social sciences systematic review literature to-date, Petticrew and Roberts' 18 criteria for appraisals of qualitative studies appear to fit that bill.

| Eighteen Appraisal Questions for Qualitative Research |
|---|
| 1. How credible are the findings? |
| 2. How has knowledge or understanding been extended by the research? |
| 3. How well does the evaluation address its original aims and purpose? |
| 4. How well is the scope for drawing wider inference explained? |
| 5. How defensible is the research design? |
| 6. How defensible is the research design? |
| 7. How well defended are the sample design/target selection of cases/documents? |
| 8. How well is the eventual sample composition and coverage described? |
| 9. How well was the data collection carried out? |
| 10. How well has the approach to, and formulation of, analysis been conveyed? |
| 11. How well are the contexts of data sources retained and portrayed? |
| 12. How well has diversity of perspective and content been explored? |
| 13. How well have detail, depth, and complexity of the data been conveyed? |
| 14. How clear are the links between data, interpretation and conclusions? |
| 15. How clear and coherent is the reporting? |
| 16. How clear are the assumptions/theoretical perspectives/values that have shaped the form and output of the evaluation? |
| 17. What evidence is there of attention to ethical issues? |
| 18. How adequately has the research process been documented? |

Table 3-1 *Source: Petticrew and Roberts, 2006*

That themes were extracted from the sample and will constitute this study's principal findings brings this methodological discussion to its conclusion, as this is the means of study synthesis selected for the research effort at-hand. Thematic representation of the literature sample follows logically from the qualitative research scholarship of Creswell, who posits that "qualitative research consists of preparing and organizing the data (i.e., text data as in transcripts...) for analysis, then reducing data into themes...and

finally representing the data in figures, tables or a discussion.”⁸¹ Indeed, in adherence to Creswell’s final point, a table summarizing the study’s findings brings Chapter 4 to a close.

⁸¹ Creswell, 2007. 148

Chapter 4: Results of Comprehensive Review

I. Descriptive Statistics

The first Boolean search (“‘home+rule’ + ‘Dillon+Rule’”) yielded 221 independent search results. The second Boolean search (“‘Dillon+Rule’”) yielded 356 independent search results. The final Boolean search (“‘local+government+autonomy’ + ‘United+States’”) yielded 332 independent search results. After accounting for results that appeared in more than one of the three conducted searches, the second Boolean search yielded 66 results unique from those retrieved in the first search, and the third Boolean search yielded 231 results unique from those retrieved in the first and second searches. Thus, the literature search process retrieved a total of 518 independent search results across all three searches.

Screening the literature search’s 518 independent results through strict application of the inclusion/exclusion criteria resulted in 52 sources being culled from the first search, 10 from the second search, and 17 from the third search, for a total selected body of 79 works. After reviewing the full contents of each of these sources and assessing each source’s validity through applicable critical appraisal questioning, owing to less-than-anticipated relevance and/or methodological rigor, five of the results culled from the first search were eliminated from the selected body (52 → 47 sources), four of the results culled from the second search were eliminated from the selected body (10 → 6 sources), and ten of the results culled from the third search were eliminated from the selected body

(17 → 7 sources), thus paring down the selected sample of the literature from 79 sources to 60.

II. Themes Extracted from the Selected Literature

What lessons can be gleaned from the 60 sources this study's methodology has brought to the fore from across the vast landscape of public administration scholarship? Collectively, these sources reveal eight broad-based thematic findings, of which four draw direct contrasts between the substantive results of home rule and pure Dillon's Rule, two reflect on key areas in which the substantive impacts of these systems appear negligible, and the remaining two elucidate factors that complicate the prior findings. Among each category of findings, themes will be summarized in descending order of prevalence in the literature sample and substantiated by relevant excerpts from said sample. Given that the question that has served as the impetus of this study is a comparative one, it seems logical to begin by looking, first, to the comparative findings.

A. Differences in System Impacts

1. Number of Local Governments – *Through the proliferation of both general-purpose and special-purpose governments, home rule systems concentrate more governmental power at the local level by virtue of sheer numbers and tend to engender comparatively more bureaucratic sprawl in public service delivery, not less.*

Not surprisingly, given that a common argument for implementing a state-local relationship defined by home rule is that doing so will scale back the state-to-local bureaucracy involved in public service delivery and thereby increase the overall quality thereof, a substantial portion of the literature sample is devoted to examining how the

contours of service delivery systems and the character of the services delivered are impacted by the rules-in-use governing the state-local relationship. These are especially predominant foci among articles of the kind that this study assigns the highest priority, those that comparatively analyze the substantive impacts of home rule and Dillon's Rule. Moreover, multiple studies within the sample that project substantive impacts in correlation to degree of local autonomy are also similarly directed.

As will be revealed more fully in ensuing pages, prevailing logics advanced by proponents of home rule regarding service quality differences find little to no empirical support in this literature sample, but at least one systemic contrast concerning service delivery does: as it happens, home rule does, in fact, coincide with greater concentration of government power at the local level by sheer numbers. That is, home rule systems of state-local relations tend to spawn greater numbers of both general- and special-purpose governments than do Dillon's Rule-predominant state-local relationships, thus contributing to more fractured channels of local service delivery.

Kim and Law's "History, Institutions, and Cities: A View from the Americas" and Carr's "Local Government Autonomy and State Reliance on Special District Governance" are the two most in-depth explorations of this point of contrast included in the literature sample. Kim and Law, in service to their wider purpose of "identifying the impact of institutions on economic geography" as experienced in the U.S. and Canada,⁸² conduct two regression estimation-rooted analyses that incorporate "a municipal home rule status indicator equal to 1 if the state has home rule status by 1950 or by 1970, and 0 otherwise," based on whether or not "municipalities within the state [had] some degree of

⁸² Sukkoo Kim and Marc T. Law, "History, Institutions, and Cities: A View from the Americas," *Journal of Regional Science* 52, no. 1 (2012): 10.

formal and functional home rule” by those decades as reported in a 2001 study by Krane, Rigos, and Hill.⁸³ In the first regression estimation, the dependent variable is the number of “subcounty general-purpose government units in U.S. states”; the central equation is estimated separately for each decade between 1960 and 2000, inclusive, using home rule status by 1950 as a measure of political decentralization for the entire span of the study, while also using home rule status by 1970 “to proxy for political decentralization” from 1980 to 2000.⁸⁴ The resultant estimates indicate that for all years in the last two decades examined (1980-2000), “states that had implemented municipal home rule by 1950 or 1970 had more subcounty general-purpose local government units,” while “For 2000, home rule status increased the log number of local government units by more than one-third of a standard deviation.”⁸⁵

The second regression estimation analysis employed by Kim and Law uses the same bivariate measure of home rule, defined the exact same way, but takes on a more urban-specific focus by setting the dependent variable as the “log number of subcounty general-purpose government units in U.S. metro areas” and does not incorporate time-series data for that variable, looking only at data from a set year (1997).⁸⁶ The coefficient estimates for the home rule indicator produced thusly are noted as being “positive and significant in most regressions.” Based on these results, Kim and Law conclude that “Decentralization of political power away from states and toward municipalities increases

