

Article

From Tinkering to Transformation: Gradual Institutional Change in New Brunswick's Local Governance System

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Abstract

This article re-examines the history of local governance reform in New Brunswick through an application of Mahoney and Thelen's theory of gradual institutional change. Though the changes in New Brunswick's local governance system since 1967 have often been dismissed as inconsequential, it is more appropriate to understand the history of local governance reform as a pattern of layering. Using Mahoney and Thelen's modes of change and associated change agents, this article attempts to both explain why change has appeared limited up to this point and why the present Higgs-Allain reforms may finally result in a cumulative impact that disrupts the status quo.

Résumé

Cet article réexamine l'histoire de la réforme de la gouvernance locale au Nouveau-Brunswick en appliquant la théorie du changement institutionnel graduel de Mahoney et Thelen. Bien que les changements apportés au système de gouvernance locale du Nouveau-Brunswick depuis 1967 aient souvent été considérés comme sans conséquence, il est plus approprié de comprendre l'histoire de la réforme de la gouvernance locale comme un modèle de superposition. En utilisant les modes de changement de Mahoney et Thelen et les agents de changement associés, cet article tente d'expliquer pourquoi le changement a semblé limité jusqu'à présent et pourquoi les réformes actuelles de Higgs-Allain pourraient finalement avoir un impact cumulatif qui perturbe le statu quo.

Keywords: Local Governance Reform, New Brunswick, Historical Institutionalism, Layering

Mots-clés : Réforme de la gouvernance locale, Nouveau-Brunswick, Institutionnalisme historique, superposition

Introduction

On May 20, 2022, New Brunswick's Minister of Local Government and Local Governance Reform, Daniel Allain, announced the latest step in the Higgs government's reform initiative: an expert panel to study New Brunswick's community funding and equalization grant system. As is typical at such announcements, Allain reflected on the difficulty of reforming local government in New Brunswick: "We've been talking about local governance reform for the last 30 years," said Allain, "we're still working [with] a structure [that's] 60 years old ... It is hard to do change. ... But at this juncture, people are ready" (Anchan, 2022). These words are familiar to New Brunswickers. Despite widespread acknowledgement of the system's "glaring structural and financing weaknesses" (J.-G. Finn, 2008, p. 7), comprehensive municipal reform in New Brunswick has proven impossible. Although there have been repeated commitments to overhaul the system once and for all, the history of reform in the province has instead been characterized by seemingly minor, incremental changes.

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This article posits that changes to New Brunswick's local governance system have been limited by the political context and institutional setting established by the province's first and only comprehensive local governance reforms: the 1967 Equal Opportunity Program. Though sometimes disparaged as mere 'tinkering' or 'card shuffling' (Bourgeois, 2005, p. 260; J.-G. Finn, 2008, p. 76; Martin, 2007), the changes in New Brunswick's local governance system since 1967 follow a distinct pattern of layering: a mode of gradual institutional change conceptualized by Historical Institutionalists James Mahoney and Kathleen Thelen. By applying Mahoney and Thelen's theory of gradual institutional change to New Brunswick, this article attempts to both explain why change has been limited and why the present Higgs-Allain reforms may finally produce a cumulative impact that goes beyond the reproduction of antecedent conditions.

The Theory of Gradual Institutional Change

There are two general accounts of when and how institutional arrangements change within Historical Institutionalism (Capoccia & Kelemen, 2007, p. 341; Stefes, 2019, p. 95; van der Heijden & Kuhlmann, 2017, p. 536). Institutional analysis had "[f]or a long time ... been guided by the idea of periods of stability that are incrementally punctured" and the concept of the resulting 'critical junctures' remains an essential building block in Historical Institutionalism (Capoccia & Kelemen, 2007, p. 341; van der Heijden, 2011, p. 9). By contrast, the more recent Endogenous Institutional Change approach questions the apparent stability of these periods and identifies alternative modes of incremental institutional change to explain processes which do not include obvious critical junctures (van der Heijden, 2011, p. 9).

Endogenous Institutional Change's basic assumption is that institutions change even without critical junctures, and that some critical junctures occur without institutional change (Stefes, 2019, p. 103). Given that institutions are rarely "completely 'up for grabs' even in what may look like a critical juncture situation, nor one in which they are unalterably locked in any meaningful sense subsequent to these critical junctures" (Stefes, 2019, p. 103), Thelen and her collaborators have sought to provide "endogenous explanations of institutional change that skirt critical junctures as theoretical stand-ins." (Stefes, 2019, p. 103) These modes or "*processes* of change, which may be incremental or abrupt", are distinguished from the "*results* of change, which may amount to either continuity or discontinuity" (Streeck & Thelen, 2005, p. 8).

Thelen originally hypothesized five modes of incremental change: displacement, layering, drift, conversion, and exhaustion (Streeck & Thelen, 2005; van der Heijden & Kuhlmann, 2017, p. 537). Mahoney and Thelen's later theory of gradual institutional change redeployed four of these modes but also hypothesized causal links to explain incremental change using change agents (Mahoney & Thelen, 2010; van der Heijden & Kuhlmann, 2017, pp. 538–539). Change agents are actors in an institutional setting that seek (or seek to prevent) change (van der Heijden & Kuhlmann, 2017, p. 540). The change agents that emerge depend on the character of institutional rules and prevailing political context (Mahoney & Thelen, 2010, p. 18).

Figure 1: Contextual and Institutional Sources of Change Agents

		Characteristics of the Targeted Institution	
		Low Level of Discretion in Interpretation/Enforcement	High Level of Discretion in Interpretation/Enforcement
Characteristics of the Political Context	Strong Veto Possibilities	Subversives (Layering)	Parasitic Symbionts (Drift)
	Weak Veto Possibilities	Insurrectionaries (Displacement)	Opportunists (Conversion)

(Mahoney & Thelen, 2010, p. 19)

Political contexts are characterized by the strength of the veto possibilities afforded to defenders of the status quo (Mahoney & Thelen, 2010, pp. 18–19). Institutions, on the other hand, are characterized by the opportunities afforded to actors to exercise discretion in the interpretation or enforcement of the rules. Each agent is linked to one mode of change, but their success in effecting change typically depends on the coalitions they can forge during distributional struggle (Mahoney & Thelen, 2010, p. 29).

Situations with strong veto possibilities are conducive to the emergence of subversives and parasitic symbionts (Figure 1). Subversives are associated with layering (Mahoney & Thelen, 2010, p. 26): a recurrent pattern of institutional modification through which the components of an otherwise stable existing institutional arrangement are altered, revised, or added to by policymakers for either transformative results or institutional continuity through reproduction or adaptation. Such re-design can be beneficial – correcting flaws in existing mixes and allowing them to adapt to changing circumstances – or detrimental – leading to both incoherence among the goals and inconsistency with respect to the instruments and settings used (Howlett, 2019, pp. 12–113; Howlett & Rayner, 2013, p. 177).

