

**British Columbia's Community Charters:  
Home Rule or More Paternalism?**

**Robert A. Long**

B.A., University of Victoria, 1975

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## **Abstract**

In 1995 and again in 2003, British Columbia's provincial legislature considered legislation called the "Community Charter". In the 1995 version, the legislation proposed "home rule", thereby strengthening the autonomy of British Columbia's local governments. However, the 1995 "Community Charter" failed to pass the legislature. In 2003 a different "Community Charter" was proposed that represented incremental policy change and minor autonomy increases when compared to the 1995 bill. This bill was passed and became the Community Charter. This thesis uses case study methodology to answer the question: What factors influenced the policy process between 1995 and 2003 such that local autonomy proposed in 1995 was eroded by 2003? Using the policy communities and networks approach, augmented with other public policy approaches, this thesis concludes that four major factors influenced the policy process to reduce the level of local autonomy in the final "Community Charter" in 2003. The factors were: the influence of the provincial ministry responsible for local governments, the influence of focused business organizations, macro-political changes and partisan political maneuvering. The greatest influence was from the ministry and business organizations.

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## Chapter 1: Introduction

Local governments in Canada do not derive their authority from the direct collective actions of their citizens. Their authority comes from a reference in the Canadian constitution, which delegates power over local governments to the provincial legislatures.<sup>1</sup> These provincially granted powers are prescriptive and narrowly defined. However, local autonomy, or the ability to act collectively for local benefit, is dynamic and requires wide authority to deal effectively with change.<sup>2</sup> The inability to choose and perform local services and represent issues that affect the people of these local governments forms the backdrop for this thesis.

Numerous reform movements have affected Canadian local government. In the early 20<sup>th</sup> century, the “Municipal Reform Movement” focused on structural changes to local governments to increase efficiency and reduce corruption.<sup>3</sup> The structural changes included separating executive and legislative functions and granting the head of council more power to lead the organization.<sup>4</sup> The next series of reforms in 1960s involved the establishment of large metropolitan jurisdictions designed to deliver services that were extra-territorial to the existing city boundaries but were regionally necessary.<sup>5</sup> As mandated by the Canadian Constitution, each province dealt with these issues in their own manner. In British Columbia, the province established regional districts to act as both metropolitan

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<sup>1</sup> Constitution Act, 1867, Section 92. In each Province the Legislature may exclusively make Laws in relationship to Matters coming within the Classes of Subject next thereafter enumerated; (8) Municipal Institutions in the Province. Accessed 28/03/09 at [http://www.efc.ca/pages/law/cons/Constitutions/Canada/English/ca\\_1867.html](http://www.efc.ca/pages/law/cons/Constitutions/Canada/English/ca_1867.html)

<sup>2</sup> Warren Magnusson, “Protecting the Right of Local Self-Government.” *Canadian Journal of Political Science*. Vol. 38 no. 4 (2005), 901-2.

<sup>3</sup> Richard Tindal and Susan Nobes Tindal, *Local Government in Canada*, 4th ed. (Toronto: McGraw-Hill Ryerson Limited, 1995), 51.

<sup>4</sup> Tindal and Tindal, 54.

<sup>5</sup> Tindal and Tindal, 89-148.



governments and service providers for unincorporated areas.<sup>6</sup> In the 1990s, reforms in the large urban areas included the amalgamation of smaller municipalities into mega-city governments, with Montreal and Toronto as the more notable examples.<sup>7</sup>

The reforms of the 1990s in British Columbia involved updating the provincial legislative frameworks for local governments. Municipal statutes were slow to evolve with the changing political realities of the twentieth century. Incremental change had taken place, but by the 1990s local governments in British Columbia still did not have the authority to challenge the provincial government.<sup>8</sup> Much of the existing local government legislation was under review by respective provincial authorities. Local governments suffered under a narrowly defined legislative authority that had not changed significantly since the early 1900s. In response, these governments lobbied their provincial authorities for more legislative flexibility as a method of solving their modern challenges.<sup>9</sup>

In 1991, the Union of British Columbia Municipalities (UBCM), an association of local governments established a reform agenda entitled "*Local Government and the Constitutions*."<sup>10</sup> This agenda included a proposal for constitutional recognition in the federal and provincial constitution and a local government Bill of Rights. At the time, these constitutional aspirations

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<sup>6</sup> Robert L. Bish and Eric G. Clemens, *Local Government in British Columbia* 3rd ed. (Richmond: University of British Columbia Municipalities, 1999), 39.

<sup>7</sup> Andrew Sancton, *Merger Mania: The Assault on Local Government* (Westmount: McGill-Queen's Press, 2000), 7; Andrew Sancton, "Why Municipal Amalgamations: Halifax, Montreal, and Toronto." In Robert Young and Christian Leuprecht (Eds). *Canada: The State of the Federation 2004. Municipal-Federal-Provincial Relations* (Kingston: Queen's University Press, 2006), 119.

<sup>8</sup> Patrick Smith and Kennedy Stewart, "Local Whole-of-Government Policymaking in Vancouver." In Robert Young and Christian Leuprecht (Eds). *Canada: The State of the Federation 2004. Municipal-Federal-Provincial Relations* (Kingston: Queen's University Press, 2006), 43.

<sup>9</sup> Tindal and Tindal, 335-6.

<sup>10</sup> Union of British Columbia Municipalities, *The First Century* (Vancouver: Granville Island Publishing, 2006), 202-3.

represented local governments' desire for greater autonomy and recognition. However, over time the constitutional solution became unworkable due to the failure of the Charlottetown Accord, and the perceived lack of public support for further constitutional debates.<sup>11</sup> The Charlottetown Accord's national constitutional debate had encouraged the UBCM and its national counterpart, the Federation of Canadian Municipalities, to lobby for constitutional change. The UBCM then turned to a provincially legislated solution and lobbied the New Democratic Party (NDP) provincial government (1991 to 2001) and the British Columbia Liberal provincial government (after 2001) for more autonomy.<sup>12</sup>

In 1995, the political debate on the level of appropriate autonomy for local governments in British Columbia started with the introduction of Bill M222-Community Charter.<sup>13</sup> This bill represented a substantial change in the manner in which local governments could do business in British Columbia. For many years, local governments had called for changes to their prescriptive *Municipal Act*. The nature of the demands on local governments from their citizenry had changed. Cities were much larger, more complex and needed new methods of service delivery and financing. Bill M222 was a private member's bill introduced by the opposition Liberal party as a response to this long running debate. The legislation, however, did not pass, most likely because it was a private members bill.

Through Bill M222, the Liberals were attempting to grant "home rule" to the province's local governments. This idea has had a long and unsuccessful history in British Columbia. In 1919, a "home rule" statute also failed to pass the

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<sup>11</sup> William A. Buholzer, *The Community Charter: B.C. Local Government in Transition* (Vancouver: Continuing Legal Education Society of British Columbia, 2005), 15.

<sup>12</sup> Union of British Columbia Municipalities (2006), 202-220.

<sup>13</sup> Bill M222-1995. *Legislative Assembly of British Columbia* (accessed 09/0/08) at: [http://www.leg.bc.ca/35th4th/1st\\_read/mem222-1.htm](http://www.leg.bc.ca/35th4th/1st_read/mem222-1.htm).

provincial legislature. Home rule refers to the arrangements of delegated authority that allow local governments to meet their constituents' needs as long as they are not in breach of existing federal or provincial law.<sup>14</sup> This differs from the existing arrangement of local government powers derived from narrowly defined prescriptive legislation.

When the Liberals came to power in 2001, they proposed and adopted a new piece of local government legislation. This was called Bill 14 - the Community Charter. Although similar in name, Bill 14 was substantially different from the earlier Community Charter, Bill M222. In fact, Bill 14 rescinded many of the more autonomous provisions of the earlier Bill M222 and added new requirements for provincial approvals. For example, municipalities now needed to obtain provincial approval or enter into provincial-municipal agreements in the five "spheres of concurrent authority." These spheres include wildlife, public health matters, soil deposit and removal, protection of the environment and building regulations. Under the existing *Local Government Act*, ministerial approval was ad hoc.<sup>15</sup> Bill M222 did not use "spheres of concurrent authority" to differentiate authority.

Another example of reduced autonomy under Bill 14 involves individual local government consultation rights. While these were articulated in Bill M222, Bill 14 changed to consultation with the UBCM, a provincial association. What was an individual right of each local government in Bill M222 had become a collective right of the UBCM, a provincial organization. This placed small northern and rural communities at the mercy of the large urban municipalities whose

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<sup>14</sup> Bish and Clemens, 18; Buholzer, 3.

<sup>15</sup> Buholzer, 35.

interests and overwhelming numbers could make consultation about local matters difficult.

It is against this backdrop that this thesis answers the question: what factors explain the changes from Bill M222-1995 to Bill 14-2004? The factors under examination include changes in the policy network membership, the relative political influence of certain policy actors, contextual changes in the policy environment, and changes to the nature of the policy problem. In order to determine the significance of these factors, the study will examine several related sub-questions: what affect does moving from opposition to government have on policy change? Can changes in the policy network and policy sub-system explain these policy changes? Moreover, can this case study generalize explanations for policy change when parties move from opposition to government? These questions speak to the very heart of our understanding of policymaking, the appropriate exercising of political power and its ultimate impact on policy outcomes.

The local government policy community underwent a change in membership between 1995 and 2004. This resulted in a corresponding change in the influence certain policy actors or groups of actors had on the policymakers. In 1995 the policy community was an integrated group of actors. In 2001, two new entrants, one a part of the provincial government (Ministry of Community, Aboriginal and Women's Services) and the other resulting from the broadened policy process (Community Charter Business Coalition) joined the policy network. Both groups brought with them new ideas regarding the appropriate level of local government autonomy. The Ministry supported the idea of provincial oversight. The business coalition's ideas were concerned with their self-interest. The

policymakers were highly influenced by both groups. They reduced the autonomy first offered in Bill M222 to the incremental changes outlined in Bill 14. Other factors influenced the policymakers in the final Bill 14. The policy actors that developed Bill M222 were engaged in daily political maneuvering as members of the Official Opposition. In 2001, these same policy actors became policymakers following their electoral victory. To a certain extent, this influenced their ideas regarding the level of appropriate local government autonomy since they would now be accountable for any policy changes.

This thesis will examine the transformation of local government legislation by focusing on changes to the policy communities that developed Bill M222 and Bill 14. How did changes to the policy communities that developed each bill influence the direction and content of the legislation? Scholars study policy processes to explain how and why politicians make certain policy decisions. Many explanatory approaches are used to examine the policy process. This thesis uses the policy networks and policy communities approach because of its focus on the policy actors, their behaviour, and their relationship to each other and the broader policy community.

The policy networks approach focuses on the actors, ideas and interests to explain policy outcomes. These particular policy events are worthy of study because they present a unique set of circumstances. The policy actors advocating this legislation were consistent over the nine years under investigation; however, their attitudes changed regarding local autonomy. By holding one set of political variables constant, it is much easier to look for other independent variables to explain policy changes.