⁸³ Ibid., 36.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid. The year 1997 is used for consistency with other regression estimation-rooted analyses of metropolitan fragmentation that are conducted in this source but that are beyond the scope of the study at-hand’s home rule/Dillon’s Rule-oriented discussion.

the number of local government units,” and moreover, that the same process of decentralization “has contributed to greater metropolitan fragmentation.”⁸⁷

Carr, for his part, focuses on special district governments, which “operate along with counties, municipal governments (which may include villages and/or towns), and in a few states, townships as a system of local government”⁸⁸ and are distinct among local governing institutions as “instruments of competition and cooperation” by virtue of their innate “geographic flexibility...and ability to overlap existing governments and other arrangements.”⁸⁹ First and foremost among the three questions Carr sets out to answer in this study is “What is the relationship between state grants of local autonomy to municipal governments and the use of special purpose governments?”⁹⁰ To this end, he conducts a negative binomial regression to assess the correlation of home rule, measured by four separate dimensional scores (structural, functional, fiscal, and personnel management autonomy, respectively) based on a 1992 report of the Advisory Committee on Intergovernmental Relations and Krane, Rigos, and Hill’s influential 2000 assessments of degree of home rule,⁹¹ to the number of special district governments, clustered by state, as reported in Census Bureau data from 1992, 1997, and 2002.⁹²

Though Carr hypothesizes that “greater autonomy for municipal governments is associated with less reliance on special district governments,”⁹³ the results of this

⁸⁷ Ibid.

⁸⁸ Jered B. Carr, “Local Government Autonomy and State Reliance on Special District Governments” (presentation, Annual Meeting of the Midwestern Political Science Association, Chicago, IL, April 7-10, 2005): 5.

⁸⁹ Ibid., 3.

⁹⁰ Ibid., 12.

⁹¹ Ibid., 27-28.

⁹² Ibid., 14.

⁹³ Ibid., 12.

regression analysis firmly indicate that “expectations that states permitting autonomy to local governments on questions of what functions to provide and flexibility in how to fund them would be less likely to rely strongly on special purpose governments are not supported by these analyses,” and, further still, that “municipal autonomy on revenue and expenditure policies is associated with an increased reliance on district governments.”⁹⁴

2. Local Budgetary Responsiveness – *Home rule governance leads to comparatively greater local budgetary responsiveness to community needs and also likely lends itself to greater budgetary sensitivity to the shifting wants of the public as expressed electorally. However, under home rule, local governments’ total spending also demonstrates a comparatively stronger tendency to exceed what the typical resident desires, though this effect is offset somewhat by interjurisdictional competition.*

Second only to questions about service delivery in the literature sample are those directed toward discerning how local governments allocate public funds to deliver such services through the budgeting process. Studies of the same kinds that contribute to the sample’s collective wisdom regarding service delivery – those that either comparatively analyze the substantive impacts of home rule and Dillon’s Rule or project substantive impacts in correlation to degree of local autonomy – also contribute to the literature sample’s examination of local budgeting, and their findings paint a picture of local budgetary decision-making that sees home rule status as a mark of comparatively greater allocative responsiveness to the needs and the wants of local publics, to a fault – that fault being spending more in total than residents would prefer.

⁹⁴ Ibid., 15

First of all, as Kwon, Choi, and Bae demonstrate in their application of punctuated-equilibrium theory to county emergency management funding in Florida, local governments empowered by home rule tend to have budgets that are more sensitive to emergent community needs.⁹⁵ Kwon et al. have two interwoven goals: (1) applying punctuated-equilibrium theory, which “focus[es] on examining how accurately incrementalism represents policy processes in the real world,”⁹⁶ to this scale of analysis for the first time and (2) “investigat[ing] whether different patterns of punctuations in the local emergency management policy process result from different local institutional factors.”⁹⁷ In advancement of this second goal, the scholars identify two major, potentially differentiating institutional factors among county governments, “reforming form of county government” and “acquiring home rule authority from their state

⁹⁵ Sung-Wook Kwon, Sang Ok Choi, and Sang-Seok Bae, “Effects of Political Institutions on Punctuated-Equilibrium in Local Emergency Management Policy Processes: Examination of County Governments in Florida, U.S.,” *Lex Localis – Journal of Local Self-Government* 11, no. 2 (2013).

Though a non-case study source employing a scale of analysis that is contained within a single state-local regime would typically be of somewhat debatable relevance given the review’s two central questions, the Florida state-local relationship, which includes a patchwork of counties, some with charters conferring broad home rule powers and others whose interactions with the state are governed purely by Dillon’s Rule, is structured in such a way as to make county-to-county comparisons of local governments both valid and pertinent. The only institutional difference to consider is that under a system like Florida’s, only those counties that at one point expressed a desire to acquire home rule sufficiently to gain a home rule charter are governed by home rule; if anything, this should have the effect of slightly exaggerating the substantive impacts of state conferral of home rule by reducing the incidence of local governments having home rule powers but being reluctant to exercise them. Particularly given that a large number of state-local regimes’ rules-in-use treat different local governments of the same type differently (e.g., based on population), this effect was not taken to be sufficient grounds for this study’s exclusion from the selected sample; however, only two non-case study intrastate examinations are included in the literature sample, both of which exploit Florida’s county home rule patchwork for their analyses.

⁹⁶ *Ibid.*, 195.

⁹⁷ *Ibid.*, 194.

governments.”⁹⁸ Kwon et al., noting that “In Florida...charter counties can exercise their own judicial, legislative, and administrative power as long as they do not violate state statutes...[and] have more discretion in the creation of new revenue sources and the expenditure of those revenues,” expect that “When they have home rule authority, counties are less limited by state rules and have more authority to self-govern,” and that “in responding to emergency situations, non-charter counties will experience less dramatic changes in the policy process;” thus, they hypothesize that “Counties with home rule charters are likely to show a higher level of punctuations in emergency management policy processes.”⁹⁹

In order to apply PET to this situation, Kwon et al. use kurtosis analysis, an assessment that tests the distribution of policy changes over time, typically in terms of budgetary allocations; a normal distribution is taken to represent incrementalism – gradual change over time – whereas a leptokurtic distribution “with high central concentration of changes and fat tails in sides is assumed to support punctuated-equilibrium policy processes that includes both incremental stability and abrupt large-scale changes.”¹⁰⁰ In this case, the conventional unit of impact is used: “kurtosis of the distribution in emergency management budget changes for all counties as well as groups of counties with different political institutions” is analyzed, based on cross-sectional panel data from 65 Florida counties collected from 1993 to 2008. The results confirm the hypothesis: Kwon et al. find “consistently...that counties with their own home rule authority have more leptokurtic distribution in emergency management expenditure

⁹⁸ Ibid., 197.

⁹⁹ Ibid., 199.