Subversives emerge when it is difficult for opposition actors to openly contravene the rules of an institution because of strong veto possibilities and limited opportunities for rule interpretation (Mahoney & Thelen, 2010, p. 29). Subversives ultimately seek to replace the institution they oppose but do not themselves break the rules of the institution (Mahoney & Thelen, 2010, p. 25). Instead, they disguise the extent of their preference for institutional change by following expectations and working within the system. As they wait for a more appropriate opportunity to move toward an active stance of opposition, subversives encourage institutional changes by promoting new rules at the edges (Mahoney & Thelen, 2010, p. 26).

By contrast, parasitic symbionts “rely (and thrive) on institutions not of their own making” while also carrying out actions that contradict the spirit or purpose of the institution (Mahoney & Thelen, 2010, p. 24). Parasitic symbionts flourish in settings where the capacity to enforce institutional conformity is limited (Mahoney & Thelen, 2010, p. 24). Parasites are associated with drift, or the neglect of institutional maintenance in the face of discontinuity between rules and practices on the ground (Mahoney & Thelen, 2010, p. 24). These shifting circumstances change the social effects of existing rules in ways that are recognized by at least some political actors but left unaddressed (Béland, 2007, pp. 22–23; Capano, 2019, p. 600; Hacker et al., 2015, p. 184; Howlett & Rayner, 2013, p. 177; Streeck & Thelen, 2005, p. 24).

Political contexts with weak veto possibilities breed opportunistic and insurrectionist actors (Figure 2). Opportunists have ambiguous preferences. While they do not actively seek to preserve institutions, they do not strive to change the rules either because opposition is costly (Mahoney & Thelen, 2010, p. 26). If opportunists do emerge as agents of change they are associated with conversion: the transformation of an already-existing institution or policy through its authoritative redirection, reinterpretation, or reappropriation toward new goals (Béland, 2007, p. 22; Capano, 2019, p. 600; Hacker et al., 2015, pp. 185–186; Howlett & Rayner, 2013, p. 177; Mahoney & Thelen, 2010, p. 27; Streeck & Thelen, 2005, p. 26; Thelen, 2003, p. 229).

The most loosely defined of the four modes of change is displacement, the mode of change pursued by insurrectionary change agents (Mahoney & Thelen, 2010, pp. 23–24). Mahoney and Thelen focus on displacement as a slow-moving process where new institutions directly compete with an older set of parallel institutions. However, they also note that the “sudden breakdown of institutions and their replacement with new ones ... obviously involves displacement” (Mahoney & Thelen, 2010, p. 16). While freedom to design a new system from scratch allows policy-makers to create more coherent institutions than are typically possible with layering (Howlett & Mukherjee, 2014, pp. 63–64), “even within dominant frameworks there will normally remain possibilities of action that institutions neither prescribe nor eliminate.” (Streeck & Thelen, 2005, p. 20) Accordingly, unlike critical junctures which are assumed to establish states of institutional equilibrium, displacement establishes a successive set of political contexts and institutional characteristics which allow for further incremental change.

Using the basic framework of Mahoney and Thelen’s theory of gradual institutional change, the remainder of this article will identify the political context and institutional setting which characterize New Brunswick’s local governance system, as well as the associated change agents. It will then provide an overview of the four most prominent reform episodes in New Brunswick’s local governance reform history and evaluate the pattern of incremental change depicted. With this retrospective in mind, the Higgs-Allain reforms begun in 2021 will be examined on their own.

Historical Development, Political Context, and Institutional Setting

At time of writing, New Brunswick has a single-tier municipal system made up of 104 incorporated local governments, 236 unincorporated Local Service Districts, and 12 Regional Service Commissions. (New Brunswick, 2021a, p. 8) There are five types of local government: Cities, Towns, Villages, Regional Municipalities, and Rural Communities.

Although the populations and financial capacities of these entities vary dramatically, their status and the authorities of their councils are similar. (J.-G. Finn, 2008, p. 28; New Brunswick, 2021a, p. 7).

In contrast to Nova Scotia where the entire population lives within one of 50 incorporated areas (New Brunswick, 2021a, p. 13), municipal authority in New Brunswick is highly fragmented. Only 69% of New Brunswickers live in incorporated areas and the median population of these local governments is only 1,400 people. The fragmentation of authority impacts the financial capacity of these entities, with many local governments unable to offset even small increases to costs without increasing their tax rates. (New Brunswick, 2021a, p. 11)

Figure 2: Breakdown of Local Governance Entities in New Brunswick

Entity Type	Number of Entities	Total Population	% of Total Population
City	8	276,381	37%
Town	26	128,746	17%
Village	61	70,855	10%
Rural Community	8	24,394	3%
Regional Municipality	1	16,114	2%
Local Service District	236	22,448	30%
Total	340	738,938	99%

(New Brunswick, 2021a, p. 8)

The rest of New Brunswick's territory – with the exception of First Nations and military bases – is administered directly by the province through Local Service Districts (New Brunswick, 2021a, p. 10). The provincial government facilitates the provision of police and fire protection, road maintenance, and animal control; but other services like street lighting or recreation can also be provided (J.-G. Finn, 2008, p. 31).