The research data includes primary source documents from government documentation and policy network participants and secondary source information from the literature. Elite interviews took place using semi-structured interview techniques. This technique involves asking the same questions to all interviewees. In some cases, specific participant responses prompted follow-up questions. This data defined the variables used to explain these political events.

Chapter 2 reviews the academic sources on public policy development and change, local government reform, and legislative reform involving local governments in British Columbia. Chapter 3 outlines the study's research methodology, including the policy communities approach and the use of case study for research. This chapter also reviews the method of research data collection and compilation, and concludes with a discussion of ethical issues management. Chapter 4 presents evidence and research findings regarding changes to Bill M222. This chronological story explains the circumstances, influences and actions of the policy actors involved. Evidence regarding other factors is included in this history. Chapter 5 analyses the evidence presented in chapter 4 and provides answers to the thesis question: what factors explain the changes in the two pieces of legislation under examination? Using the policy networks approach, the thesis outlines the constellation of actors who influenced the policymakers and their motivations for doing so. The study concludes that four main factors influenced the policymakers to reduce local government autonomy. These factors include new entrants to the policy community, changing macro-political circumstances resulting in changes to the policy problem, institutional changes resulting from the election of a new government and partisan political maneuvering. The factors are also ranked regarding the efficacy

of their influence. The two new entrants to the policy community, the Ministry and business interests, ranked highest regarding influence on the policymakers. The other factors had less influence.

## Chapter Two: Literature Review

### Historical Overview

The development of local governments in Canada started with the grant of Royal Charters to a number of growing cities in the 1700's. These charter cities used the authority of the Royal Crown to deliver local services and represent the interests of the city's citizens.<sup>16</sup> The debate surrounding local government autonomy in post colonial Canada, dates back to the British North America (BNA) Act. Canada's founding constitutional document did not include direct constitutional authority for local governments.

After substantial debate between Canada's colonial authorities and the British government, provincial legislatures obtained constitutional authority over local governments. In practice, this means that all local governments in Canada are "creatures" of their provincial legislatures.<sup>17</sup> In other words, provincial legislatures must grant local governments their powers to act collectively through provincial statutes. The provinces have adopted different strategies for granting local governments' their powers to act. Such strategies range from enacting volumes of prescriptive and detailed statutes limiting local government action, to the granting of broadly interpreted residual powers commonly called "home rule".<sup>18</sup> Home rule has come to represent the symbolic goal for proponents of local government autonomy.

Home rule is the granting of statutory authority to do what is necessary to deliver local governance, provided the local government does not legislate in

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<sup>16</sup> Tindal and Tindal, 37.

<sup>17</sup> Magnusson, 907.

<sup>18</sup> Bish and Clemens, 18; Buholzer, 3.



conflict with federal or provincial statutes.<sup>19</sup> It also involves the granting of residual provincial powers to local governments. Residual statutory powers are non-prescriptive powers defined broadly as provincial jurisdictions not actively used.<sup>20</sup> A current example of a local government's ability to use residual power is the authority to enact a local road tax on municipal roads where the provincial and federal governments have left this specific authority vacant. Although there are no home rule municipalities in Canada, numerous home rule municipalities still operate in the western United States of America.<sup>21</sup> In British Columbia, an attempt to establish municipal home rule failed to obtain a majority vote in the 1919 provincial legislature.<sup>22</sup>

In Canada, provincial legislatures chose to follow the prescriptive legislative method resulting in municipal statutes that prescribe specific authority to local governments. In keeping with this prescriptive legislative approach, the new Province of British Columbia enacted the "Consolidated Municipal Act" in 1871, followed in 1892 with the "Municipal Clauses Act", which was modeled after Ontario's "Baldwin Act", the parent of all Canadian municipal legislation.<sup>23</sup> British Columbia's municipal legislation evolved slowly, with small incremental changes until the late 1990's, when the autonomy debate reignited with national discussions of constitutional reform. To this day, the debate about local autonomy continues to animate Canadian politics, as provincial and local governments seek to determine the appropriate balance between provincial control and delegated local authority. As Tindal and Tindal state "[t]hese [historical] arrangements

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<sup>19</sup> Bish and Clemens, 18.

<sup>20</sup> Donald Lidstone, "Communities in an Urban Century." Paper presented at a symposium on Municipal Autonomy, Toronto, Ontario, October 20, 2001.

<sup>21</sup> Buholzer, 3.

<sup>22</sup> Bish and Clemens, 18.

<sup>23</sup> Tindal and Tindal, 37.

contributed to the strong tradition of [and desire for] local autonomy that continues to characterize municipal government in British Columbia.”<sup>24</sup>

An historical understanding of the evolution of British Columbia’s local government authority informs the context for this local government autonomy debate. From 1870 to 1920, there was a tradition of “chartered” municipal governments in British Columbia. Charters outlined the specific authority granted to a local government. Citizens drafted municipal charters that became private member’s bills and were adopted by the provincial legislature.<sup>25</sup> All but one of these charter municipalities converted to *Municipal Act* incorporations. No reference respecting the reason for this conversion from charter municipality to *Municipal Act* incorporation is available. The likely explanation is that the provincial legislature was less inclined to adopt a new municipal charter through a private member’s bill after the failure of the home rule vote of 1919.<sup>26</sup>

Only the City of Vancouver has its original charter. The Vancouver Charter is a provincial statute in form; however, it retains some of its extraordinary authority from the past. For example, the Charter allows the City of Vancouver to retain its protection against building code liabilities. No other municipality in British Columbia has similar liability protection under present municipal legislation.<sup>27</sup> The Vancouver Charter is a more autonomous piece of provincial legislation than the present and newly enacted “Community Charter”. However,

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<sup>24</sup> Tindal and Tindal, 37.

<sup>25</sup> Tindal and Tindal, 37.

<sup>26</sup> An alternative explanation may be the reluctance for majority governments to support private member’s bills, as is the case today; Bish and Clemens, 10.

<sup>27</sup> The City of Vancouver has statutory protection against leaky condominium damage claims. Condominium owners sued the municipality of Delta, a municipality without Vancouver’s charter protection, for millions of dollars because condominiums built in Delta were not watertight. This example highlights the benefits of more autonomous legislation for the local taxpayers funding the operations of their local governments; “Municipalities shouldn’t shirk leaky condo blame” *Vancouver Sun*, Dec. 23, 2002. A14; Nelson Bennett “Leaky condo ruling inconclusive.” *Nanaimo Daily News*, September 21, 2002.

the Vancouver Charter does not constitute home rule. The Vancouver Charter represents a symbolic statutory arrangement viewed by other British Columbia municipalities as more advantageous than present municipal authority, as outlined in the Community Charter.<sup>28</sup> Discussions of the history of chartered municipalities in British Columbia help explain the present autonomy debate regarding the “new Community Charter”. Historic circumstances have led to the present evolution in British Columbia’s local government autonomy.

One significant part of British Columbia’s political context is that local governments are the “farm teams” for provincial party politics. Many of the MLA’s in the provincial legislature, in both major parties, cut their political teeth as local government elected officials. This would suggest they would have a bias towards and understanding of the issues and challenges facing local governments. Successive provincial governments, however, have consistently rejected substantial increases in local government autonomy regardless of the party in power and opted instead for incremental change.

The present political debate regarding local government autonomy involves a number of political variables. These include: senior government deficit financing partly caused by increased public service demands, talk of constitutional reform, partisan maneuvering by opposition and governing parties and the ongoing desire by local governments for more autonomy. The following explanation of each of these circumstances helps explain the overall debate.

The financial problems facing the provinces in the 1990s meant that many provincial governments could not balance growing service demands with their financial capacities and subsequently borrowed heavily to maintain service

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<sup>28</sup> Buholzer, 4.

levels.<sup>29</sup> Municipalities were also experiencing excessive public service demands and financial limitations, as well as a lack of formal authority to deal with these challenges. In an attempt to balance their budgets, provincial governments embarked on a process of reducing provincial grants to local governments and downloading service responsibilities without the additional delegated revenue sources. During the 1980's and 1990's discussions regarding local autonomy were framed by local governments' inability to manage these newly downloaded provincial services in the context of their own weaker financial circumstances and limited legal authority.<sup>30</sup>

At this time, the debate around local government autonomy intensified because of the efforts to reform the Canadian Constitution. Starting in the 1980's with the national discussion on constitutional reform, local governments across Canada lobbied their provincial and federal governments for more flexible powers to act on many local matters. The theory is that the constitutionalized decentralization of political authority would increase service delivery efficiency through the reduction of bureaucratic barriers and senior government approvals. This would provide local governments with the freedom to act more innovatively to solve their local problems.<sup>31</sup>

In most provinces in Canada, citizen expectations of local governments had also changed and provincial legislatures had the constitutional powers to respond to these expectations. For example, changing local behavior could solve

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<sup>29</sup> Tindal and Tindal, 75-80, 332-333.

<sup>30</sup> Donald Lidstone, "Future of Local Self Government." Paper presented at the Federation of Canadian Municipalities/International Union of Local Authorities Forum, "Cities of Tomorrow", Toronto, November 22, 1996

<sup>31</sup> Patrick J Smith and Kennedy Stewart, "Local Government Reform in British Columbia, 1991 - 2005: One Oar in the Water." In J. Garcea and E. C. LeSage Jr (Eds). *Municipal Reform in Canada Reconfiguration, Re-Empowerment and Rebalancing* (Toronto: Oxford University Press, 2005), 25.

many macro-environmental issues. The slogan "think globally: act locally" describes one method of addressing issues such as global climate change. However, the fact that senior governments control the policy regimes that might address global climate change reduces the ability of local governments to mount collective local policies to ameliorate the effects of these changes. In any proposal to increase local agricultural production local governments are frustrated because most agricultural regulations are managed at the provincial and federal levels, and it can take years to make locally necessary policy changes. Local governments see issues such as climate change as requiring meaningful and timely responses to emerging policy problems. Provincial legislatures were and continue to be slow and ineffective in responding to these changing policy demands.<sup>32</sup> Given that local governments could not practically rely on provincial legislatures to grant the timely authority to solve their problems, they looked to their provincial organization to lobby for constitutional change.<sup>33</sup>

In British Columbia, discussions regarding local government autonomy intensified at the 1991 UBCM convention when the UBCM presented an agenda for local government legislative reform to its membership.<sup>34</sup> In a policy paper entitled "Local Government and the Constitutions" Gordon Campbell, then UBCM First Vice President, described the paper as a "Bill of Rights" for local governments.<sup>35</sup> Campbell advocated for "a new relationship... between the

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<sup>32</sup> Donald Lidstone, "The Future of Local Self-Government." *The Advocate* 55 (1997), 101.

<sup>33</sup> Notwithstanding Smith and Stewart's assertion that "whole-of-government" policy solutions are possible for local governments without formal authority. "Whole-of-government" policy solutions take place when local governments take public leadership on matters that they have the clear legislative authority for or that authority rests with another level of government. The City of Vancouver's safe injection site initiative is an example of this type of local government policy response. The constitutional authority for this initiative is provincial and federal.

<sup>34</sup> Union of British Columbia Municipalities, *Minutes of the Annual Convention*, September 18, 1991, 63.