¹⁰⁰ Ibid., 195.

changes,” and they conclude by asserting that “Reformed county governments that have either commission-manager/mayor form or home rule authority or both tend to more quickly prioritize and focus their attention on emergency incidents.”¹⁰¹

Not only are public needs met more readily under home rule, but also partisan-defined shifts in public funding emphases, as expressed electorally, are stronger where local autonomy exists. Gerber and Hawkins provide an illustrative demonstration of this point in their assessment of mayoral partisan impact on policymaking in the 130 largest U.S. cities as of 2007,¹⁰² in which they hypothesize that “the influence of partisanship on local policy will be stronger in areas like public safety where overlapping authority is less, and weaker in areas like taxation and social policy where overlapping authority is greater.”¹⁰³ They test this hypothesis by compiling mayoral election returns from across the United States from 1990 to 2006 and merging these data with city fiscal data from the same timeframe, ultimately finding that their original hypothesis was correct: “When Democrats narrowly win the mayor’s chair, spending on policies such as policing – a policy area defined by low levels of overlapping authority – commonly declines relative to total spending,” whereas it does not when similar cities elect Republican or Independent mayors; this goes to show, in the minds of Gerber and Hawkins, that “There might not be a Republican way to collect the trash, but there is a Republican way to

¹⁰¹ Elisabeth R. Gerber and Daniel J. Hopkins, “When Mayors Matter: Estimating the Impact of Mayoral Partisanship on City Policy,” *American Journal of Political Science* 55, no.2 (2011): 207.

¹⁰² *Ibid.*, 331.

¹⁰³ *Ibid.*, 330.

spend on policing and fire protection,” and these differences seem to show themselves because of, among other factors, the lack of state-level interference.¹⁰⁴

In a more directly relevant and more institution-minded approach to assessing local governments’ sensitivity to voters’ desires, Turnbull and Geon first apply revealed preference methodology to determine which U.S. counties’ expenditure decisions fail to satisfy the median voter hypothesis (MVH) – a competitive-equilibrium-analogous state in which “the median income voter’s optimum characterizes the community choice under pure democracy” – and then utilize probit analysis to assess which internal and external factors impacting local governance are associated with counties that *do* satisfy the MVH.¹⁰⁵ The study relies on 1990 expenditure data from a sample of 2,243 counties covering 38 states, which is culled from a variety of public sources and placed in a cross-section index.¹⁰⁶ This county data is subjected, state by state, to Weak Axiom of Revealed Preferences (WARP) and General Axiom of Revealed Preferences (GARP) testing that assumes “no specific functional forms for the underlying utility or demand functions”; testing only indicates that data are consistent or inconsistent with the MVH.¹⁰⁷

In preliminary discussions of the external factors faced by county governments, Turnbull and Geon discuss the importance of “The degree of home rule (or its absence)” as “one observable measure of how strict those [external] constraints might be,” noting:

¹⁰⁴ *Ibid.*, 337.

¹⁰⁵ Geoffrey K. Turnbull and Gysuck Geon, “Local Government Internal Structure, External Constraints and the Median Voter,” *Public Choice* 129, no. 3/4 (2006): 487-488.

¹⁰⁶ *Ibid.*, 493.

¹⁰⁷ *Ibid.*, 491-492.

There are competing hypotheses about how home rule, or its antithesis Dillon's rule, affects county government behavior...On one hand, the pressures of interjurisdiction competition or the threat of residential migration might be sufficient to ensure the dominance of the median voter's position in local government...On the other hand, home rule can push the equilibrium away from the MVH when intergovernmental competition is not strong enough to offset the local government tendency to pursue its own expansionary objectives.¹⁰⁸

Turnbull and Geon surmise, through this discussion, that "the home rule question is fundamentally an empirical issue that can be resolved only by appealing to the data,"¹⁰⁹ in which they "include Degree of Home Rule as [the] measure of how binding [external] constraints on range of functions are on county governments,"¹¹⁰ operationalizing this entity "as an index ranging in value from one (strict Dillon's Rule or no home rule) to four (strict home rule), based on the classification system of Krane et al. Ultimately, after holding constant other known factors that affect county behavior, the results bear out what is called the leviathan hypothesis, which "maintains that the local government is less likely to satisfy the MVH under the unrestricted home rule than under the restrictive Dillon's rule"; thus, "It appears that external constraints prevent local governments from unilaterally expanding activities beyond what their constituents most prefer,"¹¹¹ although it also appears that the expansionary tendencies of local government are mitigated (statistically insignificantly) if exposed to the "horizontal (and vertical) competition effects of being in a metropolitan area."¹¹²

¹⁰⁸ Ibid., 490.

¹⁰⁹ Ibid., 490.

¹¹⁰ Ibid., 504.

¹¹¹ Ibid., 490.

¹¹² Ibid., 505.

3. Local Revenue Streams – *Diversification of local finances under home rule.*

Monolithic presence of the property tax under pure Dillon's Rule state-local relationships.

The topic of how local governments accrue revenue – and most specifically, how many revenue sources various substate governments make use of in order to finance their operations – is assessed in tandem with a measure of home rule or municipal autonomy in multiple sample sources, and in each of these assessments, home rule-empowered local governments are shown to actively utilize a broader portfolio of revenue streams than do governments of the same type in Dillon's Rule-emphatic state-local arrangements. And in an important corollary to this observation from the literature sample, local governments in Dillon's Rule states tend to exhibit a strong reliance on revenues gathered by way of the most traditional and ubiquitous approach to collecting local government funds, the property tax.

The single most comprehensive treatment of this relationship revealed through the literature search process emanates from the work of Mikesell and Mullens, who incorporate “Existence of Dillon's Rule” into their multivariate analysis of how structural and institutional factors contribute to locality-to-locality variations in the property tax burdens and effective tax rates faced by American citizens.¹¹³ Their chosen scale of analysis is “households across the United States.” Mikesell and Mullens first consult data culled from the 1990 and 2000 censuses and Annual Community Survey results between the years 2005 and 2007, inclusive, “to evaluate residential property tax burdens across

¹¹³ John L. Mikesell and Daniel R. Mullins, “Structural/Institutional Determinants of Variations in Household Property Burdens and Effective Tax Rates within and across Local Governments,” *Proceedings of the Annual Conference on Taxation* (2008): 98.

substate areas and time in all 50 states” and then combine said data with federally collected survey results on government revenue and expenses and “socioeconomic and demographic characteristics from a variety of sources” in order to “map individual household data to Public Use Microdata Areas...in each state,” thus providing the comprehensive national picture their scale of analysis requires.¹¹⁴ The expressed logic for their selection of Dillon’s Rule as an independent variable in the study (represented as a binary variable where 1 signifies its existence and 0 signifies its absence)¹¹⁵ centers on the fact that, without home rule, “Localities do not have free choice and...do not have the ability to seek out other fiscal alternatives [to the property tax], in terms of either taxing or spending.”¹¹⁶

As a result of these “few options for fiscal creativity,” Mikesell and Mullens express an expectation that “states in which Dillon’s Rule strictly applies are likely to host households bearing higher property tax burdens.” This expectation is ultimately confirmed in the study’s findings, which demonstrate that “Households in states classified as employing Dillon’s Rule experienced slightly higher property tax burdens and 11 percent higher effective tax rates.”¹¹⁷ By the same token, “Property tax burdens on households in states that allow local jurisdictions access to alternative tax instruments, such as income and sales taxes, are substantially lower.”¹¹⁸

Another important analysis of local government revenue diversity is provided by Carroll and Johnson, who focus on “revenue diversification among town governments by

¹¹⁴ Ibid., 95.

¹¹⁵ Ibid., 100.

¹¹⁶ Ibid., 98.

¹¹⁷ Ibid., 102.