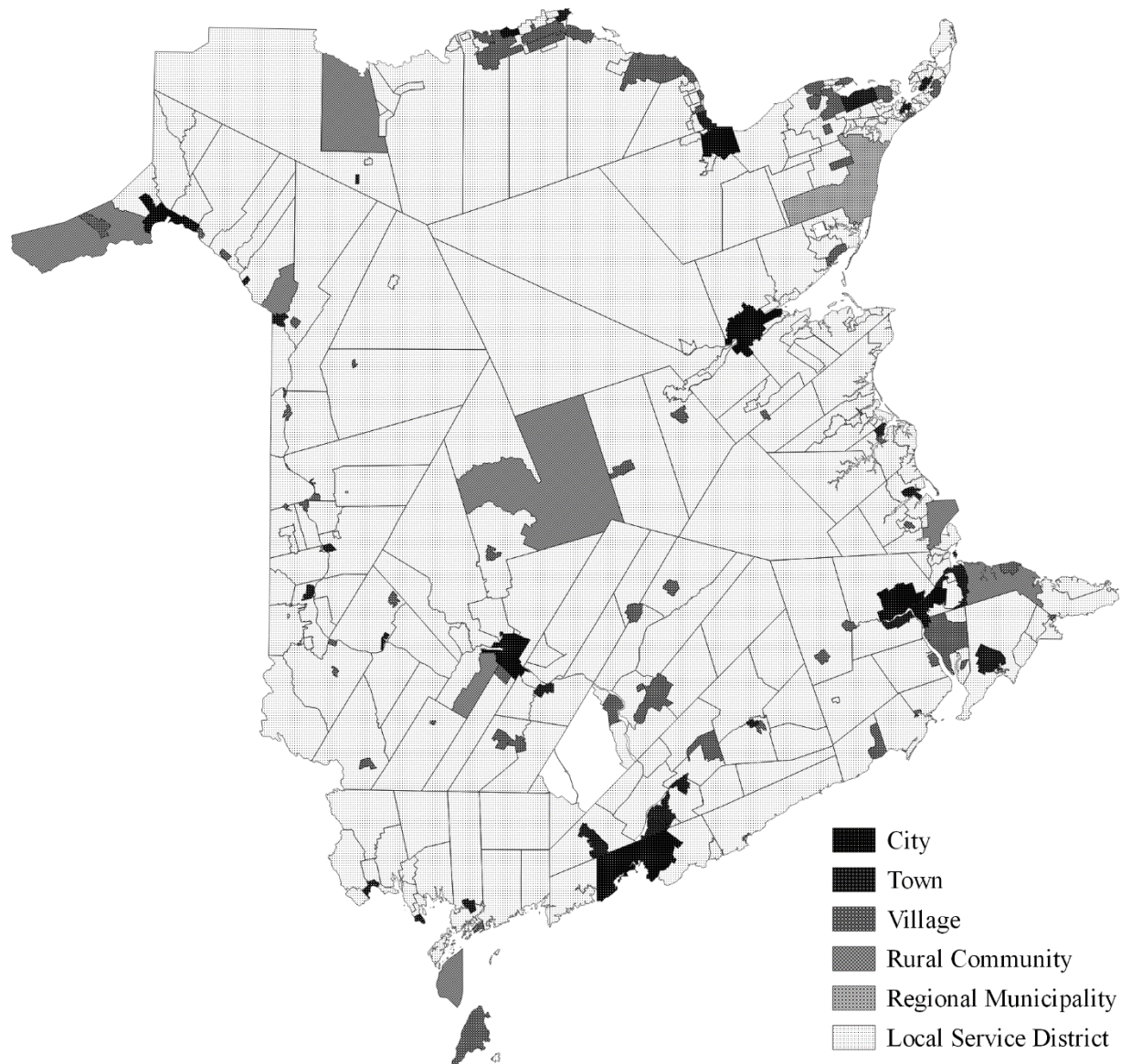
Local Service Districts were never intended to serve as representative governments (J.-G. Finn, 2008, p. 28). While these administrative units can have local advisory committees, ultimate decision-making is in the hands of the Minister. Committees have no decision-making authority or influence on services provided locally or spending on infrastructure. (New Brunswick, 2021a, p. 10)

Local Service Districts generally also have lower tax rates than municipalities; a perverse incentive that has resulted in a plethora of areas that are suburban or almost urban in nature, yet unincorporated (J.-G. Finn, 2008, p. 59). In 2021, the average total tax rate on residential owner-occupied property across Local Service Districts was only \$0.9875 per \$100 of assessment: two thirds of the average municipal rate. \$0.41 of this residential rate is a special provincial levy for services, but “the costs of the four services are not being fully recovered” (J.-G. Finn, 2008, p. 64; New Brunswick, 2021a, p. 25). The cost of local and regional road services alone “is estimated at approximately \$106 million” yet the special provincial levy generates only \$49.3 million (New Brunswick, 2021a, p. 25).

Since 2012, the single-tier system has also been supplemented by twelve Regional Service Commissions. These regional entities provide solid waste management and planning services, but also have the authority to take on additional services on a voluntary basis. (New

Brunswick, 2021a, p. 7) Each Commission’s board consists of the region’s mayors and Local Service District representatives selected on an at-large basis. (McKendy, 2017, p. 12). While in principle board membership ‘equalizes’ the roles of mayor and local advisory committee chairs in discussions and decision-making, there is still a reported feeling of lesser status on behalf of the Local Service District representatives. (McKendy, 2017, p. 9)

Figure 3: Map of New Brunswick’s Local Governance Entities as of 2021



New Brunswick’s local governance system was established by a single reform package: the Equal Opportunity Program enacted by Louis J. Robichaud’s Liberal government in 1967. To date, the “package deal” recommendations of the Report of the Royal Commission on Finance and Municipal Taxation in New Brunswick – or as it is more commonly called, the Byrne Report – remains the closest New Brunswick has come to comprehensive local

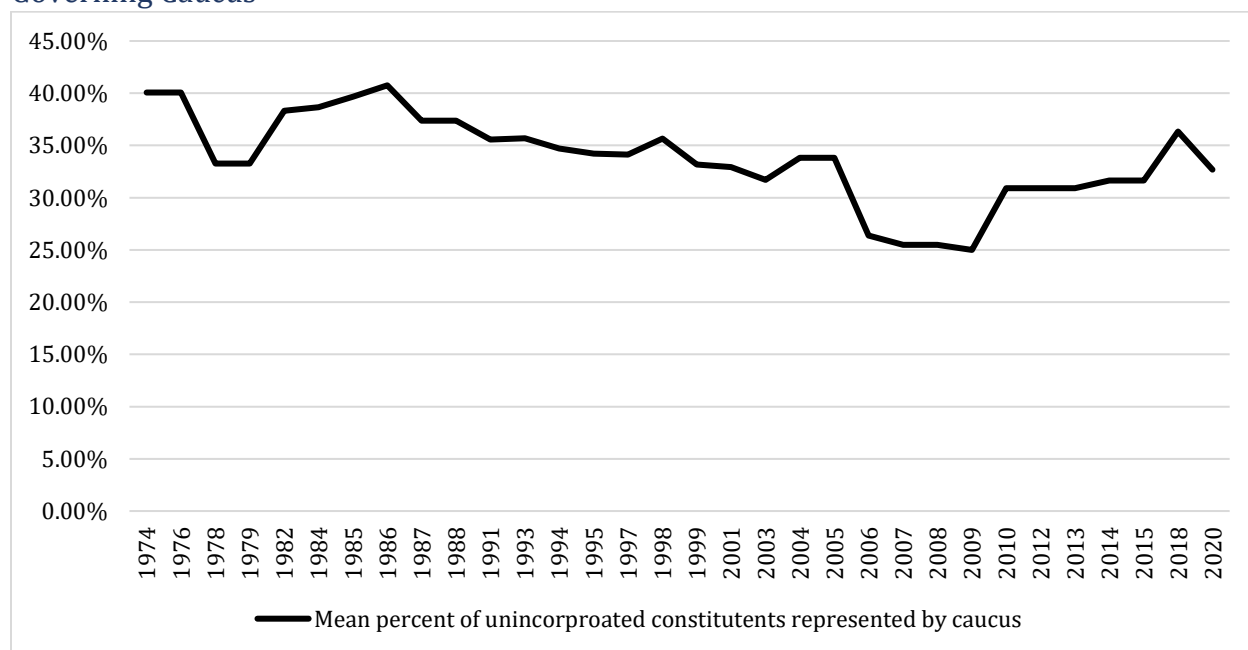
governance reform (Byrne, 1963, p. xvii). At the request of Premier Robichaud, the Byrne Report recommended the creation of a single *Municipalities Act*, the abolition and replacement of counties with Local Service Districts, and the centralization of tax collection, education, health, social assistance, and justice (Bourgeois, 2005, p. 242). The recommendations were accepted and implemented with limited alterations by government in the form of the Equal Opportunity Program (Robichaud, 1965a, pp. 4–5).