<sup>35</sup> Union of British Columbia Municipalities, *Local Government And The Constitutions*, Appendix F, 63.

Province and municipalities... that would make for better, more cost-effective, service delivery.”<sup>36</sup>

The Federation of Canadian Municipalities, the UBCM's national counterpart, believed that the public debate and pending national referendum regarding the Charlottetown Accord had presented the possibility of amending the Canadian Constitution to include local governments as a distinct order of government.<sup>37</sup> Many local government politicians at the time supported amending the constitutions to include local government rights. This would have granted constitutional recognition to local governments as an order of government.<sup>38</sup> The Charlottetown Accord did not specifically mention local governments, but the constitutional debate surrounding the Accord was a convenient platform to raise the issue of local government autonomy because the Accord included the opportunity to create sovereign sub-groups. For example, aboriginal rights were included in the Accord. Nothing came of these local government constitutional discussions as a result of the failure of the Charlottetown Accord in October 1992.

Constitutional recognition would have permitted local governments to solve their own service demands by enacting local laws and regulatory regimes within their boundaries without requiring a specific provincial authority. For example, local road tolls or local fuel taxes are effective regulatory regimes for financing roadway construction, but are not available to local governments under the

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<sup>36</sup> Union of British Columbia Municipalities, (2006), 202-3; The Union of British Columbia Municipalities is a lobby organization made up of all British Columbia's incorporated municipalities. It meets annually to debate resolutions directed toward the provincial and federal governments. The resolutions are formulated by individual local governments, vetted by one of five area associations, debated by the full assembly and if approved they are forwarded to the province for their consideration. By choice, all municipalities and regional districts are members of the association.

<sup>37</sup> The Charlottetown Accord was a package of constitutional amendments proposed by the federal and provincial governments in 1992. The accord failed in a national referendum in October 1992; Richard Johnson, "An Inverted Logroll :The Charlottetown Accord and the Referendum" *PS: Political Science and Politics*, Vol. 26, No. 1 (1993), 43-48.

<sup>38</sup> Buholzer, 5.

present constitutional arrangement. The authority to implement such a taxation arrangement rests with the provincial government alone. Local governments cannot establish a roadway tax regime without the specific authority granted by the provincial legislature. The granting of a broad constitutional authority would have changed the requirement for specific authority and permitted local governments their own taxation and regulatory policy regimes. This constitutional authority would have solved many of local government's service demands but may have caused a number of other unintended consequences and jurisdictional conflicts.

Despite the failure of the Charlottetown Accord, local governments were still faced with ongoing and escalating public service demands. In British Columbia, they encouraged their provincial association, the UBCM, to press for other methods of gaining necessary autonomy to deal with these challenges. The UBCM reverted to a strategy of influencing provincial policymakers by encouraging incremental policy change to satisfy their 1991 reform policy agenda. The UBCM lobbied two different provincial governments representing two different political parties, during the 13-year period from 1991 to 2004. Ultimately, this reform agenda became the genesis for changes to municipal legislation resulting in the *Local Government Act*, Bill M222 and finally the Community Charter Bill 14 in 2004.

### **Reviewing the Literature on Local Government**

Tindal and Tindal's *Local Government in Canada* is a comprehensive work on local government. The authors present a convincing argument that local government should perform two important democratic functions: "[a]ct as a political mechanism through which a local community can express its collective

objectives; and provide a variety of services and programs to local residents."<sup>39</sup>

The argument made by many experts is that local government relegates itself to focusing on service delivery at the cost of the democratic imperative of local representation.<sup>40</sup> As Tindal and Tindal argue:

[w]here provincial authorities did encourage or ultimately impose municipal governments on the populace, it was not because of any apparent belief in the values of democracy – rather, it was motivated by a desire on the part of any provincial administrations to shift at least some of the growing burden of expenditures to the local level.<sup>41</sup>

Tindal and Tindal conclude their volume on local government by suggesting there is "[m]ore demand and need for *governance* – for leading society and convincing its various interest groups to embrace common goals and strategies."<sup>42</sup>

In recent years, matters pertaining to local government have received renewed attention by political scientists and public administration specialists. This literature falls generally into areas of interest associated with larger political events and trends that affect local governments. For example, a number of scholars have studied the municipal amalgamations in Toronto, Halifax and Montreal.<sup>43</sup> Other issues of interest include Nakhaie Reza's study of electoral participation at the municipal level and Christopher Leo's work on urban regime

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<sup>39</sup> Tindal and Tindal, 3.

<sup>40</sup> John A. Marshall and David J.A. Douglas, "The Evolution of Canadian Local Government," *The Viability of Canadian Municipalities: Concepts and Measures* (Toronto: Campbell, Slatcher and Berry, 1997), 6.

<sup>41</sup> Tindal and Tindal, 42.

<sup>42</sup> Tindal and Tindal, 341.

<sup>43</sup> Joseph Kushner and David Siegal, "Effect of Municipal Amalgamations in Ontario on Political Representation and Accessibility," *Canadian Journal of Political Science* vol 36, no. 5 (2003); Sancton (2004).



theory that focuses on the rescaling of local governments to include non-local influences in their policy communities.<sup>44</sup>

Others have focused on municipal reform, self-government, local autonomy and municipal-provincial-federal relationships. For example Joseph Garcea and Edward LeSage have written about Canadian municipal reform, Warren Magnusson has focused on local self-government and Robert Young and Christian Leuprecht have compiled editions on municipal-provincial-federal relationships.<sup>45</sup> In some cases, scholars have focused on municipal reform in specific provinces.<sup>46</sup> Mary Louise McAllister, Warren Magnusson and others have written more generally on local government autonomy, democracy and self-government.<sup>47</sup> There appears to be a steady interest in the issue of local autonomy, in its various forms over the last 40 years. In his work on metropolitan governance, Andrew Sancton argued:

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<sup>44</sup> Christopher Leo, "City Politics in an Era of Globalization." In Mikey Lauria (Ed). *Reconstructing Urban Regime Theory: Regulating Local Government in a Global Economy* (Sage, 1997), 77-98; Nakhaie Reza, "Electoral Participation in Municipal, Provincial and Federal Elections in Canada." *Canadian Journal of Political Science*. Vol 39, no. 2 (2006), 363-390.

<sup>45</sup> Joseph Garcea and Edward C. LeSage (Eds), *Municipal Reform in Canada: Reconfiguration, Re-empowerment, and Rebalancing* (Don Mills: Oxford University Press, 2005); Robert Young and Christian Leuprecht, *Canada: The State of the Federation 2004. Municipal-Federal-Provincial Relation*. (Kingston: Queen's University Press, 2006).

<sup>46</sup> Nova Scotia see Ian Stewart, "The Dangers of Municipal Reform in Nova Scotia." In P.Clancy, R. Haddow, and I. Stewart (Eds). *The Savage Years: The Perils of Reinventing Government in Nova Scotia* (Halifax: Formac Publishing 2000.) 199-227; Ontario see David Siegel "Municipal Reform in Ontario: Revolutionary Evolution." In J.Garcea and E. C.LeSage Jr (Eds). *Municipal Reform in Canada Reconfiguration, Re-Empowerment and Rebalancing* (Toronto: Oxford University Press, 2005).126-48; New Brunswick see Geoffrey R. Martin "Municipal Reform in New Brunswick: Minor Tinkering in Light of Major Problems." *Journal of Canadian Studies* Vol. 41 no.1 (2007), 75-99; British Columbia see Patrick J Smith and Kennedy Stewart, "Local Government Reform in British Columbia, 1991 -2005: One Oar in the Water." In J.Garcea and E. C.LeSage Jr (Eds). *Municipal Reform in Canada Reconfiguration, Re-Empowerment and Rebalancing* (Toronto: Oxford University Press, 2005); Saskatchewan see Joseph Garcea "Saskatchewan's Municipal Reform Agenda: Plethora of Processes and Proposals but Paucity of Products." In J.Garcea and E. C.LeSage Jr (Eds). *Municipal Reform in Canada Reconfiguration, Re-Empowerment and Rebalancing* (Toronto: Oxford University Press, 2005).

<sup>47</sup> Magnusson, 901-2; Mary Louise McAllister, *Governing Ourselves: The Politics of Canadian Communities* (Vancouver: UBC Press, 2005).

[A]t some point, probably in the 1960's, in most parts of Canada (but not BC) and in many other countries (but not in USA), there was increasing public acceptance that the central government legislature (provincial legislatures in Canada) could do what they wanted with municipal structures, even if the affected local citizens did not approve. This was a profound turning point for municipal government, one that we know very little about. We are still living through its implications for the meaning of local democratic self-government.<sup>48</sup>

Sancton later comments that "...[p]rovincial governments-indeed, provincial premiers- were able to push through amalgamations because of their relatively autonomous position in the constitutional order."<sup>49</sup> This thesis expands our understanding of the implications of provincial power over local autonomy.

As Mary Louise McAllister states: "[a] distinction is drawn between the study of *government*, which focuses on formal structures of government, and the study of *governance*, which sees local politics as taking place beyond formal institutions and operating within society as a whole."<sup>50</sup> The influences and pressures that come to bear on the two dependent variables, Bill M222 and Bill 14 are far from narrow or formal. McAllister's definition of *governance* is evident in the pluralistic development of the two bills under examination, in particular the latter.

For the purposes of this research, this thesis defines local government autonomy as the ability to solve local policy problems locally without the need for provincial legislative change or approval. The concept of local government autonomy is a continuum from constitutional authority at one end and prescriptive delegated authority on the other. Since the passage of Ontario's *Baldwin Act*, the

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<sup>48</sup> Andrew Sancton, "Canadian Federalism." In Donald N. Rothblatt and Andrew Sancton (Eds). *Metropolitan Governance: American Intergovernmental Perspectives* (Berkeley: Institute of Governmental Studies Press, University of California, 1993), 275.

<sup>49</sup> Sancton, 6.

<sup>50</sup> Mary Louise McAllister, *Governing Ourselves?: The Politics of Canadian Communities* (Vancouver: UBC Press, 2005), 12-13.

level of local government autonomy has increased incrementally along this continuum.<sup>51</sup>

Patrick Smith, Victor Jones and Kennedy Stewart have written specifically about local governments and their levels of autonomy.<sup>52</sup> They suggest there is a local government authority continuum from “home rule/charter” municipalities on one end to prescriptive delegation on the other.<sup>53</sup> This thesis describes the failed attempt to move British Columbia’s municipalities towards the “home rule/charter” end of that continuum. It further describes why this transformation failed.

Warren Magnusson, a political theorist, explains the fear of local self-government as the fear of the privatization of a public authority. He suggests that the present state of municipal authority and way we see that authority limits the potential inherent in municipal self-government.<sup>54</sup> This thesis uses this point to help explain the motivations of some of the policy actors attracted to the policy network during the public discussion of the first draft of Bill 14.

Robert Bish and Eric Clemens present a complete institutional explanation of British Columbia’s local governments, their structural relationships to their provincial government, and the historical context in which local governments has evolved. Bish and Clemens characterize the provincial policymaking process affecting local government as a process whereby “[m]ajor policy changes and new legislation are often prepared completely within a provincial ministry...the net result is a policymaking process... [with] limited [outside] influence on

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<sup>51</sup> Smith and Stewart (2006), 254.