¹¹⁸ Ibid.

examining towns within five states: Connecticut, Maine, Minnesota, Vermont, and Wisconsin,” their sample thus selected because “These are the only states in which all towns maintain the traditional and unique governing structure of the town meeting...”¹¹⁹ Though Carroll and Johnson’s efforts are primarily concerned with determining “the extent to which towns have diversified revenue structures,” they recognize as an important ancillary goal the assessment of differences in revenue diversity that might stem from two institutional factors, namely, the degree of home rule available to towns and the state’s imposition of direct tax and expenditure limits (TELS) on town governments.¹²⁰ Thus, they group the towns into three categories by state conditions: towns affected by TELS operating under Dillon’s Rule (Wisconsin), towns with home rule and no TELS (Connecticut and Maine), and towns not affected by TELS and operating under Dillon’s Rule (Vermont and Minnesota). Carroll and Johnson then calculate multiple indexed measures of the revenue diversification exhibited in each category based on the methodologies of and data consulted by four previous revenue diversification studies. Lastly, Carroll and Johnson implement an original reprisal of these index formulas developed especially to reflect the limited diversification capacity of towns compared to municipalities and counties, applying it this new measure to census data from 1972 to 2002.¹²¹

¹¹⁹ Deborah A. Carroll and Terri Johnson, “Examining Small Town Revenues: To What Extent Are They Diversified?,” *Public Administration Review* 70, no. 2 (2010): 233.

¹²⁰ Although TELS are certainly an example of unitary forces at work in state-local relations, because they exist apart from the home rule-Dillon’s Rule dichotomy, their incidence and effects are not relevant to the purpose of the study at-hand.

¹²¹ *Ibid.*, 228.

Though Carroll and Johnson's expectations about revenue diversification among towns are "mixed" in light of this very limited capacity, they expect, not unlike Mikesell and Mullens, that "Dillon's rule towns might have lower levels of diversification because they simply cannot generate revenue from a variety of sources."¹²² And on the whole, the results of Carroll and Johnson's study, though somewhat weak owing to the simple truth that towns are "often highly dependent on property taxation because these entities do not receive much intergovernmental funding compared to other types of governments,"¹²³ fall in lock step with those of the Mikesell and Mullens study, as well. Analysis based on previous formulations of the diversification index demonstrates "systemic variation in the levels of diversification exhibited by towns affected directly by...home rule provisions."¹²⁴ Though Wisconsin towns' dealings with TELs propel their revenue diversification higher than towns in any other observed state, "the towns in Vermont in Minnesota, which are Dillon's rule entities and are not affected by TELs, systematically exhibit the lowest mean and median levels of diversification," while "towns with home rule status that are not affected by TELs...exhibit more diversification than Vermont and Minnesota towns..."¹²⁵ Interestingly, under the new index advanced by Carroll and Johnson, both Dillon's Rule and home rule towns that are unaffected by TELs appear to converge, "exhibit[ing] similar trends in diversification during the last two decades [examined]," but the preponderance of the evidence is such that Carroll and Johnson conclude, unequivocally, that "home rule provisions...affect levels of diversification among towns" – and, what's more, that "It is plausible to expect these legislative

¹²² Ibid., 227.

¹²³ Ibid.

¹²⁴ Ibid., 228.

¹²⁵ Ibid.

differences to influence levels of diversification among other local governments as well.”¹²⁶

4. Local Legal Capacity for Social Policy Innovation – *Contemporary legal parameters for local government action under home rule, in many cases where social ramifications are paramount, validate an array of local interventions. Strict adherence to Dillon's Rule has the potential, sometimes realized, to present a barrier to such substate interventions.*

By far, the single most prevalent type of source in all parts of the systematic review process, from the 518 initial results of the literature search to the 60 sources from the search that met both the selection criteria and the standards of the critical appraisal, is the law school journal article. Many of these articles examine the status of home rule or Dillon’s rule in a particular state or in a particular state dealing with a particular issue – qualities that firmly place them in the second-most preferred category of sources. These articles, along with public administration case studies and a handful of law journal articles that comparatively analyze multiple state-local regimes, constitute this study’s findings on local legal capacity. Not all are dedicated to social policymaking, which explains why this contrast is listed fourth in prevalence, but those that are speak with relative unanimity in declaring home rule status a helpful force in the quest for local social innovation and declaring Dillon’s Rule an occasional roadblock.

Dalmat, for instance, assesses the legal viability of efforts directed toward “bringing economic justice closer to home” through the enactment of municipal minimum wage ordinances. To do so, he establishes a novel means of assessing the case to be made for wage ordinance validity and applies it to each of the 50 state-local policy

¹²⁶ Ibid., 233.

regimes. The assessment procedure is comprised of two parts: first, determining if a municipal government has the requisite authority to pass a wage ordinance “given the particular delegation of power by a state to its local governments,” and secondly, determining if the municipal regulation would be at odds with state regulation of minimum wages in such a manner that it would prompt state preemption.¹²⁷ Applying this procedure rigorously for each state-local relationship, all the while being mindful of the subtle but important distinctions between *imperio* and legislative home rule, Dalmat finds that such ordinances would only be expressly prohibited in about a quarter of the states, Dillon’s Rule states and “both imperio and legislative states that have expressly denied local governments such power,” while “local minimum wage ordinances should be strongly viable in the legislative states that have not expressly denied local governments the power to regulate wages — about half of the states.”¹²⁸

Another social policy arena the literature touches on is obesity-related food and drink regulation. Illustratively, Diller and Graff set out to “to explain the legal authority of cities and counties to enact retail-food-related policies,” in part by “outlin[ing] leading approaches to determining municipal authority among the states.”¹²⁹ In doing so, they assert that “With regard to...obesity-prevention proposals [involving the imposition of taxes or fees, the enactment of zoning regulations, and direct regulation of business operations], the first question a locality must ask is whether it has been given the

¹²⁷ Darin M. Dalmat, “Bringing Economic Justice Closer to Home: The Legal Viability of Local Minimum Wage Laws under Home Rule,” *Columbia Journal of Law and Social Problems* 39, no. 1 (2005): 95.

¹²⁸ *Ibid.*, 138.

¹²⁹ Paul A. Diller and Samantha Graff, “Regulating Food Retail for Obesity Prevention: How Far Can Cities Go?,” *Journal of Law, Medicine and Ethics* 39 (2011): 89.

authority to regulate a given topic area” and prominently surmise that “Since municipalities in Dillon’s Rule states may exercise only expressly delegated zoning power...their ability to enact creative land use regulations to improve public health is likely to be more limited than that of home-rule municipalities.”¹³⁰ Additionally, by way of a historical-legal analysis of the general characteristics of home rule-empowered local governments in the United States that is then utilized to filter through various policy options aimed at regulating the sale of obesity-conducive food and drinks, Steel determines that, in descending order of viability, “controls on business practices” utilizing functional autonomy, zoning regulations, and subsidies are all, generally speaking, legally sanctioned options open to local governments wishing to take action to fight obesity through regulatory measures.¹³¹

Lastly, and least prevalently among the social issues brought to the fore in this body of literature, though still revelatory, is that of providing local government benefits to couples in same-sex domestic partnerships in which at least one partner is an employee of the locality. Gossett reviews a sample of 17 legal cases where such benefits were challenged on the specific grounds that it was not within the scope of the local government’s authority to provide said benefits; in doing so, he aims to discern “what happens when a local government’s authority to act in a new policy field is challenged in court as having violated the principles set forth in Dillon’s Rule.”¹³² 13 of the cases in the

¹³⁰ *Ibid.*, 90.