Equal Opportunity transformed the challenges in local policy relative to other provinces (Martin, 2007, p. 83). By creating separate logics for unincorporated and incorporated areas – initially envisioned as being co-extensive with rural and urban areas – Equal Opportunity cemented the provincial government as the provider of both ‘services to people’ and ‘services to property’ in the newly abundant unincorporated areas (New Brunswick, 2021a, p. 9). The perverse incentives of this structural dichotomy of incorporated and unincorporated areas have resulted in a low level of institutional discretion and strong veto context, which in turn produced two predominant forms of change agents: parasitic symbionts and subversives.

Political Context

Examined through the lens of Mahoney and Thelen’s theory of gradual institutional change, New Brunswick’s local governance system is characterized by strong veto possibilities in favour of defenders of the status quo because of MLAs’ dual role as local representatives. Given Canadian provinces’ unrestrained constitutional authority over local government (Taylor, 2020, p. 8), all provinces’ local governance systems are to at least some extent characterised by a similar veto context. However, the veto possibilities in New Brunswick are more pronounced because MLAs are also the most direct representatives available to residents of unincorporated areas.

Figure 4: Mean % of Constituents Living in Unincorporated Areas Represented by Each Governing Caucus



(Chief Electoral Officer, 1974, 1995, 1999, 2006; Commission, 2013)

Under Equal Opportunity, unincorporated residents are uniquely dependent on and influential over their MLAs because of the lack of institutional mediation by local governments. At the caucus level, this dual role for MLAs means that almost every government is guaranteed to directly represent a substantial number of constituents in unincorporated areas. As Figure 4 demonstrates, since 1974, the mean proportion of unincorporated constituents across the ridings held by the governing caucus has been at least 30%. The only government since the introduction of Equal Opportunity to have less than 25% was the Graham Liberals. While not necessarily enough to dissuade a government from bringing forward reform proposals, the size of the unincorporated population represented by the caucus nonetheless inspires caution.

As one former MLA described, “An MLA can only be a reflection of the people he represents.” With any contentious issue, MLAs are “going home on the weekends and coming back to Fredericton on Mondays with all the comments their constituents had.” (Poitras, 2004, p. 92) The preservation of the structural dichotomy in New Brunswick is particularly contentious because, as one local advisory committee chair described, “if you raise the property tax by even one cent, you’re going to have lots of complaints.” (Trueman, 2004, p. A6). Because of reform’s immediate impact on the wallets of unincorporated residents, governing caucuses with MLAs representing significant unincorporated populations are under electoral pressure if they threaten the perverse incentives created by Equal Opportunity’s structural dichotomy. As most governing caucuses have a plurality of such MLAs, the local governance system’s political context affords defenders of the status quo strong veto possibilities.

Institutional Characteristics

New Brunswick’s local governance system is also characterized by a low level of discretion in the interpretation and enforcement of institutional rules. The dominant institution in the local governance system is the Department of Environment and Local Government.¹ One of Robichaud’s few alterations to the Byrne Report’s recommendations was the creation of a ministerial department to administer the province’s Local Service Districts instead of a semi-autonomous Municipal Affairs Commission (Bourgeois, 2005, p. 242; J. Finn, 2008, p. 28; Robichaud, 1965b, p. 12). While local advisory committees can make recommendations on service provision, in practice, recommendations to the Minister are made and carried out by regional Local Services Managers, public servants of the Department. As only about 30% of Local Service Districts have active advisory committees, these public servants administrate most of the province’s territory by total remote control.

This remote control should translate into a high level of discretion for Departmental staff in administering the province’s unincorporated areas. However, the Department also lacks the capacity to leverage its authority over unincorporated areas for transformative change. The entire Local Service District system is operated through 9 regional offices. There are only 7 dedicated Local Service Managers for all 236 Local Service Districts with the two remaining regional offices managed as secondary appointments by other branch managers (Department of Environment and Local Government, 2021a, 2021b). According to a report

¹ The department has had many names since 1967 including Municipal Affairs; Municipalities, Culture and Housing; Municipalities and Housing; Environment and Local Government; and Local Government. For the sake of simplicity, “the Department” will be used throughout.

submitted to the Department by one former advisory committee member, Local Service Managers have “less than 30 minutes per week to devote to administration for any given LSD” with some managing as many as 33 LSDs simultaneously (Blout, 2021; Drake, 2011).

Despite its apparent discretionary power over the affairs of 90% of the province’s territory, the Department has proved unable to coordinate or curtail undesirable ribbon development and suburbanization in Local Service Districts (Bourgeois, 2005, p. 243). Accordingly, it appears that while the Department has the potential to interpret and expand its role in the local governance system, it lacks the administrative capacity to do any more than serve as a caretaker for the outdated framework.

Change Agents

Parasitic Symbiont: Local Advisory Committees

While they lack formal democratic authority, local advisory committees’ influence over the veto possibilities of the local governance system makes them formidable parasitic symbionts (Mahoney & Thelen, 2010, p. 19). In theory, any outspoken resident of a Local Service District could fulfill the role of a parasitic symbiont. All residents rely on the preservation of institutions not of their own making to ensure the continuation of perverse benefits, however, the most likely candidates are members of local advisory committees because it is the only institutional venue available to disaffected residents for mobilization. While the local advisory committees have no real authority or impact on the behaviour of the Department, this lack of authority ironically gives them more freedom to operate in an institutional setting of high discretion over the interpretation of rules. Because they are largely ignored by the Department, committees are liable to become the staging ground for extrainstitutional opposition to changes to the status quo.

Figure 5: Change Agents in New Brunswick’s Local Governance System

		Characteristics of the Targeted Institution	
		Low Level of Discretion in Interpretation/Enforcement	High Level of Discretion in Interpretation/Enforcement
Characteristics of the Political Context	Strong Veto Possibilities	Subversives (Provincial Executive; Municipal Associations)	Parasitic Symbionts (Local Advisory Committees)

Subversive 1: The Executive (Premier and their Deputy Minister)

Another potential change agent in the local governance system is the government’s executive: the premier and the deputy minister responsible for local government. Because local governments are creatures of the province, any structural reform will require the support of – if not originate with – the premier. As executive actors, premiers may pursue layering strategies in local governance as part of a change agenda. While the premier could

reasonably be considered part of the political context, the connection between premier and deputy ministers in New Brunswick allows for the executive to fulfill the role of a subversive if they perceive their change agenda as being popular enough with the electorate to risk initial opposition within caucus. Sustained efforts by premiers against the will of the caucus are rare, but reform has nonetheless been attempted by each government since Robichaud; indicating that in collaboration with the deputy minister, the executive can fill the role of a change agent.