<sup>52</sup> Smith and Stewart (2006), 254; Victor Jones, “Beavers and Cats: Federal-Local Relations in United States and Canada.” In H.P. Oberlander and H. Symonds (Eds). *Meech Lake: From the Centre to Periphery* (Vancouver: UBC Press, 1986).

<sup>53</sup> Smith and Stewart (2006), 254.

<sup>54</sup> Magnusson (2005), 897-8.

government decisions.”<sup>55</sup> The key interest groups highlighted by Bish and Clemens at the municipal level include the Union of British Columbia Municipalities, and the Municipal Officers Association, now referred to as the Local Government Management Association.<sup>56</sup> There is little suggestion of other input to the policy process. We may conclude from this literature review that the local government network or sub-government has little diffuse input to the policy process.<sup>57</sup> Since 1995, however, provincial governments have taken a different approach regarding municipal legislative reform. Their processes have been more open and pluralistic.<sup>58</sup>

This case study considers a specific proposal to augment local government autonomy and tracks the evolution of this legislation. The case study illuminates how public policy is influenced, who influences it and why. These are important political matters in the study of public policy, local governments and local autonomy. The process of developing public policy is also important and needs further clarification in this review.

To understand and explain the public policy events surrounding the changes that occurred in municipal legislation in British Columbia at the turn of the century, it is necessary to review the literature on public policy. Public policy has many theories and approaches which offer explanations about political phenomena. Many of these theories and approaches overlap, conflict, and contradict. This review is a selected presentation of these many approaches. It

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<sup>55</sup> Bish and Clemens, 10.

<sup>56</sup> Other groups included in the policy community are the British Columbia Chiefs’ of Police, the Association of Fire Chiefs of British Columbia, the Urban Development Institute, Canadian Home Builders Association, British Columbia Waterworks Association, Building Officials Association, and the Engineering Institute of British Columbia. Further groups include the Planning Institute of British Columbia, License Inspectors Association of British Columbia, British Columbia Recreation Association, British Columbia Museums Association, Library Association of British Columbia, and British Columbia Chambers of Commerce.

<sup>57</sup> Bish and Clemens, 11.

<sup>58</sup> Union of British Columbia Municipalities (2006), 216,223.

focuses on the policy communities and policy networks approach and seeks to satisfy the criticisms of this approach by contrasting it with other explanations.

### **Public Policy Explanatory Approaches**

Grace Skogstad and William Coleman investigate political institutions to explain the policy process.<sup>59</sup> This approach involves an historical investigation of each policy actor. A policy actor is a person, organization, institution or group that acts to influence public policy. In this case study, actors include local governments, the provincial government, the UBCM, municipal officers associations, employee groups, other allied organizations, special interest groups (i.e. building, business and land development associations), academics, political parties, lobby organizations, provincial officials, interested individuals, the media, citizens and others.

An investigation of policy actors uncovers the ideas, norms and values of each group or institution. In order to determine patterns of interaction and the differences in terms of influence between policy actors, scholars investigate the relationships between policy actors. Policy outcomes are the results of the policy process once the policymakers (those actors that have the authority to make policy decisions) have made their choices. Therefore, the actors that hold the greatest political power or influence will arguably exercise the greatest influence on policy outcomes. This thesis explains how some policy actors exercised their political influence on policy outcomes. In 2001, the election of a Liberal government established a new policymaking authority. These new policymakers were subsequently influenced by a new set of policy actors.

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<sup>59</sup> William D. Coleman and Grace Skogstad. *Policy Communities and Public Policy in Canada: A Structural Approach* (Mississauga: Copp Clark Pitman Ltd., 1990), 338.

The case study presents two static policy circumstances, one in 1995 (Bill M222) and the other in 2003 (Bill 14). When almost identical political intentions (Bills M222 and 14) act as a dependent variables we can investigate independent variables for an explanation for any policy changes. The reasons or factors that explain policy change have an academic and applied value. In Bill 14, the change to less autonomous local governments from more autonomy is an important political matter. In general, the policy communities and networks approach not only explains the descriptive aspect of the policy process but also its causal aspects, notably with policy outcomes and policy change. Empirical evidence from a study of policy changes within numerous policy sectors in Canada presented by Michael Howlett supports this approach by concluding that the "[s]ubsystem structure was correlated with specific types of policy change."<sup>60</sup> Howlett goes on to explain that "[c]hange is seen as involving periods of stability and incremental adaptations interspersed by periods of revolutionary upheaval, resulting in what has often been referred to as a 'punctuated equilibrium' pattern of policy dynamics."<sup>61</sup> As such, "critical junctures" or "formative moments" predate these punctuated equilibrium changes and help explain the process of policy change.<sup>62</sup>

The criticism of these approaches is that they only explain past events and are not predictive. For example, Michael Atkinson and William Coleman argue that the policy communities and networks approach has politically descriptive

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<sup>60</sup> Michael Howlett, "Linking Policy Network Structure to Policy Outcomes: Evidence from Four Canadian Policy Sections 1990-2000." *Canadian Journal of Political Science*. Vol. 35 no..2 (2003), 259.

<sup>61</sup> Howlett, 242

<sup>62</sup> John Hogan and David Doyle, "The Importance of Ideas: An a Priori Critical Juncture Framework," *Canadian Journal of Political Science*. Vol.40 no.4 (2007), 886.

value but little to offer in predicting outcomes.<sup>63</sup> Others such as Carter Wilson criticize this approach for not being able to incorporate larger macro-political influences and the effect of the policy discourse on policy outcomes.<sup>64</sup> Vandna Bhatia and William Coleman argue that ideas in the context of a policy discourse can be critical to whether or not policy change occurs.<sup>65</sup> In their investigation of health care in Canada and Germany, they conclude that ideas do play a role in policy change.

John Hogan and David Doyle have created a framework for examining critical junctures including a history of a crisis, and ideational change followed by radical policy change. This theory would not describe our case study experience since no radical policy change took place. However, the historical process that led up to the case study's policy changes, although only incremental in nature, can be further examined using this framework and may explain why no critical juncture took place. Integral to the overview of political phenomena explanation is policy change. It is the dynamic of political explanation but it is not meaningful without the contextual understanding of the political events taking place.

Despite the criticisms of the policy communities approach, many policy scholars have adopted this approach in their research on public policy processes and outcomes. In his seminal work *The Governmental Process* (1959), David Truman presented society as individuals forming groups and lobbying for their

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<sup>63</sup> Michael M. Atkinson and William D. Coleman, "Policy Networks, Policy Communities, and the Problems of Governance." In L. Dobuzinskis, M. Howlett, and D. Laycock (Eds). *Policy Studies in Canada: The State of the Art* (Toronto: University of Toronto Press, 1996), 211.

<sup>64</sup> Carter A. Wilson, *Policy Regimes and Policy Change* (Cambridge: Cambridge University Press, 2000), 248.

<sup>65</sup> Vandna Bhatia and William D. Coleman, "Ideas and Discourse: Reform and Resistance in the Canadian and German Health Systems." *Canadian Journal of Political Science*. Vol. 36 no.4 (2003), 716.

interests with government.<sup>66</sup> Truman states more precisely that these groups determine “attitudes, values and the frame of reference” for each group and these police these groups’ behavioral norms. These interest groups “impose[s] claims upon [other groups]... In order to make claims, political interest groups will seek access to key points of decision within these [government] institutions.”<sup>67</sup>

By the mid-1970s, Hugh Heclo’s concept of “issue networks” surpassed earlier descriptions of interest group/ government interaction and stated that networks are more fluid and ever changing. Heclo focused his research on individuals and tracked their career changes at the micro level.<sup>68</sup> This resulted in his impression that policymaking was fragmented and made up of a regularly changing group of players. R.A.W. Rhodes on the other hand used the term “network” at the level of groups and organizations, and found the policy arena to be less chaotic than presented by Helco.<sup>69</sup> At this stage of development of policy communities and networks, the terminology starts to diverge.

While scholars have not fully agreed on the definitions of the terminology used with the policy communities approach, there seems to be common agreement on the use of the concepts. For example, Heclo and Wildavsky define a policy community as a “[...]shared framework where policy decision-making

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<sup>66</sup>David Truman, “The Governmental Process: Political Interests and Public Opinion.” (New York: Alfred A. Knopf, 1959), 501-509.

<sup>67</sup>Truman, 505-506.

<sup>68</sup>Hugh Heclo, “Issue Networks and the Executive Establishment.” In Anthony King (Ed). *The American Political System* (Washington: American Enterprise Institute, 1978). Quoted in Michael M. Atkinson and William D. Coleman, “Policy Networks, Policy Communities, and the Problems of Governance,” In L. Dobuzinkis, M. Howlett and D. Laycock (Eds). *Policy Studies in Canada: The State of the Art* (Toronto: University of Toronto Press, 1996), 197.

<sup>69</sup>R.A.W. Rhodes, “Policy Networks: A British Perspective” *Journal of Theoretical Politics* 2:293-317. Quoted in Michael M. Atkinson and William D. Coleman, “Policy Networks, Policy Communities, and the Problems of Governance.” In L. Dobuzinkis, M. Howlett and D. Laycock (Eds). *Policy Studies in Canada: The State of the Art* (Toronto: University of Toronto Press, 1996), 198.



takes place.”<sup>70</sup> Paul Pross’s definition is “groupings of government agencies, pressure groups, media people and individuals, including academics, who, for various reasons, have an interest in a particular policy field and attempt to influence it. Most policy communities consist of two segments: the sub-government and the attentive public.”<sup>71</sup> Other societal organizations and the attentive public influence public policy but do not participate in its formation.<sup>72</sup> R.A.W. Rhodes defines a “policy community as a network characterized by stable relationships, restricted membership, vertical interdependence and insulation from other networks and institutions.”<sup>73</sup> Stephen Wilks and Maurice Wright use a different definition. For them, a “policy community refers to all actors or potential actors who share either an interest in a policy area or a common ‘policy focus’ and who over time, succeed in shaping policy. Policy network describes the “linking process” within a community.”<sup>74</sup>

According to William Coleman and Grace Skogstad, “[a] policy network refers to the properties that characterize the relationships among the particular set of actors that forms around an issue of importance to the policy community

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<sup>70</sup> Hugh Heclo and Aaron Wildavsky, *The Private Government of Public Money* (London: Macmillan, 1974). Quoted in Michael M. Atkinson and William D. Coleman, “Policy Networks, Policy Communities, and the Problems of Governance.” In L. Dobuzinskis, M. Howlett and D. Laycock (Eds). *Policy Studies in Canada: The State of the Art* (Toronto: University of Toronto Press, 1996), 198.

<sup>71</sup> Paul Pross, *Group Politics and Public Policy* (Toronto: Oxford University Press, 1986). Quoted in Michael M. Atkinson and William D. Coleman, “Policy Networks, Policy Communities, and the Problems of Governance.” In L. Dobuzinskis, M. Howlett and D. Laycock (Eds). *Policy Studies in Canada: The State of the Art* (Toronto: University of Toronto Press, 1996), 196.