¹³¹ Patrick M. Steel, “Obesity Regulation under Home Rule: An Argument That Regulation by Local Governments Is Superior to Administrative Agencies,” *Cardozo Law Review* 37, no. 3 (2016): 1150-1162.

¹³² Charles W. Gossett, “Pushing the Envelope: Dillon’s Rule and Local Domestic Partnership Ordinances” (presentation, Annual Meeting of the Southern Political Science Association, New Orleans, LA, 2005): 6, 3.

sample returned a final verdict sustaining the benefits programs,¹³³ while only four ended in a rejection of the benefits programs,¹³⁴ which, on the whole, appears to demonstrate that there is no substantial impact of Dillon’s Rule on these programs. However, in one of the four cases that resulted in the termination of locally enacted benefits programs, played out in Arlington County, Virginia, strict interpretation of home rule proved to be the lynchpin in the final decision of the state court system to nullify the program, which demonstrates that, while perhaps passive on this particular issue in the general, under the right circumstances, Dillon’s Rule can indeed be utilized in court to directly halt locally driven social change.¹³⁵

B. Questionable/Negligible Differences in System Impacts

1. Local Service Delivery Quality— *Differences in the efficiency and extent of local service delivery caused directly by the presence or absence of home rule appear virtually nonexistent.*

Studies within the sample that are devoted especially to assessing the efficiency of local service provision find that the direct impact of the presence or absence of local home rule is negligible. As a prime example, consider Tavares, Kassekert, Feiock, and

This content of this conference paper has, since the time of its presentation, been converted into a book chapter that is more widely available for reference:

Charles W. Gossett, “Chapter 9: Pushing the Envelope: Dillon’s Rule and Local Domestic Partnership Ordinances,” in *Queer Mobilizations: LGBT Activists Confront the Law*, eds. Scott Barclay, Mary Bernstein, and Anna-Maria Marshall (New York: NYU Press, 2009), 158-186.

¹³³ Ibid., 21.

¹³⁴ Ibid., 20.

¹³⁵ Ibid., 12.

Kang's multilevel analysis of the land use choices of Florida cities and counties. Utilizing responses from a survey of Floridian city and county planners conducted in 2006 and a variety of economic and socio-demographic information compiled by the Census Bureau in the early 2000s, Tavares et al. assess, through hierarchical linear modeling, the accuracy of their original conceptualization of the political market framework for land use decisions as a means of "explain[ing] local growth management decisions within a multilevel setting by including institutional and political economy characteristics for cities and county unincorporated service areas and countywide institutional and contextual factors."¹³⁶ The dependent variable examined is one that directly concerns efficiency, "the amount of time between initial submission...and the issuance of final project approval," which is of concern because "Lengthy processes can discourage developers' investments and result in a barrier to development."¹³⁷

Chiefly among the "institutional and contextual factors" included in the model is county home-rule status, which the scholars include in their model as "a binary variable for whether a county has a home rule charter government (1=Yes),"¹³⁸ hypothesizing that home rule's presence "will reduce approval time for permitting new development in cities and county areas" because "The degree of autonomy and discretionary authority allowed by home rule is considered a crucial element to overcome conflicts with the state over land use policies and set counties in a path of economic growth."¹³⁹ However, this

¹³⁶ Antonio F. Tavares, Anthony Kassekert, Richard C. Feiock, and In-Sung Kang, "Land Use Decisions and Political Institutions: A Multi-level Analysis of City and County Choices" (presentation, Annual Meeting of the American Political Science Association, 2007): 6.

¹³⁷ *Ibid.*, 13.

¹³⁸ *Ibid.*, 14.

¹³⁹ *Ibid.*, 11.

operative logic is not borne out in the modeling process whatsoever; Tavares et al. find that the presence or absence of home rule had a “highly insignificant” impact on approval time, from which “little can be inferred” apart from the fact that “The role of political institutions in explaining the variation in length of approval permit [sic] were minimal.”¹⁴⁰

Furthermore, studies such as Craw’s 2003 assessment of the intergovernmental and local influences that result in the provision or lack thereof of municipal social welfare programs in America cast considerable doubt on a frequent point of detraction directed toward Dillon’s Rule, which contends that the strong states in such state-local regimes tend to pass along social welfare responsibilities, sometimes in the form of unfunded mandates, to local governments. Craw prominently includes municipal autonomy as an independent variable in his social welfare provision model, which is measured for his analytical purposes by four separate dimensional scores (structural, functional, fiscal, and personnel management autonomy, respectively) based on a 1981 report and two 1993 reports of the Advisory Committee on Intergovernmental Relations.¹⁴¹ With the use of a simple regression model, Craw assesses the various independent variables identified in his model for correlation with the dependent variable, social welfare provision, which is operationalized as a dummy variable “that is 1 if 1997 [municipal] spending on [public

¹⁴⁰ Ibid., 17.

¹⁴¹ Michael Craw, “Explaining Local Redistributive Policymaking: Intergovernmental and Local Influences on Municipal Social Welfare Programs” (presentation, Annual Meeting of the American Political Science Association, Philadelphia, PA, 2003): 11.

welfare, health and hospitals, and housing and community development] is $> 0, 0$ otherwise.”¹⁴²

Craw expects that “communities in states which grant less autonomy to local governments are likelier to provide social welfare services,” because under sufficiently great municipal autonomy, state governments are unable to “exploit local governments by passing on responsibilities to them.”¹⁴³ Nonetheless, the findings of the regression analysis clearly demonstrate that “the extent to which states grant municipalities autonomy,” no matter how restrictive or broad-based, does not exert any significant impact on the fact of whether or not a community provides social welfare.”¹⁴⁴

2. Later-order Impacts on Nonpublic Systems - *Ancillary effects of the degree of local government autonomy on the performance quality of partly or fully non-public systems also operating at the local level (economic development, healthcare, etc.) appear negligible at best. If anything, the proliferation of special purpose governments under home rule may be responsible for modest growth in employment.*

It’s one thing to expect that the presence or absence of home rule will directly impact public service delivery; it’s still another to expect that these impacts will have ancillary impacts on other partly or fully nonpublic systems working at the local level. Many proponents of state-local decentralization maintain that home rule will have salubrious extra-system impacts, particularly in the realm of economic development, but the handful of comparative studies on such later-order impacts that are found in the literature sample provide hardly any empirical support for these claims.

¹⁴² Ibid., 11.

¹⁴³ Ibid., 7.

¹⁴⁴ Ibid., 15.