In New Brunswick, the selection of deputy ministers “is in no way controlled by procedure and is left entirely to the premier’s discretion” and this personal selection process has led some deputy ministers to develop an almost exclusive loyalty to the premier (Bouchard, 2014, pp. 105; 102).

Of course, the deputy minister responsible for local government is subject to the same constraints as the Department as a whole. While they have the executive authority to delegate the allocation of resources, the limited administrative capacity of the Department precludes the deputy minister from unilaterally altering the structural dichotomy. The deputy minister instead directs reform initiatives in keeping with the premier’s change agenda through the production of reports and studies – of which there have been many (Department of Environment and Local Government, 2021c; J.-G. Finn, 2008, p. 6) – or in the case of more recent reforms, implement the recommendations of an external report commissioned by the premier (Bouchard, 2014, p. 105).

Subversive 2: Municipal Associations

Though other municipal associations have existed in the past, New Brunswick currently has three municipal associations: the Cities of New Brunswick Association, L’Association francophone des municipalités du Nouveau-Brunswick, and the Union of Municipalities of New Brunswick. While all three have endorsed some form of reform in the past, municipal associations must also limit the extent of their preference for institutional change to preserve the aspect of the local governance system upon which their existence depends: their membership (Association, 2020; Belliveau et al., 2020; UMN’s Governance and Fiscal Advisory Committees, 2011). While the associations could conceivably support limited displacement strategies where “new institutions are introduced and directly compete with ... an older set of institutions” (Mahoney & Thelen, 2010, p. 16), such strategies must be limited in their implementation. It is therefore more reasonable to anticipate that the municipal associations will endorse layering changes which add to rather than detract from the existing institutions in the local governance system.

While all three associations have reason to desire the elimination of the structural dichotomy which incentivizes out-migration from incorporated areas to lower tax peripheries, differences in membership between the associations can also result in conflicting institutional goals. Municipalities require policy entrepreneurs to develop alternative proposals to further their interests and those interests often differ between rural villages and urban cities. Accordingly, as of the Cities of New Brunswick Association’s establishment in 1949, New Brunswick’s municipal advocacy has been fragmented (Shott, 2015, pp. 266–267). Specialized associations give municipalities the advantage in policy design capacity over parasitic symbionts, but their divided and sometimes conflicting visions for reform result in a substantial disadvantage in municipal lobbying. By contrast, while

parasitic symbionts lack an equivalent province-wide association to argue on their behalf, local advisory committees are unified in their demands for maintaining the status quo.

Chronological Reform Episodes

In the following section, four of the most important episodes in the history of local governance reform in New Brunswick will be examined from the perspective of Mahoney and Thelen's theory of gradual institutional change. Two episodes occurred under Progressive Conservative governments and two under Liberal governments. While each reform episode was motivated by different coalitions of change agents – typically led by a subversive with either opposition from or compromise with parasitic symbionts – each reform episode has can be considered a layering change.

Episode 1: Subversive and Parasitic Compromise (1976-1977)

The first attempt at substantial change to the local governance system after Equal Opportunity occurred during Premier Richard Hatfield's second Progressive Conservative majority government. Commissioned by Hatfield and spearheaded by deputy minister Ed Allen, the Report of the Task Force on Non-Incorporated Areas in New Brunswick recommended eliminating Equal Opportunity's structural dichotomy by replacing the Local Service Districts with eleven Rural Municipalities with taxing authority.

When Allen's layering proposal was unveiled, it was assumed by many that it would "be the basis for appropriate legislation to come" with Hatfield going so far as to suggest that the Rural Municipalities could be in place before the next triennial municipal elections (MacDonald, 1976, p. 1; Staff, 1976a, 1976b, p. 5). However, despite their apparent commitment to the addition of new entities, the government abandoned the proposal after having encountered "a great deal of opposition" to "a higher level of taxation of residents in the non-incorporated areas" (Staff, 1977a, p. 17; Tweedie, 1976, p. 21). Instead, the government expanded Local Service Districts into all remaining unorganized rural areas.

From the outset, Premier Hatfield's commitment to correcting "the serious weaknesses and inequities in this situation" was tempered by a promise to "act in light of public reaction to this report" (Staff, 1976b, p. 5). While newspapers of the day recorded little to no first-hand accounts of public reaction, Liberal MLA and former-Municipal Affairs Minister Norbert Theriault alleged that "municipal affairs officials appeared to be 'selling' the report to the people" indicating an initial lack of support from rural constituents (Staff, 1976c, p. 3). Liberal Leader Ray Frenette also suggested "that citizens of the areas are not clamoring for local government as the administration says they are." (Staff, 1977b, p. 25)

The Progressive Conservative government's subsequent actions appear to corroborate the opposition's description of events. In June of 1976, Premier Hatfield stated that the government now regarded the Allen Report as a mere "working document" and "would not decide on what type of legislation until more discussions had been held and input sought from rural residents concerned." (Staff, 1976c, p. 3) Come October, Hatfield still had not stated his position and appeared "reluctant to move too quickly in the face of opposition to the tax implications of the report" with Municipal Affairs Minister Horace Smith stating that "provincial officials are still assessing public reaction" and that "the government must consider what effects the recommendations would have on the tax rates of rural residents." (Milander, 1976, p. 17)

In 1977, the Allen Report's recommendations for incorporation of rural areas were officially rejected in favour of extending existing Local Service Districts (Staff, 1977a, p. 17). When justifying the government's position to the villages' association, the Minister specifically referenced unincorporated residents' opposition to the plan as the reason for change, stating that "[d]espite the fact that the recommendations of the Allen Report on the establishment of local government in the non-incorporated areas does not enjoy full public support" these other changes "will greatly improve the efficiency of local services in non-incorporated areas". (MacLaggan, 1977, p. 2; Staff, 1977c, p. 4)

While municipal authorities had "urged adoption of the report" (Milander, 1976, p. 17), it seems the municipalities' atomization into smaller associations weakened their ability to advocate for the plan's adoption. The Cities of New Brunswick Association reacted favourably to the provincial government's proposal (Bueckert, 1976a, p. 20), but beyond basic agreement "[t]here was little discussion at the meeting concerning the government's proposed plan." (Bueckert, 1976b, p. 20) Likewise, the delegates of the Association of Villages of New Brunswick "appeared to be more interested in how the legislation to amend the unconditional grant support formula would affect their villages" than in the administration of unincorporated areas (Staff, 1977c, p. 4). The towns' association voted to support the report in principle, but a number of delegates expressed reservations concerning the size of these proposed municipalities (Sherman, 1976, p. 5). Despite all three associations having a common interest in endorsing and encouraging the Allen Report's recommendations because it would "reduce the tax burden on residents of incorporated areas" (Milander, 1976, p. 17), it seems their atomization rendered them hyper-fixated on aspects of the report parochially related to each entity type.