<sup>72</sup> Pross, 25.

<sup>73</sup> R.A.W. Rhodes, *Power-dependence: Theories of Central-Local Relations: A Critical Assessment* (Aldershot: Gower, 1986). Quoted in Michael M. Atkinson and William D. Coleman, “Policy Networks, Policy Communities, and the Problems of Governance.” In L. Dobuzinskis, M. Howlett and D. Laycock (Eds). *Policy Studies in Canada: The State of the Art* (Toronto: University of Toronto Press, 1996), 196.

<sup>74</sup> Stephen Wilks and Maurice Wright, “Conclusion: Comparing Government-Industry Relations: States, Sectors, and Networks.” *Comparative Government-Industry Relations* (Oxford: Oxford UP, 1987). Quoted in William D. Coleman and Grace Skogstad, “Policy Communities and Policy Networks: A Structural Approach.” In Brian Henderson (Eds). *Policy Communities and Public Policy in Canada: A Structural Approach* (Mississauga: Copp Clark Pitman Ltd., 1990), 25.

and the community refers to the actors; the network refers to the relationship between the actors, particularly the sub-governments.”<sup>75</sup>

In the Canadian context Michael Atkinson and William Coleman, state: “[i]n parliamentary systems, bipartite structures<sup>76</sup> have proven remarkably resistant to outside intrusion ...”<sup>77</sup> In this thesis, an integrated and pluralistic policy community initiated and sustained their policy agenda between Bill M222 and Bill 14. By considering any change in this integrated policy community or the network (relationships between the policy actors) we may explain the policy changes experienced.

### **Bureaucratic Theory**

Since one of the most important policy actors in this case study is the provincial Ministry of Community, Aboriginal and Women's Services, an understanding of the scholarship on bureaucratic theory would be helpful in explaining the ministry's policy behavior.

Bureaucratic theory suggests that bureaucracies act to maximize their budgets, staff complements and programs as a method of accumulating and

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<sup>75</sup> William D. Coleman and Grace Skogstad, “Policy Communities and Policy Networks: A Structural Approach.” In Brian Henderson (Eds). *Policy Communities and Public Policy in Canada: A Structural Approach* (Mississauga: Copp Clark Pitman Ltd., 1990), 26.

<sup>76</sup> Bipartite as opposed to triangular because the “iron triangle” studied in United States was defined as congressional committees, associational interests and government bureaucracies versus parliamentary system of government where the bureaucracies and associational interests are bipartite without the political committees of the United States.

<sup>77</sup> Jeremy Wilson, “Wilderness Politics in BC: The Business Dominated State and the Containment of Environmentalism.” In Brian Henderson (Ed). *Policy Communities and Public Policy in Canada: A Structural Approach* (Mississauga: Copp Clark Pitman Ltd., 1990), 142-169. Quoted in Michael M. Atkinson and William D. Coleman, “Policy Networks, Policy Communities, and the Problems of Governance.” In L.Dobuzinskis, M. Howlett and D. Laycock (Eds). *Policy Studies in Canada: The State of the Art*, (Toronto: University of Toronto Press Incorporated, 1996),198.

maintaining power.<sup>78</sup> Northcote Parkinson established Parkinson's law to describe how government bureaucracies grew over time even though the delivery of their public service was shrinking. He used the example of the Royal Navy reducing its number of ships and sailors after World War Two while the Naval Ministry grew in size over the same period.<sup>79</sup> William Niskanen, a political economist wrote the seminal work on bureaucratic behavior in "Bureaucracy and Representative Government" in 1971 and established the budget maximization observation in the United States' federal government.<sup>80</sup> The Canadian scholars Andre Blais and Stephane Dion followed this theme in their edited work *The Budget Maximizing Bureaucrat: Appraisal and Evidence* in 1991.<sup>81</sup> These scholars agree that the expected behavior of bureaucracies is to maximize their budgets over time to build and maintain their power. In this thesis' case study the move to reduce local government autonomy and thereby maintain the size of the Ministry's bureaucracy is consistent with this branch of bureaucratic theory.

### **Policy Discourse and Policy Ideas**

To understand how ideas influence public policy and policy change a number of other concepts need explanation. A policy frame is "[c]oherent systems of normative and cognitive elements which define, in a given field, 'world views', mechanisms of identity formation, principles of actions, as well as methodological prescriptions and practices for actors subscribing to the same frame."<sup>82</sup> These

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<sup>78</sup> William Niskanen, *Bureaucracy and Representative Government*. (Chicago: Aldine, Atherton, 1971), 8 ; Andre Blais and Stephane Dion, *The Budget Maximizing Bureaucrat : Appraisal and Evidence*. (Pittsburgh : University of Pittsburgh Press, 1991), 119.

<sup>79</sup> C. Northcote Parkinson, *Parkinson's Law: The Pursuit of Progress*, (London, Toby Murray 1958). Accessed (03/14/09) at: [http://www.berglas.org/Articles/parkinsons\\_law.pdf](http://www.berglas.org/Articles/parkinsons_law.pdf) .

<sup>80</sup> Niskanen, 8.

<sup>81</sup> Blais and Dion, 119.

<sup>82</sup> Bhatia and Coleman, 716.

policy frames act to limit policy ideas because the actors within the frame have a similar worldview that tends to narrow their perception of both the policy problem and the possibilities for solution. Bhatia and Coleman have noted that “[p]olicy frames also enable action by redefining or reshaping definitions of problems and generating new strategies for action.”<sup>83</sup>

Policy frames change either incrementally or much more rapidly by presenting new ideas to policy actors and the policy communities to which they belong. These actors develop “new interests and preferences” through a policy discourse. According to Vandna Bhatia and William Coleman, the type of discourse may determine the manner in which change takes place. There are two types of discourse: augmentative that focuses on “preserving an existing dominant policy frame”; and “transformative discourse that seeks to persuade others of the merits of an alternative frame.”<sup>84</sup> Policy actors can either defend the existing dominant policy frame or make incremental changes to the frame. Other actors may engage in a transformative discourse by including more policy actors in order to convince them of the merit of their alternative frame.

In their case study examination of the attempted privatization of the German and Canadian health systems, Bhatia and Coleman conclude that the interests and institutions remained constant during a substantial policy change in Germany while only incremental policy change took place in Canada.<sup>85</sup> They suggest that ideas within the two policy discourses had more than a secondary role in the process of policy change. The use of policy discourse theory in explaining the causal impact of ideas on policy outcomes has some value in

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<sup>83</sup> Bhatia and Coleman, 716-7.

<sup>84</sup> Bhatia and Coleman, 718.

<sup>85</sup> Bhatia and Coleman, 715-739.

policy analysis. In Bhatia and Coleman's case study, the authors postulate that the more pluralist the policy process, particularly in health policy, the less likelihood of substantial policy changes. In contrast, the more integrated the policy network appears, the more likely substantial change can take place.<sup>86</sup> Some scholars criticize policy discourse theory because they believe ideas play only a small role in policy change. This thesis presents the concept of policy discourse theory as one of the many analytical tools used to test variables in order to determine the possible causes for policy change in our case study.

Political process and decision-making approaches are similar to the policy community and networks approach in that they both focus on the policy actors, interest groups, political policy decision makers and policy agendas. The political process approach explains policy change as "[a]lterations in the power arrangements: the dissolution of old political coalitions and the formation of new ones, the decline of established interest groups and the emergence of new ones."<sup>87</sup> Wilson states that policy initiators and policy entrepreneurs define the problem and lead their preferred solution through the policy process to conclusion.<sup>88</sup> Kingdon, seeing the process somewhat differently, states: "...[p]olicy change arising from the combination of right timing and skilful manipulation as policy entrepreneurs match policy solutions to policy problems, exploit opportunities, and promote change."<sup>89</sup> Baumgartner and Jones "...[o]riginated the term punctuated equilibrium to describe public policy-making process as characterized by long periods of stability interrupted by spurts of

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<sup>86</sup> Bhatia and Coleman, 715-739.

<sup>87</sup> Wilson, 248.

<sup>88</sup> Wilson, 248.

<sup>89</sup> John Kingdon, *Agendas, Alternatives and Public Policies* (Boston: Little Brown, 1984). Quoted in Carter A. Wilson, *Policy Regimes and Policy Change*, (Cambridge: Cambridge University Press, 2000), 248.

change.” They use the idea of dynamic policy monopolies forming and dissipating, thereby causing a change in the public discourse because the new monopoly forms a new understanding of the old problem. In this terminology, the policy monopoly concept is similar to the concept of a policy community.<sup>90</sup>

In a separate work, Jones goes on to consider factors that contribute to policy change. He states that:

[t]hese factors include the role of new participants and new ideas invading the policy arena and expanding and redefining the issues; the media defining the public problem; the policy entrepreneurs promoting ideas and shepherding new policy proposals through the policy process; and the public shifting its attention to new dimensions of a problem and new solutions.<sup>91</sup>

This definition of factors that explain policy change is similar to factors mentioned in the policy communities and networks approach and the policy discourse theory.

Paul Sabatier’s advocacy coalition framework approach defines policy change, but requires studies to: “1) require a time perspective of a decade or more, 2) focus on policy subsystems, 3) include an intergovernmental dimension, and 4) conceptualize public policy in the same manner as belief systems.”<sup>92</sup>

Sabatier suggests two processes can explain policy subsystem change: 1) “[s]ubsystem attempt to translate... their belief systems into government

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<sup>90</sup> Frank Baumgartner and Byran Jones, *Agendas and Instability in American Politics* (Chicago: The University of Chicago Press, 1993). Quoted in Carter A. Wilson, *Policy Regimes and Policy Change*, (Cambridge: Cambridge University Press, 2000), 249.

<sup>91</sup> Bryan Jones, *Reconsidering Decision-Making in Democratic Politics: Attention Choice and Public Policy*, (Chicago: University of Chicago Press, 1994). Quoted in Carter A. Wilson, *Policy Regimes and Policy Change*, (Cambridge: Cambridge University Press, 2000), 250.

<sup>92</sup> Paul Sabatier, “The Advocacy Coalition Framework of Policy Change and the Role of Policy-Oriented Learning Therein.” In Paul Sabatier and Hank c. Jenkins-Smith (Eds). *Policy Change and Learning: An Advocacy Coalition Approach* (Boulder, Colorado: Westview Press, 1993). Quoted in Carter A. Wilson, *Policy Regimes and Policy Change* (Cambridge: Cambridge University Press, 2000), 250.

programs,” and 2) “...external perturbation, that is, the effects of system-wide events – changes in socioeconomic conditions, outputs from other subsystems, and changes in the system-wide governing coalition – on resources and constraints of subsystem actors.”<sup>93</sup> Sabatier suggests a pluralistic view of coalitions competing to “...[g]ain advantages through policy-oriented learning and increasing resources... in ways which give advantages to minority coalitions able to take advantage of policy learning and increased resources.”<sup>94</sup>

This thesis uses the policy communities and networks explanatory approach with careful attention to the dynamic and macro context of the case study. Many of the concepts that strengthen the policy communities and networks approach, such as policy discourse theory, policy ideas, policy frames, and policy change theory all combine to present a dense explanation of the policy process outlined in the second half of this thesis.