Beginning with a look into ancillary impacts on the healthcare system, Costich and Patton, in seeking “To understand law’s contribution to community health,”¹⁴⁵ begin with the hypothesis that “the legal structure of public health, as expressed in the exercise of local fiscal and legislative authority, affects local population health outcomes.”¹⁴⁶ To test said hypothesis, the scholars employ a cross-sectional research design, analyzing data from public health jurisdictions “with at least 100,000 residents (n=231)” assembled from a two-part series of surveys conducted in 1998 and again in 2006 with the same respondents; the dependent variable selected is the premature mortality rate, while four independent variables are selected, chiefly among them being the presence or absence of home rule.¹⁴⁷ Though Costich and Patton “expected home rule to be associated with a decrease in premature mortality rates,” based on the operative logic that home rule “allow[s] local officials to respond to constituent needs and be held accountable,”¹⁴⁸ they find that no matter whether it is measured as a dichotomous or a four-category variable, “Home rule had no statistically significant effect on premature death.”¹⁴⁹

The literature sample’s findings are not quite as clear where economic development is concerned. Focusing “on the 30-year period from 1970 to 2000,”¹⁵⁰ Hammond and Tosun examine “the impact of local [fiscal] decentralization on long-run population, employment, and real per capita income growth” in American

¹⁴⁵ Julia F. Costich and Dana J. Patton, “Local Legal Infrastructure and Population Health,” *American Journal of Public Health* 102, no. 10 (2012): 1936.

¹⁴⁶ *Ibid.*, 1937.

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*, 1938.

¹⁵⁰ George W. Hammond and Mehmet S. Tosun, “The Impact of Local Decentralization on Economic Growth: Evidence from U.S. Counties,” *Journal of Regional Science* 51, no. 1 (2011): 51.

counties,¹⁵¹ operationalizing fiscal decentralization “in a multidimensional way,” “In general...interpret[ing] an increase in fragmentation as an increase in fiscal decentralization” and also including direct financial measures like “the ratio of county government revenue to total county and local government revenue.”¹⁵² Using a procedure “similar to cross-section growth regressions designed to provide results on convergence,” they find that “decentralization may contribute to metropolitan growth, particularly for employment and income growth” and that “fragmentation of special-purpose governments may spur employment growth for both metropolitan and nonmetropolitan counties, which may reflect the added institutional decentralization...”¹⁵³

However, Schragger’s argument in “Decentralization and Development,” which presents a legal-historical account of the “status of cities vis-à-vis their states” in order to assess the credibility of some institutionalists’ claims that decentralization of political systems lends itself to economic development,¹⁵⁴ flies in the face of Hammond and Tosun’s correlative findings regarding metropolitan economic growth by presenting evidence that the causation may very well be reversed: that changes in the state-local dynamic are perhaps fundamentally *caused by economic development*. Schragger traces his case back to the very establishment of Dillon’s Rule and home rule, both of which he claims as prime examples of how “institutional design follows economic development”:

The disempowerment of the cities happened in response to local economic and political behavior brought about by the newly wealthy or wealth-seeking municipalities. Those municipalities were providing many new services that cities had not provided before: sewer and water systems, roads, sanitation, ports, parks,

¹⁵¹ Ibid., 50.

¹⁵² Ibid., 51.

¹⁵³ Ibid., 62.

¹⁵⁴ Richard C. Schragger, “Decentralization and Development,” *Virginia Law Review* 96, no. 8 (2010): 1837.

schools, electricity, streetcars, street lights, and public buildings... opening the way for local officials to engage in self-dealing and for transportation and utility interests to line their pockets... The home rule movement that followed was also a response to these circumstances... in reality these devices had the same purpose as Dillon's Rule: to constrain political officials [in this instance, in the state government] who were prone to exploiting urban wealth and resources.¹⁵⁵

It is a trend that Schragger argues has continued well into the 20th and 21st centuries, “ad hoc, improvised, and responsive to economic concerns,”¹⁵⁶ that is even now reflected in the fact that “the economic power of the suburbs is reflected in a certain form of state-local relations, one that privileges suburban jurisdictions over urban ones.”¹⁵⁷ For all these reasons, home rule-produced decentralization seems an unlikely candidate to be the progenitor of urban economic successes.

C. Complicating Factors

1. Impermanence of Home Rule - *The legal capacity of substate governments is inherently transitory, especially where real or perceived local fiscal mismanagement occurs.*

Even where rigorously defined, state-to-local conferrals of discretion have limited staying power. As a prime example, consider Nickels’ side-by-side case studies of New Jersey and Michigan, which utilize “primary source data from each state, including legal text, judicial opinions, and court briefs” in order to assess home rule status’ relation to municipal takeovers undergone in each state.¹⁵⁸

¹⁵⁵ Ibid., 1868-1869.

¹⁵⁶ Ibid., 1876.

¹⁵⁷ Ibid., 1877.

¹⁵⁸ Ashley E. Nickels, “Local Autonomy, Community Control and Home Rule: Municipal Takeover in Michigan and New Jersey” (presentation, American Political Science Association, Jan 1, 2014): 2.

In New Jersey, sections of the state's 1947 constitution (use of which has continued into the present day) and a couple of key legislative enactments, one in the 1910s and another in the 1950s, work in tandem to place limits on the legislature that produce negative rights of protection from legislative interference for local governments.¹⁵⁹ Yet, erosions of this negative right began the very same year the current constitution established home rule through the passage of an act that established a that the state government could still impose "special restraints upon municipalities in, or in danger of falling into, unsound financial condition...to forestall serious defaults upon local obligations and demoralize finances that burden local taxpayers and destroy the efficiency of local services"; in fact, restrictions technically predated the 1947 constitution by 14 years, when the regulatory Municipal Finance Commission came into being.¹⁶⁰ Other restrictions, primarily financial in nature, proliferated in the latter half of the 20th century, including requirements to report budgeting and bond issuance decision processes to the state and the imposition of a cap on annual increases in the budgets of local governments, while a series of cases in the state court system opened up an avenue for the operative logic that so long as a matter "involve[es] state policy or [is] in the realm of affairs of general public interest and applicability," the state can intervene, as "there is no inherent right of local self-government beyond the control of the State."¹⁶¹ These antecedent conditions led to the creation of a "State Department of Community Affairs, which had the authority to oversee municipal finances, audit, intervene in local affairs and place distressed locales under the oversight of the Municipal Finance

¹⁵⁹ Ibid., 7, 10-12.

¹⁶⁰ Ibid., 12.

¹⁶¹ Ibid., 13-14.

Commission and/or a Local Finance Board” and a court ruling in a case questioning the power of a board-appointed city business manager that found, in part, that the “so-called ‘Home Rule’ tradition in this State, strongly relied upon by the City, is not founded on our Constitution or any statutes pertinent to this circumstance.”¹⁶² These results, in turn, paved the way for the passage of the Municipal Rehabilitation and Economic Recovery Act in 2002, which was designed to force change in a then-distressed Camden, New Jersey by, among other things, installing a Chief Operating Officer for the city and developing a special authority “charged with oversight of the redevelopment process”¹⁶³; originally introduced as the Camden Rehabilitation and Economic Recovery Act, the responsible legislators skirted around the last bit of home rule protections in his way by renaming the bill such that it was not unconstitutional as a law addressing a specific substate government.¹⁶⁴

Experiences have been similar in Michigan, but on an accelerated timeline due to distresses faced in the Detroit area during the 1980s. Fittingly, as the state in which the Cooley Doctrine was espoused in 1871, Michigan has a fairly strong enshrined system of home rule.¹⁶⁵ In addition to protections from legislative interference, the state constitution and subsequent legislative enactments have established a freedom for “local control over municipal charter” and, further still, have established that “legislative interventions that would affect a locale require electoral approval.”¹⁶⁶ Yet, because home-rule status itself was not self-executing, the state legislature had to lay out a procedure for attaining it

¹⁶² Ibid., 15-16.