As the first real attempt at substantive reform since Equal Opportunity, the extent to which the political context was unfavourable to changes to the status quo was not yet clear. As evidenced by his commitment to public consultation, Hatfield must have understood that there would be at least some resistance to change. However, based on Hatfield's early interest in swift implementation, it also seems likely he and Allen did not realize just how targeted the backlash from local advisory committees would be. With insufficient support from municipal associations, the executive abandoned its more ambitious layering strategy in favour of a more limited change.

While modest, the expansion of Local Service Districts still constitutes a layering change as it "involves amendments, revisions, or additions to existing [institutions]." (Mahoney & Thelen, 2010, p. 16) It was limited enough, however, so as not to disturb structural dichotomy and its perverse tax incentives. To what extent local advisory committees were involved in the decision to change course is necessarily speculative because of the limited reporting on public consultations, but it seems that prominent unincorporated residents did take Hatfield up on his offer to provide "alternative recommendations" that would not affect the status of existing Local Service Districts (Staff, 1976a, p. 2).

Episode 2: Divide and Conquer (1992-1998)

During Frank McKenna's tenure as premier, localized restructuring was considered a more feasible solution to the province's local governance woes than comprehensive structural reform (Bourgeois, 2005, p. 245). Kicked off by the release of a working paper in late 1992,

the McKenna Liberals convened a series of localized panels and reports targeting consolidation in urban centres (“Boundaries of New City,” 1994, p. 5; Trueman, 1996a, p. A3).

Between 1995 and 1998, the McKenna Liberals created the city of Miramichi out of 11 communities, amalgamated eight Saint John suburbs into three municipalities, annexed four communities into Edmundston in 1998, and asked the municipalities of Moncton, Dieppe and Riverview to regionalize many of their local services. (Bourgeois, 2005, p. 247) While the rest of the planned reports were not completed or implemented before McKenna’s successor, Camille Theriault, was defeated by the Progressive Conservatives, the McKenna government successfully consolidated four of the province’s urban centres through either amalgamation or regional service agreements.

On the one hand, the focus on urban centres – “the economic drivers for the province” (Anderssen, 1996, p. A9) – was a natural fit for McKenna given his perennial focus on economic growth (Poitras, 2004, pp. 175–176). McKenna’s Municipalities Minister, Ann Breault, noted in an interview that the “erosion of the cities” and “great amount of ribbon development encircling the urban centres” had to be addressed in order “to position our urban centres for the future” (Anderssen, 1996, p. A9). Rather than pitching the reform initiative as a panacea to the negative elements of Equal Opportunity, Breault instead emphasized that “We need ... municipalities to be efficient as possible ... to be able to compete with Toronto or Winnipeg” as McKenna pitched New Brunswick as the perfect location for call centres (Anderssen, 1996, p. A9; Poitras, 2004, p. 175).

On the other hand, the focus of the McKenna reforms on each urban “unit” rather than the “tremendous amount of duplication” caused by the structural dichotomy and fragmentation of municipal authority also served as a layering strategy. In both Miramichi and Edmundston – the two urban consolidations affecting Local Service Districts – opposition of unincorporated residents was rather subdued. While amalgamations in Edmundston did prompt a response from MLAs, it seems that because much of the affected population was already living in incorporated communities, veto possibilities in favour of the status quo were not triggered by local advisory committees. Jeannot Volpé, the Progressive Conservative MLA for Madawaska-les-lacs, declared that “he and Opposition Leader Bernard Valcourt, the MLA for Edmundston, will lead the fight against [amalgamation].” However, in recognition of the more direct representation available to most affected residents, Volpé only ever “vowed that if [the Commissioner] recommends amalgamation, the PC party will help stoke the fires of local protest.” (Poitras, 1997, p. A4) Likewise, while the amalgamation of Miramichi impacted five Local Service Districts, the veto possibilities available to affected local advisory committees were severely limited by the fact that much of the new City of Miramichi was in McKenna’s own riding, Miramichi-Bay du Vin.

McKenna’s piecemeal approach also appears to have successfully evaded a direct response from the municipal associations. Overall, while there is ample evidence of opposition from individual mayors and councillors (MacFarlane, 1997, pp. A1–A2; Poitras, 1996, p. A5, 1997, p. A4), the municipal associations did not intervene on behalf of their members. In the case of the Cities’ Association, support for consolidations makes sense as their membership would only increase as more cities were created. This same attitude was reflected by the municipalities at the core of each urban centre who stood to benefit most from consolidated city status, with reporting from the Edmundston area noting that “All municipalities affected except Edmundston opposed amalgamation unequivocally” (Poitras, 1997, p. A4). While municipal councillors of the suburban communities around Saint John

vociferously opposed the options presented by their region's report as well (Trueman, 1996a, p. A3, 1996b, p. A7; Urquhart, 1996, p. A3; Young, 1996, p. A7), since only eight municipalities were actually affected by the changes in Saint John, the other two municipal associations were never at risk of hemorrhaging members.

While McKenna's reform initiative was by no means "in the shadows", its limited area of effect served to keep the layering strategy "under the radar" of competing change agents (Mahoney & Thelen, 2010, p. 30). Although the intention was to ultimately address "all seven urban centres" (Anderssen, 1996, p. A9), each was pursued on its own and could succeed or fail without impacting the overall process. Rather than fighting the whole of unincorporated New Brunswick or the municipal associations at once, it was mostly the councils of affected municipalities who opposed each reform attempt, allowing McKenna to introduce new rules for regional collaboration and consolidation in four urban centres.