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<sup>93</sup>Sabatier, 250.

<sup>94</sup>Sabatier, 250.

### Chapter Three: Methodology

This chapter presents the methodology used to answer the following research question: What factors explain the policy changes that took place between Bill M222 and Bill 14? The thesis uses the policy communities and networks approach to explain the political events surrounding the changes to Bill M222 and Bill 14. The chapter also describes the research design, the dependent and independent variables, and the method of gathering and analyzing the data.

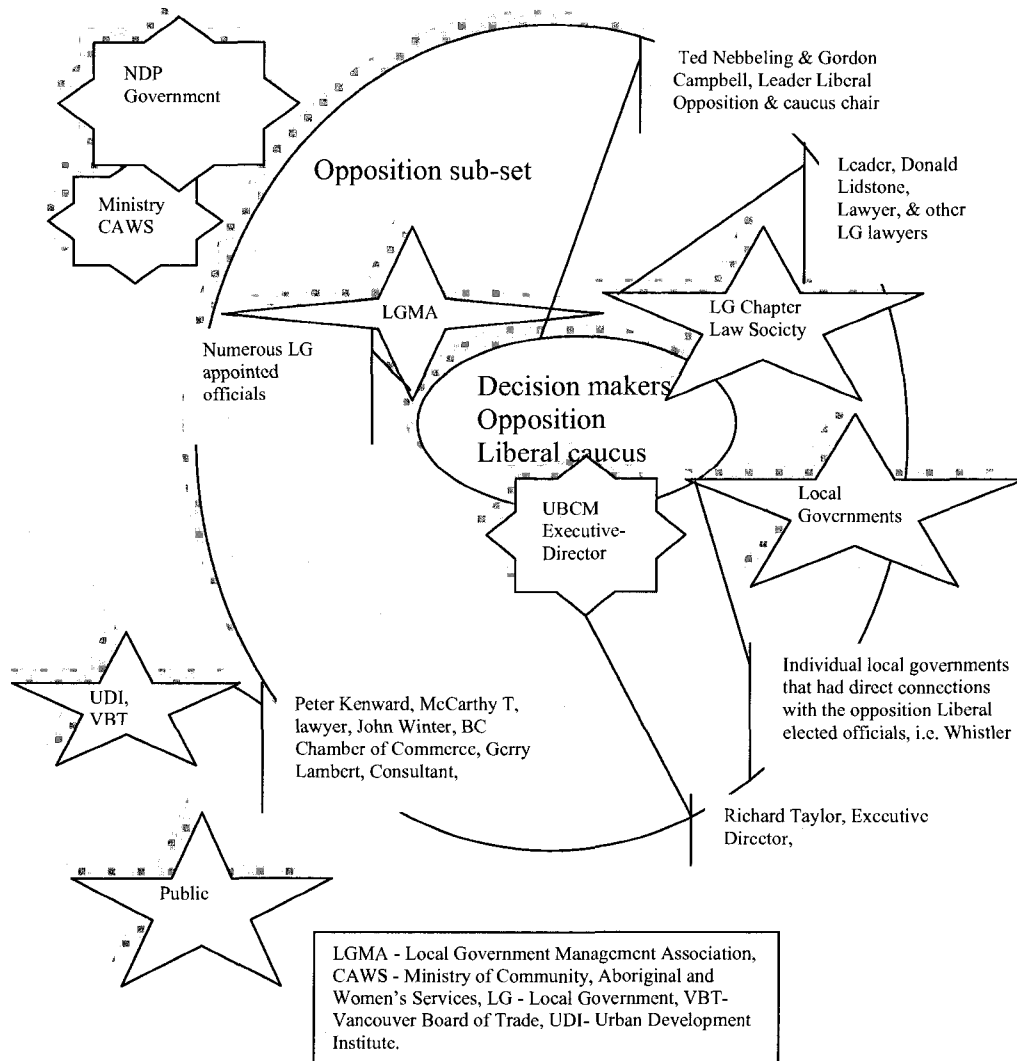
Political information studied without a coherent and structured approach is simply data. In a policy networks approach, investigators look for linkages between policy actors, their relationships, ideas, and interests that may explain any influence on the policymakers. Investigators can map these relationships with what Paul Pross calls a "constellation".<sup>95</sup> This constellation graphically depicts the policy network or constellation and indicates the relative influence that policy actors had on the policymakers through the distance they are from each other. For example, in this case study, the 1995 constellation (see Figure 1) indicates the business community is a substantial distance from the opposition's policy subset. In Figure 2, which depicts the policy community for Bill 14, they are very close to the policymakers indicating a much greater level of influence. By drafting a new constellation for a different time this methodology shows the policy network change. Each constellation is a snapshot in time. In this manner, the thesis avoids the criticism that this approach does not address the dynamics of the policy process.

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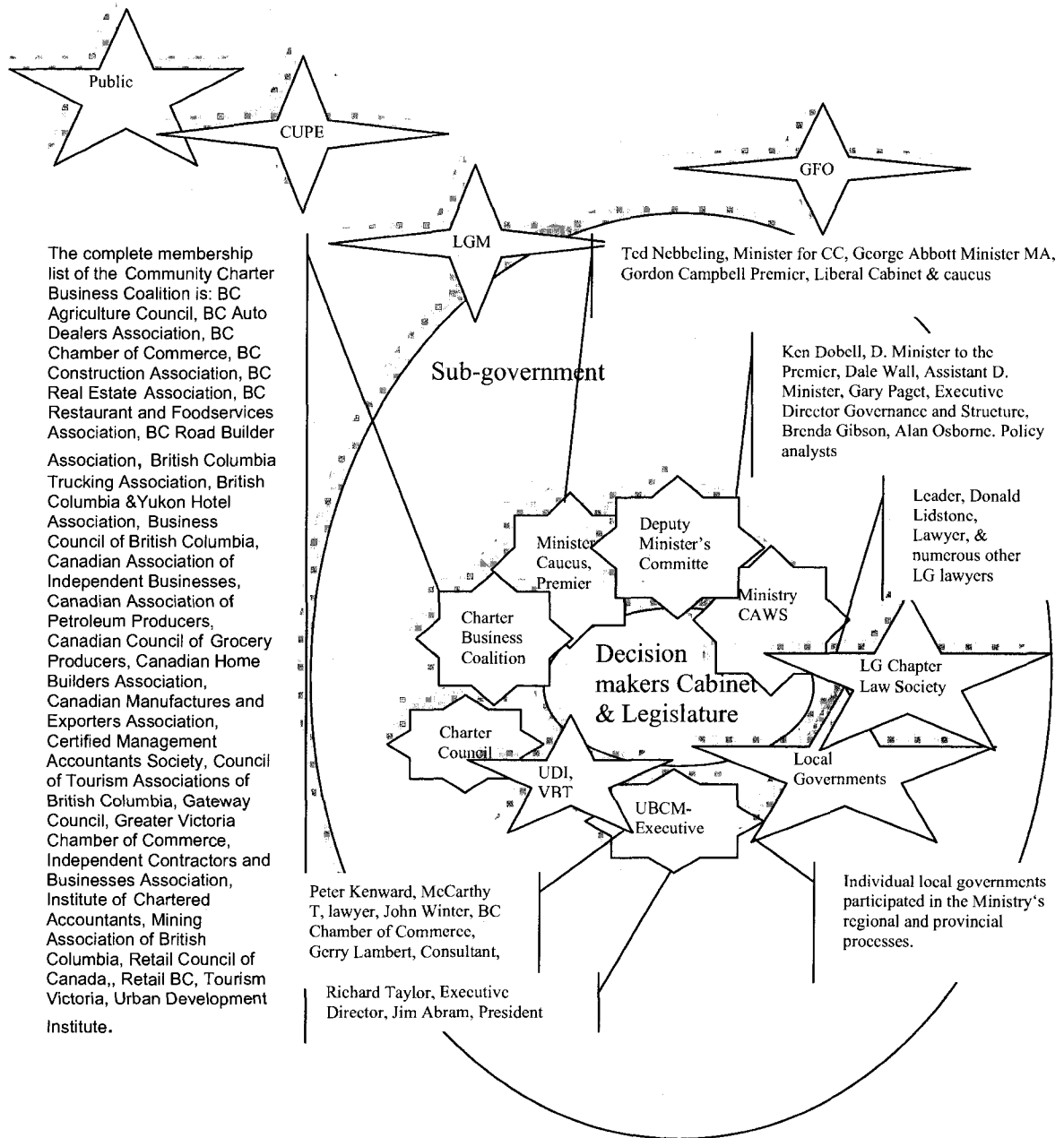
<sup>95</sup> Paul A. Pross, "Pressure Groups: Talking Chameleons." In Michael S. Whittington and Glen Williams (3<sup>rd</sup> Eds). *Canadian Politics in the 1990s* (Toronto: Nelson Canada, 1995): 301.



**Figure 1-1995 Bill M222 Constellation of Local Government  
Opposition Policy Community**



**Figure 2-2002-2003 Bill 14 Constellation of Local Government Policy Community**



Using documentary evidence available from government and policy network sources, a coherent picture of the issues, positions and interests is determined. Interviews were held with direct participants in the policy debate regarding the two bills to confirm the documented information and to add more information if applicable. This thesis investigates the accumulated information to understand the linkages, attitudes and positions of each policy actor. The thesis tests policy outcomes against each actor's positions or interests to determine the degree of influence they had on the policymakers. This is not an exacting process. Sometimes positions and outcomes are clear, as in the case of the Community Charter Business Coalition where numerous documents outline this organization's positions. At other times, policy actors mask their positions and attitudes for reasons of strategy, accountability or for political reasons. In the case of the provincial ministry, cloaking their attitudes on the critical local autonomy issue may have been necessary because of statutory restrictions on disclosure.<sup>96</sup> However, other members of the policy community, not bound by the same restrictions, can determine these attitudes and positions. Using the policy networks or communities approach the thesis presents a denser explanation of the policy process, policy events and policy outcomes.

The thesis uses a simple cross time comparison case study evaluating data derived from primary source documents including statutes, government documents, government public consultation records, and secondary source documents from the policy network. Elite interviews using semi-structured

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<sup>96</sup> Provincial employees are bound by the terms of their employment contracts not to disclose certain information. Cabinet discussions or reports are private materials protected from disclosure by statute.

interview techniques were used to gather additional information and confirm primary source documentary data.

## **The Method**

Scientists need rigorous methods for collecting and analyzing evidence. This rigorous investigation is important to the information's ultimate credibility. The goal of systematic investigation is to use a methodology that explains not only the causal relationship between items under investigation but that considers and disregards all the alternative explanations. However, politics is not a precise field of study; causal relationships are complex and often difficult to explain with certainty.