¹⁶³ Ibid., 15, 17.

¹⁶⁴ Ibid., 15.

¹⁶⁵ Ibid., 18.

¹⁶⁶ Ibid., 19.

through the passage of the Home Rule City Act in 1909 – which included limitations on municipal powers and has been altered repeatedly since its passage to further restrict those powers, such that by the time the first salvo in the state’s municipal takeover efforts came to pass with the institution of the Emergency Municipal Loan Act in 1980 (again, an “inclusive” bill aimed at one local government), there was little standing in its way.¹⁶⁷ In fact, in the face of worsening municipal and county crises, the state’s takeover laws have concentrated more power in the hands of emergency managers to the detriment of local control.¹⁶⁸

Based on the primary source evidence in each of these case studies, Nickels concludes that “the history of home rule authority as determined by the legislature and the courts, is particularly relevant in understanding...the legality of municipal takeover” and moreover, that due to the erosion of home rule status over time, “neither constitutional nor legislative home rule protects municipal governments” from state takeover, particularly when it is possible for those takeovers to be “veiled as fiscal policy.”¹⁶⁹

That municipal takeover policies, which, by definition, strip municipal governments of any and all disconnect with state authority, should find currency in two states with fairly well defined systems of home rule, one of which is no less than the home state of the author of the Cooley Doctrine, sends a powerful message about the delicate nature of local authority. Moreover, Nickels’ findings are corroborated by Schragger’s legal-historical argument. In “Decentralization and Development,”

¹⁶⁷ Ibid., 18, 20.

¹⁶⁸ Ibid., 21-22.

¹⁶⁹ Ibid., 22-23.

Schragger proposes a testable conditional statement: “Institutionalists need a stable, self-enforcing form of decentralization for the decentralization-growth thesis to obtain. If the political system cannot make credible commitments to preserving a decentralized system, then the institutional mechanism will collapse.”¹⁷⁰ That conditional is subjected to historical analysis, which demonstrates separately that “Dillon's Rule was an effort to rein in local debt and spending initiatives”¹⁷¹; that “The home rule movement that followed was...a response to [this and other circumstances]”¹⁷²; and that “The nature of the legal division of authority between states and localities has predictably followed [the] movement of people out of the cities” in the twentieth and twenty-first centuries, with home rule being “readily diluted by courts or openly flouted by legislatures” and “less of a bulwark against state intervention than a mechanism to restrict local power.”¹⁷³ Thus, where institutionalist decentralization-for-growth theories require stable structures over time, Schragger argues, “we have the opposite—an oft-changing, arguably cyclical battle between political interests...that results in a grab bag of institutional constraints...”¹⁷⁴

2. Differing Impacts of Home Rule on Nonurban Areas – *A dearth of the kind of concentrated interjurisdictional competition found among home rule governments in urban areas causes perverse home rule impacts in nonurban areas, marked by less responsiveness of local budgets to citizens' demands for fiscal restraint and even correlation with bleak employment and population growth figures.*

¹⁷⁰ Schragger, “Decentralization and Development,” 1865.

¹⁷¹ *Ibid.*, 1868.

¹⁷² *Ibid.*, 1869.

¹⁷³ *Ibid.*, 1875.

¹⁷⁴ *Ibid.*, 1865.

On the whole, the contemporary body of literature that addresses the effects of state-local decentralization of power makes little effort to examine the experiences of nonurban areas – under home rule and under Dillon’s Rule both. Oftentimes, this lack of a nonurban area-inclusive focus is methodologically predetermined, such as in Costich and Patton’s analysis public health jurisdictions “with at least 100,000 residents (n=231)”¹⁷⁵ and Gerber and Hawkins’ analysis of mayoral partisan impacts in the largest 130 U.S. cities.¹⁷⁶ And what’s more, the raw sample of local governments in home rule relationships is inherently skewed by the fact that many states’ home rule schemes assign greater autonomy to localities in highly populous areas. Although the selection and critical assessment portions of this review have ensured that all comparative studies in the literature sample that are both nationwide in scope or close to it and rely on fiscal data have a methodology that controls for population in one way or another, the fact that home rule is simply more often an urban phenomenon than a nonurban one still begs the question of whether or not nonurban areas experience different substantive impacts stemming from differences in the degree of state-local centralization of power.

In the handful of studies within the literature sample that ask, ancillary, if there is heterogeneity among home rule’s/Dillon’s Rule’s impacts based on the metropolitan or nonmetropolitan character of the area, which all have a fiscal focus, there is consensus in results: yes, nonmetropolitan areas are affected differently by state-local decentralization, and for the worse. As a prime example, consider Turnbull and Geon’s application of the median voter hypothesis to county expenditures, which found that county governments unrestrained by state-level restrictions such as home rule tend to “prevent local

¹⁷⁵ Costich and Patton, “Local Legal Infrastructure,” 1936.

¹⁷⁶ Gerber and Hawkins, “When Mayors Matter,” 331.

governments from unilaterally expanding activities beyond what their constituents most prefer,”¹⁷⁷ save when the “horizontal (and vertical) competition effects of being in a metropolitan area” are present.¹⁷⁸ One might infer, given these findings, that where the “effects of being in a metropolitan area” do not exist, there is much less restraint on the expansionary tendencies of relatively autonomous local governments, and that is precisely what Turnbull and Geon find:

Home rule is a significant determinant of MVH violations for rural counties...While horizontal competition among governments in an urban area appear to effectively constrain the expansionary proclivities of the local leviathans for metropolitan counties, restrictions on home rule are needed to constrain rural counties from expanding activities beyond those most preferred by their constituents.¹⁷⁹

Similarly, Hammond and Tossun’s study, which finds that “decentralization may contribute to metropolitan [employment and income] growth”¹⁸⁰ also finds disparate, negative impacts of decentralization for nonmetropolitan counties. In fact, Hammond and Tossun include a Chow test in their methodology with a null hypothesis that states, “all coefficients are the same across metropolitan and nonmetropolitan counties at the 1 percent significance level”; their findings violate the null hypothesis, such that they feel compelled to report results for metropolitan and nonmetropolitan counties separately.¹⁸¹ The nonmetropolitan results show “a significant negative coefficient on general-purpose governments per capita, which indicates that this form of local decentralization is

¹⁷⁷ Turnbull and Geon, “Median Voter,” 490.

¹⁷⁸ *Ibid.*, 505.

¹⁷⁹ *Ibid.*

¹⁸⁰ Hammond and Tosun, “Decentralization on Economic Growth,” 62.

¹⁸¹ *Ibid.*, 56.

associated with slower nonmetropolitan population growth,”¹⁸² that “general-purpose government fragmentation negatively correlated with non-metropolitan [employment] growth,”¹⁸³ and no nonmetropolitan correlation between decentralization and income growth.¹⁸⁴

¹⁸² *Ibid.*, 58.

¹⁸³ *Ibid.*

¹⁸⁴ *Ibid.*, 60.