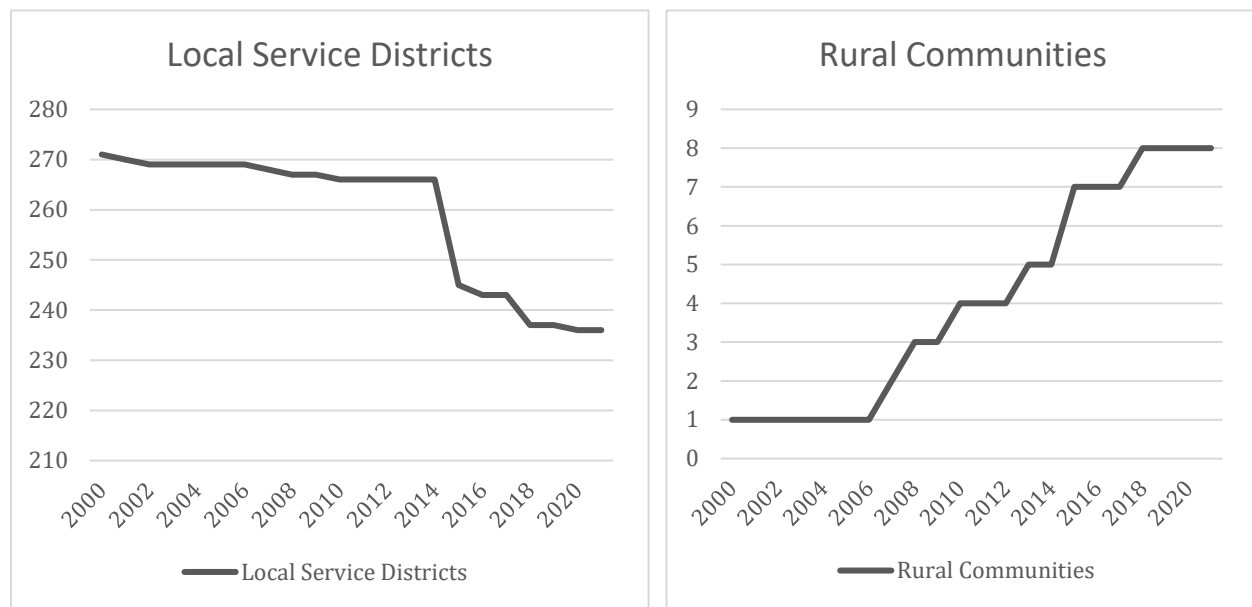
Episode 3: Pressure Relief Valve (2000-2005)

A second potential instance of coalition dynamics between the executive and local advisory committees was the 2005 enhancement of the Rural Community. By making the Rural Communities more like municipalities and expanding eligibility to make their establishment more likely, Progressive Conservative Premier Bernard Lord saw greater success than his predecessors in targeting the structural dichotomy. Much like the layering change under the Hatfield government, it seems that local advisory committees collaborated with the executive in order to stave off more comprehensive changes being pushed by the municipal associations.

Rural Communities were first introduced by the McKenna Liberals but never saw widespread adoption. In 1993, the Commission on Land Use and the Rural Environment recommended the "consolidation/rationalization of the existing Local Service Districts in each Planning District into larger units called Rural Communities" (Irwin & Ouellette, 1993, p. 7). While a pilot Rural Community was established in 1995, the McKenna government chose not to replicate the experiment in other areas (Municipalities Act Review Panel, 1999, p. 199). In an effort to see more Rural Communities established voluntarily, the Lord Progressive Conservatives altered the Rural Community in 2005 to allow a village and Local Service District(s) to come together as one unit and acquire local service responsibilities beyond those originally legislated (J.-G. Finn, 2008, p. 29). The enhanced version proved more popular with 7 additional Rural Communities created since 2005 (Figure 6).

The renewal of the Rural Community was instigated by the municipal associations. At "a rare joint general meeting of all three associations held in October 2000" the province's municipalities again called for a re-examination of the status of Local Service Districts (Martin, 2007, p. 86). The subsequent Report of the Minister's Round Table on Local Governance – a group including both municipal representatives and Local Service District advisory chairs – concluded that "current LSD and Rural Community structures are not adequate to deal with the issues confronting unincorporated areas" but did not recommend a specific governance model as an alternative (Bourgeois, 2005, p. 247; New Brunswick, 2001, p. 16).

Figure 6: Number of Local Service Districts and Rural Communities from 2000-2020



With the appetite for change established, but still relatively undefined, it was left to the government to design a proposal that would address the concerns of both municipal associations and sympathetic local advisory committees without triggering systemic opposition like previous reform attempts. In the ensuing uncertainty, local advisory committees may have sought to avoid the total elimination of the structural dichotomy by supporting a limited and voluntary layering change in-lieu of more comprehensive reforms.

It seems the legislation was designed with the hope of buy-in from unincorporated residents, and from the outset the proposal was put forward with the disclaimer that “no communities will be forced to adopt this new status” (Clarke, 2004, p. A3). According to one project manager with the Department, the new model was designed to be attractive to Local Service Districts by granting them the opportunity to gradually take over governance without the financial burden of full service responsibilities (Chiarelli, 2005, p. A3).

Many advisory committee chairs publicly and enthusiastically supported the initiative. The chairman of one local advisory committee said the government struck an important balance of giving local power against unwanted responsibilities (McHardie, 2004, p. A12). Another chairman noted he was “urging residents to watch for notice of any meetings that may be called once the Legislature approved the new plan” (Trueman, 2004, p. A6). While others interviewed in the days following the announcement were more reserved, there was nonetheless widespread interest from local advisory committees in studying the proposal’s applicability to their communities (Trueman, 2004, p. A6). Only a day after the legislation was introduced, the Minister announced “there are five communities around the province that are eager to take advantage of the new rules.” (McHardie, 2004, p. A12) By September 2005, about one-third of New Brunswick’s 270 Local Service Districts had inquired about creating a new government (Chiarelli, 2005, p. A3).

Though the enhanced Rural Community offered a gradual shift away from provincial intendency, it nonetheless undermined the financial incentives of the status quo. Even without the addition of services beyond planning, police, and fire, many local advisory committees were incensed that the “tax rate in a rural community would have to go up,

because the province wants each of these to have a paid community clerk and an office, at an estimated cost of \$24,000 per year.” (Trueman, 2004, p. A6). The chairman of one advisory committee acknowledged the proposal “would offer his area more power” but warned that “residents should realize that more power comes with more financial responsibility.” (Chiarelli, 2004, p. A3). Even the notion of joining together with neighbouring villages was unpalatable to many, with another local advisory committee chair noting that he feared his tax rates would increase if he were drawn into the neighbouring village “which he said is saddled with debt on its new fire station and village office.” (Trueman, 2004, p. A6)

Despite the opposition to even marginal tax increases from some advisory committee chairs, it is possible that the executive could have enticed other local advisory committees who saw the need to relieve building pressure from the municipal associations into a loose coalition supporting a modest layering change in their respective communities. By allowing some areas to incorporate voluntarily, committees involved in the re-examination of the Local Service Districts preserved the structural dichotomy by enabling and encouraging a layering solution.

Episode 4: The Finn Report (2008)

The Liberal government under Shawn Graham is unique in that the political context during his tenure as premier was unusually amenable to change with comparatively weak veto possibilities (Figure 4). When Premier Graham’s “self-proclaimed government of action” came to power, it unleashed a reform agenda aimed at “self-sufficiency for the province in every sector” involving a “plethora of studies and reports”, including the ambitious Report of the Commissioner on the Future of Local Governance – hereafter called the Finn Report (Bouchard, 2014, pp. 114; 105; McHardie, 2007, p. A1).