Researchers develop terminology to facilitate our explanation of political phenomena. We use the terms and concepts referred to as independent variables, dependent variables, and causality or correlation of variables to describe these phenomena. Janet Buttolph Johnson and Richard A. Joslyn define these variables as follows:

Those phenomena that we think will help us explain the political characteristics or behavior that interest us are called independent variables. Independent variables are the measures of the phenomena that are thought to influence, affect, or cause some other phenomenon. Dependent variables are thought to be caused, to depend on, or to be a function of the independent variables.<sup>97</sup>

Some independent variables cause particular phenomena in the dependent variables and others only correlate. Researchers expend substantial

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<sup>97</sup> Janet Buttolph Johnson and Richard A. Joslyn, *Political Science Research Methods*, 3rd ed. (Washington: CQ Press, 1995), 45.

energy searching for the causal relationships between variables. The following example illustrates the concept of causality or correlation of a variable.<sup>98</sup> Some people believe recent Canadian gun control legislation has led to lower crime rates; however, crime rates have dropped throughout North America over the last ten years. Proponents of gun control suggest a causal relationship between crime rates and gun control legislation while others believe the relationship only is merely a correlation. Variables that have no causal relationship to each other or have a third causal variable are spurious. For example, gun control correlates to the crime rate but the general improving of economic status of the population may be the confounding independent variable causing the decreasing crime rates. In this example, therefore, the relationship between gun control and crime rates is spurious.

### **Research Design**

Political scientists research political events in an attempt to explain how and why they took place. "How" is related to the explanatory aspect of research with "why" suggesting a causality of some independent variable. The research design of this study is non-experimental and explanatory using the data collected from document analysis and elite interviews. According to Robert K. Yin, an effective case study design must incorporate the research question(s), the study's hypothesis, test the data collected against the hypothesis, and interpret

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<sup>98</sup> Jeremy Wilson, *Analyzing Politics: An Introduction to Empirical Methods* (Scarborough: Prentice-Hall Canada, 1988), 32-34.

findings.<sup>99</sup> The author adopts Yin's case study design to satisfy these design components.

This thesis compares the policy context of two pieces of legislation using a simple cross time comparison of two dependent variables (Bills M222 and 14). This case study allows for a temporal comparison of the two dependent variables and seeks to explain the factors or independent variables that lead to the observed changes between the two bills. A number of independent variables may be causal to the dependent variables but like all political events, many influences and relationships between the independent and dependent variables could be spurious or causal. To explain the causality of one independent variable it is best to hold all other variables constant (*ceteris paribus*) so that the effect of the independent variable is clear. Since most political science research is non-experimental, we look for natural circumstances where variables are constant or controlled.<sup>100</sup> In this thesis, the dependent variables examined were naturally controlled. The legislation under examination had the same stated intention, the same name, and was proposed by the same political party. Moreover, in both cases, the policy community included the same elected officials. These similarities allow us to investigate the impact of a number of independent variables using the hypothesis stated earlier. To determine the factors that explain the changes in the two bills we posed questions such as: What impact does moving from political opposition to the government in power have on policy change? What changes took place in the policy network or community that may

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<sup>99</sup> Robert K. Yin, *Case Study Research: Design and Methods*, 2nd ed. (Thousand Oaks, Ca: Sage Publications, 1994). Quoted in William Kennedy, Master's thesis, University of Northern British Columbia, Prince George, British Columbia, 2003, 56-57.

<sup>100</sup> Wilson, *Analyzing Politics*, 17-69.

explain the observed policy change in Bill 14? Moreover, are we able to generalize about the policy change resulting from this research?

### **Data Collection**

The thesis collected data from three kinds of sources: primary sources, including government documentation, secondary documentation from members of the policy network and semi-structured interviews. The government documentation includes the statutes (Bill M222 and Bill 14) and the public input documentation for Bill 14. Bill M222 is a more problematic source because as a private member's bill proposed in 1995 it did not attract the same quantity of related documentation. To make up for this dearth of documentation, the author conducted semi-structured interviews with elite policy actors, including key politicians, ministry officials and associational actors, to investigate or confirm the policy input from members of the policy community in 1995. Some secondary documentation was available from the policy network active in 1995. Interviews were also conducted with representative policy actors from the present policy network. These actors were chosen because of their familiarity with the public and private debate on the two bills and their influence on the decision-making process. Interviews attempted to uncover undocumented material regarding the extent of the policy community's influence on the process of policy change. They also confirm the validity of the data from our document analysis. The thesis then analyzes the interview data and compares the input to the document analysis. The thesis tests the corroborated data to determine if the hypothesis is sound. The explanation of the case study uses data synthesized from the research.

## Why use the Case Study Method?

According to Yin, case studies may be criticized for a number of reasons. It can be argued that case studies exhibit a “lack of rigor,” and possible bias in the collection and use of evidence. Yin acknowledges that some case studies are not investigated for evidence bias with the same rigor as other research strategies. However, the trade off for possible evidence bias is that research may not take place on contemporary political phenomena if bias is too large of a concern.<sup>101</sup> The second criticism is that one case study cannot produce generalizations. Yin, however, disagrees and states: “Case studies, like experiments, are generalizable to theoretical propositions and not to populations or universes. In this sense, the case study, like the experiment, does not represent a ‘sample,’ and the investigator’s goal is to expand and generalize theories (analytic generalization) and not to enumerate frequencies (statistical generalization).”<sup>102</sup> Academics also use case studies to test theory conformity rather than generalize from case study evidence. The final criticism is that case studies are not readable because of their length and detail. This variable is controllable by the researcher. In some political research, it is necessary to describe political events with substantial detail to capture the political nuances of human behavior. Detailed descriptions of political phenomena can require lengthy case study reporting because of the complexity of the cases and issues at hand.

This thesis lends itself to case study methodology because the political events are not quantitative in nature. The purpose of this investigation is to develop explanations for the legislative changes that took place during the period

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<sup>101</sup>Robert K. Yin, *Case Study Research: Design and Methods*, 2nd ed. (Thousand Oaks, Ca: Sage Publications, 1994). Quoted in Johnson and Joslyn, 147

<sup>102</sup>Yin. Quoted in Johnson and Joslyn, 147.



under examination. The important policy information embedded in these political events would otherwise be difficult if not impossible to understand using other research strategies. Case studies are becoming the preeminent methodology for the study of public policy. Using a case study approach is therefore the most appropriate approach for this thesis especially when using the policy communities approach.

### **Ethical Considerations**

To gather evidence from elite interviewees to confirm document research an interview plan is required. The author completed an application under the University's ethical research regulations. The purpose of this process is to assure research takes place in an ethical and appropriate manner. All research involving human subjects must undergo this process of evaluation and approval. The author presented an interview plan and application to the review board and was granted approval for the study.

This chapter presented the thesis research design, method of data collection and data analysis, the process for using human subjects for research, and a discussion on case study methodology as the preferred research design. Using the research tools presented, the descriptive approach for framing the policy change outlined in the case study, the thesis will now present the evidence and subsequent analysis of the political events embodied in Bills M222 and 14.

## **Chapter Four: The Story of Two Bills**

A number of political events took place that influenced municipal legislation in British Columbia from the years 1991 to 2004. This chapter is divided into 6 sections to present these political events in a chronological order. Section 1 focuses on the general political context during these years of study. Section 2 explains the UBCM's 1991 agenda for municipal legislative reform. The NDP government's response to this reform agenda including their "Protocol of Recognition" is examined in section 3. Section 4 outlines the 1995 Liberal opposition's reaction to the protocol with Bill M222 the first "Community Charter". Section 5 presents the re-elected NDP government's reaction (1996-2001) to ongoing local government pressure for legislative reform. This section also includes a discussion of the NDP's "Municipal Act Reform (MAR)" process. The final section presents the new Liberal government's Bill 14 process which resulted in the adoption of the Community Charter in 2004. See table 1 for a chronology of events.

### **Political Context 1991-2004.**

The citizens of British Columbia elected an NDP government in 1991. This government replaced the Social Credit government that had been in power since 1975. In the early 1990s a new political party emerged from the disintegration of the Social Credit Party. After electing Gordon Campbell as their new leader in 1993, the Liberal Party of British Columbia (Liberals) was poised to win the 1996 provincial election. Although the Liberals won the largest percentage of the popular vote they did not win a majority of electoral seats required to form a government. Therefore, the NDP remained in government until 2001 when they

were substantially defeated by the Liberals. The Liberals formed the government in May of 2001 based arguably on the party's "New Era Document" that became central to the election campaign.<sup>103</sup> The New Era platform included a promise of more local government autonomy.

Local government autonomy became an election issue in both the 1996 and 2001 elections, with the Liberals offering more local autonomy in both election campaigns. In 1995, when the Liberals were in opposition, they proposed the private member's Bill M222. This bill offered local governments home rule autonomy. In 2001 after winning the election, the Liberals developed a new pluralistic process to "update" Bill M222. The updated bill became Bill 14 and was passed in 2003. It took effect on January 1, 2004.

**Table 1 Chronology of political events.**

1991 UBCM Convention establishes reform agenda	1995-1996 BC Liberals opposition introduces Bill M222 called "Community Charter"	1996 BC Liberals lose the election	2001 BC Liberals win the provincial election and promise new "Community Charter"	2004 BC Liberal pass Bill 14 2004 as the new Community Charter.
NDP become government	NDP sign the protocol of recognition of local government with UBCM	NDP win a second term and continue MAR 1998-2000 resulting in LGA	NDP lose the provincial election	

<sup>103</sup>New Era Document, (accessed 9/14/08) at :[www.deceivebc.ca/articles/new\\_era.pdf](http://www.deceivebc.ca/articles/new_era.pdf)..

### **UBCM's "Reform Agenda" 1991**

In 1991, the UBCM's annual convention adopted a policy paper entitled "*Local Government and the Constitutions*."<sup>104</sup> This policy would provide the basis for a decade of provincial, national and local government discussions regarding the appropriate level of local government autonomy in British Columbia. At the beginning of the discussion the UBCM proposed federal and provincial constitutional amendments to grant local governments independent constitutional authority. After the defeat of the Charlottetown Accord by national referendum, however, the UBCM focused its attention on provincial legislative possibilities as a means of satisfying the 1991 agenda. Over the years 1991-2004, two different provincial governments have attempted to deal with these desires for local government autonomy. The opposition Liberals also engaged in this autonomy debate in 1995 prior to the 1996 election with the presentation to the legislature of a private member's Bill M222, the "Community Charter". Although the NDP government did not react legislatively until 1996, the years leading up to 1996 involved substantial local government-provincial government interaction regarding the UBCM's 1991 reform agenda.

### **The NDP government's reaction (1991-1995): "Protocol of Recognition"**

Prior to the election of the NDP in October 1991, the UBCM promoted local government's legislative reform as part of their 1991 convention's reform proposal. Eventually, the existing *Municipal Act* was amended to reflect many of the concerns of the UBCM's reform agenda.

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<sup>104</sup> Union of British Columbia Municipalities, 202-3.

The first half of the 1990s, however, were tumultuous times in the relationship between local governments and the provincial government in British Columbia. Starting in 1992, Glen Clark, then Minister of Finance, focused on balancing the provincial budget by a number of policy initiatives designed to curtail provincial grants to local governments. These included: changing assessment rules for railway taxation (thereby substantially reducing municipal industrial taxation); and downloading other provincial financial responsibilities such as arterial highways and certain bridge maintenance costs to local governments.<sup>105</sup> Clark had implemented these new financial policies with little or no consultation with local governments.