III. Summary of Findings

| <i>Impact Area</i> | <i>Home Rule vs. Dillon's Rule</i> |
|--|--|
| Service Delivery | <ul style="list-style-type: none"> ➤ Proliferation of special-purpose governments under home rule; comparatively fewer under Dillon's Rule ➤ Proliferation of general-purpose governments under home rule; comparatively fewer under Dillon's Rule |
| Finances | <ul style="list-style-type: none"> ➤ Local governments under home rule exhibit greater sensitivity to urgent community needs ➤ Where they have autonomy, local governments tend to be more responsive to voters' electorally expressed desires for shifts in the focus of public expenditures ➤ Dillon's Rule local governments are less likely to exceed the total government expenditure desires of their citizens; home rule local governments are more likely to do so, and that tendency is even greater in nonmetropolitan areas than it is in metropolitan areas ➤ Local governments under home rule acquire revenue from comparatively more sources; Dillon's Rule local governments are particularly reliant on property taxes - and impose larger ones |
| Legal Standing | <ul style="list-style-type: none"> ➤ Greater capacity for local innovation on social policymaking under home rule systems than under Dillon's Rule, although home rule localities' heightened legal standing is ultimately tenuous, being highly dependent upon continued statewide support |
| Late-Order Impacts on Partly and Fully Nonpublic Systems | <ul style="list-style-type: none"> ➤ Proliferation of special-purpose governments - typically a home rule phenomenon - tends to be associated with employment growth ➤ Decentralization is associated with employment and income growth in metropolitan areas, although which way this causal chain runs is contested ➤ In nonmetropolitan areas, fragmentation among general-purpose governments is associated with slower-than-otherwise population growth and is negatively correlated with employment growth |

Table 4-1

Chapter 5: Conclusions and Discussion

Clearly, the findings of this systematic review process do not avail either side of the debate over state-local power relationships in full. They do, however, challenge a significant portion of the traditional operative logic advanced by advocates for home rule. A tendency toward greater total expenditures than citizens find acceptable that is minimized only slightly by interjurisdictional competition, an associated proliferation of governing entities at the local level, and no empirically observed impacts on the timeliness of service delivery compared to the status quo are all discovered traits of home rule local governance that run directly counter to the argument that state-local decentralization through home rule is, always and everywhere, a public efficiency-inducing undertaking. Likewise, links between home rule and salubrious economic effects are weak and largely conditional on the affected local jurisdictions being located in metropolitan areas.

However, at least two arguments in favor of home rule are also validated by this study. Investing more decision-making power in government units closest to the citizenry does, in fact, appear to make governing decisions more responsive to local voices. Be it an onslaught of local need brought on by natural disaster or a demand for a different focus for community expenditures expressed in the voting booth, wherever local governments have autonomy, they respond swiftly to such pressures through the allocation of their funds. Additionally, home rule does, demonstrably, give local governments more tools to solve both fiscal and social issues that come to the fore,

resulting in a more diverse body of revenues for localities and greater legal standing locally to tackle issues of economic justice and public health, among others. Dillon's Rule governments, meanwhile, are heavily dependent upon a single source of revenue - the property tax - and are occasionally hindered from addressing important social problems that have presented themselves in the community by uncompromising state predominance under the law.

Thus, this systematic review's results alter the conversation fundamentally, asserting that the question of home rule is not properly understood as one of efficiency, but as one of effectiveness in local representation. Whether such a system of state-local relations is palatable to a state populace or its leadership, in fact, would seem to hinge fundamentally on the question of how willing both groups are to trade local efficiency for local effectiveness - and ought to be dependent, as well, on how metropolitan the area impacted by the system is or would be.

As it happens, at least a partial logic for the observation that brought this study into being, the obstinacy of Alabama's and Mississippi's state-dominant power structures, can be constructed from the revelations made in this study. Both states, in addition to being primarily comprised of rural areas, are home to political climates that decidedly embrace (efficiency-philic) fiscal conservatism and (social innovation-wary) social conservatism, and as both Nickels and Schragger drive home, among others whose works were included in the literature sample, home rule cannot long survive in a political climate opposed to the effects of the freedom it confers.

The decisive impact of political culture also demonstrates the validity and the value of institutionalism and, in particular, the IAD framework (see, again, Figures 2.2

and 2.3), which includes “community” along with “physical world” and “rules-in-use” as the three antecedent conditions of policy action. So, too, do the differences in home rule’s impacts on metropolitan and nonmetropolitan local governments, which can be attributed to antecedent communal and (to a lesser extent) physical contrasts between those localities.

Several avenues of further research have asserted themselves in the execution of this systematic review. Chiefly among them, of course, is specifically exploring why and how nonmetropolitan governments are seemingly disadvantaged by the institution of state-local decentralization. It would also be of great service to state-local scholarship to analyze the impacts of a recently instituted home rule system, given the fact that many home rule states have had their current policies in this regard in place for decades, and as the literature sample makes clear, the direct impacts of home rule tend to fade over time. These two necessities for the advancement of public administration scholarship in this area have arguably converged with West Virginia’s recent introduction of home rule to a large group of its municipalities; as more data becomes available on the economic health of these municipalities and enables comparison among peer local governments in West Virginia and neighboring states, the time will be particularly ripe to conduct such studies.

Additionally, public administration scholars would do well to keep an eye on the emerging body of state court cases regarding the competition between local ordinances banning hydraulic fracking and state preemption of those ordinances in home rule states. While several articles with this focus appeared in the literature search, most had to be excluded from the sample due to their prospective quality and generally high levels of uncertainty about what the future will hold. Ultimately, these court cases will, on the

whole, either confirm local legal capacity in environmental as well as social policy or serve as testament to the erosion of local power when state economic interests become tangibly affected by substate autonomy.

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APPENDIX I: Databases Consulted in Addition to UM Library Sources

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| · Academic Search Premier |
| · Agricola |
| · America: History and Life |
| · American Fact Finder |
| · Annual Reviews |
| · Black Freedom Struggle in the 20th Century |
| · Business Source Complete |
| · Communication and Mass Media Complete |
| · Congressional Publications |
| · Congressional Universe |
| · CQ Researcher |
| · Data Planet |
| · Eighteenth Century Collections Online |
| · ERIC |
| · Ethnic NewsWatch |
| · GeoRef |
| · GreenFILE |
| · HAPI: Hispanic American Periodicals Index |
| · HeinOnline |
| · Homeland Security Digital Library |
| · Humanities International Complete |
| · Inter-University Consortium for Political and Social Research |
| · JSTOR |
| · Latin American Intelligence Service |
| · LexisNexis Academic |
| · Making of Modern Law: Primary Sources, 1620–1926 |
| · Mississippi Members of Congress |
| · NCJRS Abstracts |
| · Past Masters |

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| · Presidential Recordings Digital Edition |
| · PsycINFO |
| · Public Documents Masterfile |
| · Roper Center For Public Opinion Research |
| · Science.Gov |
| · Scopus |
| · Social Explorer |
| · SocINDEX with Full Text |
| · Statista |
| · Statistical Abstract of the United States |
| · Statistical Abstract of the World |
| · Statistical Datasets |
| · Statistical Insight |
| · U.S. Congressional Serial Set |
| · U.S. Serial Set and Maps Digital Collection |
| · WorldCat Local |