Graham suggested the Finn Report would lead to the “most significant shakeup” in local governance in 40 years and claimed to be prepared to pursue dramatic changes for the sake of self-sufficiency (Shingler, 2008a, p. A3, 2008b, p. A2). Ultimately, the Finn Report’s recommendations retained some structural elements of Equal Opportunity, but sought to replace the hundreds of local governments and Local Service Districts with just 53 proposed new or reconfigured municipalities and 12 multi-service regional districts (J.-G. Finn, 2008, pp. 83; 99). However, change was prevented because of the intervention of an exogenous shock: the 2008 financial crisis.

It is possible that without the crisis the Finn Report may have been as successful at having its reform package adopted by government as Equal Opportunity’s Byrne Report. While both Finn and the Premier initially “said the review won’t recommend unwanted amalgamations for municipalities and LSDs” (McPherson, 2007, p. A5), reporting over the course of next year shows a gradual shift by both men towards more radical layering solutions. While reporting in May, June, and July of 2008 featured repeated statements from Graham that forced amalgamations would not be considered by government (Moszynski, 2008, p. A2; Scott-Wallace, 2008a, p. B8, 2008b, p. C8), by September, the Premier had become more ambiguous, noting only that “this commission will be different” (McHardie, 2008, p. A1). A month later, the Premier declared that “he did not want to ‘prejudge the outcome’ of Finn’s report” and that ““everything is on the table for review.”” (White, 2008, p. A3)

The recommendations put forward by the Finn Report would have certainly triggered opposition from local advisory committees as it would mean the end of the structural dichotomy. To a lesser extent, the proposal may also have found difficulty finding support

with subversive municipal associations as the consolidation of the entire province into just 53 municipal entities would have threatened the membership of all three associations. However, because of the sudden onset of the 2008 financial crisis, these battle lines were never truly tested. Upon the report's release, the premier stated that "reforms would be put on hold indefinitely" as "they may be too costly during a period of economic upheaval." (Shingler, 2008b, p. A2; Southwick, 2008, p. C1) While elements of the Finn Report like the Regional Service Commissions and amalgamations in Haut-Madawaska and Tracadie were implemented by the next two governments, no subsequent proposals were as ambitious as those possible under Graham (Chiasson, 2017; Department of Environment and Local Government, 2014; Donaghy, 2013; Huras, 2011; Shingler, 2010; Sidenius, 2017).

Conclusion

Given the analysis above, the narrative of incremental change in New Brunswick's local governance system adheres to Mahoney and Thelen's theory of gradual institutional change. As the identified subversives are more capable of independently developing policy alternatives than the parasitic symbionts, the change agenda in New Brunswick has been dominated by layering with local advisory committees serving to curtail the extent of proposed changes.

Despite serving as concrete examples of the *processes* of change at work, the incremental changes to New Brunswick's local governance system have not yet yielded the anticipated *results* of change: discontinuity. Fundamentally, the political context and institutional setting established by Equal Opportunity have not been significantly impacted, rendering most of these changes reducible to "tinkering at the edges." (McHardie, 2007, p. A1) The Hatfield and Lord reforms both failed to significantly alter the political context established by the Equal Opportunity Program. The urban consolidations in Saint John and Moncton, the two most populated urban centres dealt with by McKenna, did not even involve unincorporated areas and therefore had no impact on the structural dichotomy. While each reform attempt has chipped away at addressing the structural issues associated with Equal Opportunity, none have been substantial enough to alter the political context which perpetuates the perverse incentives and limits opposition to the status quo to layering changes.

However, the latest layering change pursued by the Higgs Progressive Conservatives may be different. Examined in isolation, the Higgs-Allain reforms are as unremarkable as their predecessors. While Minister Allain has promoted this round of local governance reforms as the most substantial since the 1960s, this government's initiative is as much an exercise in layering as any incremental change up to this point. Though the word "amalgamation" was strategically avoided in all communications prior to the release of the White Paper, the most notable change has been the consolidation of the province's 104 local governments and 236 Local Service Districts into just 89 entities: 77 local governments and 12 Rural Districts. More substantial system-wide changes like financing reform and the creation of a Municipal Affairs Commission have been promised for the future, but as of writing, the biggest substantive changes are the expansion of incorporated areas into the long-established suburban peripheries.

Contrary to the claims of the White Paper, the structural dichotomy and resulting "democratic deficit currently affecting 30 per cent of the provinces population will [not] be rectified." (New Brunswick, 2021b, p. 2) Under the new structure there will be 12 Rural

Districts – one district per Regional Service Commission – made up of parts of Local Service Districts that have not become part of a local government. These Districts will have advisory committees whose councillors will be elected as part of municipal elections, but the Rural Districts will just function as larger versions of the Local Service Districts. Comparing the *Local Governance Act* with the *Act Respecting Local Governance Reform* given Royal Assent on December 17, 2021, the language relating to the new Rural District advisory committees is almost identical to that of the previous local advisory committees. While formal elections may increase the perception of the committees as legitimate representatives, ultimate decision-making in Rural Districts will still be in the hands of the Minister.

However, the Higgs-Allain reforms are nonetheless potentially the final layer required for a cumulative break from Equal Opportunity's status quo. While the substantive changes proposed by Higgs are similar to those attempted by his predecessors, they will have more dramatic impact on the political context than previous layering changes. By expanding incorporated areas into the suburbanized peripheries of existing local governments, the unincorporated population of the province will be reduced from about 30% to 8% (New Brunswick, 2021b, p. 11). Subsequent boundary modifications in January and April of 2022 may have reduced this proportion even further. The result is that while the structural dichotomy and democratic deficit remains an intrinsic part of New Brunswick's local governance system, the political context has changed considerably.

Unlike previous reports, the Higgs-Allain White Paper does not propose to add a new entity type as a silver-bullet layering solution for the province's unincorporated areas. On the contrary, the Higgs-Allain reforms retain all the complexities of New Brunswick's five entity types. Instead of simplifying the accumulated idiosyncrasies that have been built on top of Equal Opportunity, the Higgs-Allain reforms retain these layers. As part of the transition process, all 77 new local governments' transition committees were given their choice of entity type and corresponding level of service responsibility and taxation. It is this cumulative quality that, when viewed from the perspective of the theory of gradual institutional change, makes the Higgs-Allain reforms so interesting. This layering change was only possible because it built on previous changes. The lower tax burdens of the Rural Communities and Regional Municipalities have already proven popular with new entities, indicating that these half-measures' redeployment has been key to avoiding open opposition to the reform package as a whole. Likewise, the consolidation of Local Service Districts was only possible because of the creation of Regional Service Commissions ten years earlier.

While they have not yet derived the *results* of change desired by reform advocates, when examined as the culmination of a pattern of layering, the Higgs-Allain reforms have fundamentally altered the political context which has constrained previous governments. Because of the Higgs-Allain reform's cumulative change, future premiers need not limit themselves to being subversives. They can, if they wish, pursue open displacement. While for the moment it seems that the Higgs-Allain reforms will result in institutional continuity, they have also made it possible for future change agents to successfully achieve discontinuity and move from tinkering to transformation.

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