Local governments were powerless to respond meaningfully since they are creatures of the provincial legislature. The UBCM did respond politically by holding a Financial Summit in January 1993 in an attempt to change the government's approach. Although this initiative was successful for 1993, subsequent years included additional grant reductions and downloaded service responsibilities.<sup>106</sup> This serious loss of provincial revenues and the non-pluralistic manner of provincial policy implementation disturbed many local governments and fuelled the debate over structural reform to local government legislation to allow more local autonomy.<sup>107</sup>

The NDP government eventually entered into discussions with the UBCM to establish a protocol of recognition between local governments and the provincial government, in the hope that this would reduce the tension between the parties. The Province of British Columbia and the UBCM eventually agreed to this protocol and formally recognized local government as an order of

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<sup>105</sup> Union of British Columbia Municipalities, 210-216.

<sup>106</sup> Union of British Columbia Municipalities, 210.

<sup>107</sup> Interview #3.

government in 1996. This marked the first step toward the NDP government's Municipal Act Reform (MAR). Prior to the 1996 provincial election, some of the 1996 UBCM convention delegates expressed their displeasure with Premier Glen Clark confirming that tension between the parties still existed.<sup>108</sup> The *Protocol of Recognition* established a provincial/ UBCM *Joint Council* to work out conflicts and allow for consultation on provincial policy initiatives.<sup>109</sup> Nevertheless, the enforcement of the protocol and the new provincial/local government relationship codified in Bill 31's recognition of local government as an *Order of Government* was by means of moral and political suasion. The protocol contained no effective transfer of statutory power or constitutional status.<sup>110</sup> The province implemented more local government revenue reductions and downloaded new responsibilities without consultation, confirming to local governments that the protocol meant little to the government. This caused the UBCM to suspend their involvement in the *Joint Council* in 1998.<sup>111</sup> These actions led to increased distrust of the provincial government. During the pivotal 1995-6 period, the Liberal opposition was concerned about the discussion between the UBCM and the provincial government regarding the "Protocol of Recognition" and presented private member's Bill M222 "Community Charter" to the legislature.

#### **Liberal Opposition's reaction: Bill M222-"Home Rule"**

In 1995, prior to the anticipated 1996 provincial election, the Liberal opposition tabled private member's Bill M222. A Liberal insider suggested one of the reasons for the development and hasty presentation of Bill M222

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<sup>108</sup> Union of British Columbia Municipalities, 214.

<sup>109</sup> Union of British Columbia Municipalities, 210.

<sup>110</sup> Buholzer, 12-4.

<sup>111</sup> Buholzer, 215-6.

directly related to the NDP's discussion with the UBCM on the *Protocol of Recognition*.<sup>112</sup> Although the policy actors and entrepreneurs in the Liberal Party had a long association with the issue of local government autonomy, the timing of the presentation of this bill may have had other partisan motivations.<sup>113</sup> The Liberals called the bill the "Community Charter" to reflect the optics, if not the reality, of local autonomy, and the positive history of the Vancouver Charter.<sup>114</sup> The leader of the opposition and ex-Mayor of Vancouver, Gordon Campbell, touted this bill as providing new autonomy for local governments. In fact, this proposed legislation did outline additional local powers. Section 35 of the Bill provided local governments with powers in relationship to any matter "not expressly excluded from its competence by an enactment or limited by this Charter, within the legislative competence of the Province, and not inconsistent with an enactment of the Province or Canada."<sup>115</sup> In theory, the proposal would have finally granted "home rule" to British Columbia's municipalities. Other principles of Bill M222 that expanded the range of local government autonomy included:

1. Recognition of communities as an order of government;<sup>116</sup>
2. Guarantee communities the rights set out in the statute, subject only to the prescribed limits in the act;
3. The powers of communities must be adequate to meet local needs;

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<sup>112</sup> Interview #2.

<sup>113</sup> Gordon Campbell, the Leader of the Opposition, had advocated for local government autonomy as the Vice President of the UBCM.

<sup>114</sup> Buholzer, 2-5.

<sup>115</sup> Buholzer, 3.

<sup>116</sup> Legally, the only effective method of recognizing local government as an order of government is through an amendment to the Canadian constitution. However, provincial legislatures can enact provincial legislation that mimics the effects of a constitutional amendment.

4. The ultimate determination of the local public interest lies exclusively with the local elected officials, including the right to determine the level of local expenditures and taxation;
5. Communities have a legitimate expectation that legislation empowering communities will not be repealed or amended by the Legislative Assembly of the Province except by extraordinary legal processes and procedures and the Province will give written notice to, and consult with, communities before amending provincial legislation, regulations, policies, programs or orders that affect communities;
6. The Province's legislation, regulations, policies, programs or orders that affect communities will respect the varying needs and conditions of different communities in different areas of the Province;
7. The Province, its crown corporations and agencies will comply with local government authority in the areas of community jurisdiction;
8. The Province and communities will resolve conflicts by consultation, negotiation, and, if necessary, arbitration;
9. The Province will notify and consult with communities when addressing inter-provincial, national or international issues or agreements that will impact the jurisdiction of communities;
10. The Province will consult with communities and share decision-making with communities where the Province and the communities wish to act or exercise power in relation to any matter that is within the jurisdiction of the Province of the communities;
11. The right of communities to exercise policy discretion within their jurisdiction includes the right to apply revenue transfers from the



Province for any purpose despite conditions the Province may attach to the revenue transfer;

12. No community is obligated to accept a transfer of new powers or duties from the Province unless the community consents to the transfer on the basis of an allocation of new financial or other resources required by the community to exercise the new power or fulfill the new duty;
13. Communities must have financial and other resources that are sufficient to support local needs and that are distinct from the financial and other resources of other orders of government;
14. The purpose of the act (M222) is to provide local governments with the powers to exercise their initiative with respect to any matter, which is not excluded from their competence or assigned, to another authority.<sup>117</sup>

This set of principles and purposes clearly set out an agenda for further autonomy for local governments or, as the act refers to them, “communities.”

Some of these principles were subsequently part of the NDP’s MAR process. For example, in 1995, the NDP government discussed the recognition of local government as an order of government. This discussion evolved into the *Protocol of Recognition* (an agreement between the Province of British Columbia and the UBCM) and in 1998, Bill 31 adopted the order of government definition for local governments under the bill’s preamble.

Principles 2, 3, 4, and 5 (suggestions of legislative certainty and recognition of local governments’ needs and authority) were new concepts, which

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<sup>117</sup> Bill M222-1995, (accessed 09/08/08).

attempted to place legislative certainty in the Community Charter for local governments. At this stage of the Charter's evolution, the right of consultation with the Provincial Government was with the individual local government and was not conducted through the UBCM.

Principle 6, "to respect the varying needs...of communities," is an attempt to distribute the impacts of central policy initiatives differently to different communities.<sup>118</sup> Principle 6 does nothing for local government autonomy but does satisfy a geographic property tax inequity in the Province of British Columbia. For example, services such as solid waste management are provincially mandated; however, some regions of the province (particularly in the north) do not have the economies of scale necessary to deliver this service with a similar cost structure to those regions with higher population densities. Therefore, the local government tax rates for solid waste management service are different for different regions of the province.<sup>119</sup>

Principle 7 (the need for the Province of British Columbia to abide by local government bylaws) is another perennial complaint of local governments and would have restricted the province from using their *ultra vires* power to ignore local government regulations, taxes and user fees. This principle does not increase local government autonomy, but rather it reduces the province's autonomy.

Principles 8, 9 and 10 would have granted local governments a right of consultation. This right is not presently in the existing *Municipal Act* or subsequently the *Local Government Act*. A consultation right for local

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<sup>118</sup> Buholzer, 14.

<sup>119</sup> Cariboo Regional District property taxation for solid waste management was \$441,067 for 2007 while Comox Valley Regional District was 0 for 2007. See Cariboo Regional District 5 year Financial Plan and Comox Valley Regional District 5 Year Financial Plan.

government would allow for warning of impending provincial policy change and permit local governments to enhance the representation of their local interests.

The negotiations and joint decision-making referred to in principle 8 and 10 were unprecedented in the provincial/local government relationship. This principle experimented with joint governance between the province and local governments. Arbitration of local government/provincial disputes in principle 8 was also new. Both these principles challenge the idea that the legislature is the final arbitrator on all matters within provincial jurisdiction.

Principle 11 suggests local governments could act in bad faith by accepting a provincial grant for one purpose and reallocating the funds for another purpose. Given that authors of this principle could one day be government, this principle could cause considerable conflict between local governments and the province. Professional auditors and municipal chief financial officers would not support such actions. The underlying principle of unconditional granting to local governments is likely what principle 11 intended.

Principle 12 is simply a prohibition against provincial downloading. This restricts the province's autonomy and protects local governments against provincial bullying by requiring either the accompanying resources for provincially delegated services or the need to amend provincial legislation before the province could download services to local governments.

Principles 13, 14 and section 35 of the Community Charter (Bill M 222) all acknowledge the need for new and creative revenue streams for local governments. These principles approve additional autonomy for local governments. Local governments could now act creatively to solve their local

service delivery challenges. Taken together, Section 35 of Bill M222 effectively granted home rule to local governments.

Bill M222 was developed by a small but knowledgeable group of local government policy actors that included opposition Members of the Legislative Assembly ( MLA's), a few municipal lawyers and local government appointed officials. The local government opposition critic, Ted Nebbeling, led this group. Prior to being an MLA, Nebbeling had been the Mayor of the Resort Municipality of Whistler. He was well acquainted with the local government policy network and had numerous contacts within the legal and administrative segments of this group. These contacts helped Nebbeling draft Bill M222.<sup>120</sup> Gordon Campbell, leader of the Liberal opposition, also supported Bill M222.<sup>121</sup> As a former Mayor of the City of Vancouver and former President of UBCM, Gordon Campbell was a long time member of the local government policy network.

Although the government had tried to smooth its relations with local governments through the UBCM protocol, at the time there was still considerable displeasure with the actions of the government. This prompted a few local government practitioners to assist the opposition in the drafting of a new municipal statute focusing on reducing provincial oversight over local governments. Although the local government policy community at the time was quite large, this small group of policy entrepreneurs met in secret to prevent the government from co-opting their proposal. As such, the resources necessary to develop a comprehensive and detailed bill were not available to this small group of policy entrepreneurs.<sup>122</sup>

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<sup>120</sup> Due to the sensitive and partisan nature of British Columbia politics, it is not appropriate to name the individuals involved in the drafting of Bill M222.

<sup>121</sup> Interview #2.

<sup>122</sup> Interview #3.

The development of Bill M222 served numerous purposes for the opposition Liberal party. The bill co-opted the government's local government political agenda by presenting a more autonomous piece of legislation at the same time the NDP government was improving its local government relationships through the *Protocol of Recognition*. The bill's presentation capitalized on the growing dissatisfaction by local governments towards the NDP government. It also satisfied the desires of local governments for greater autonomy where many of the 1996 Liberal provincial election candidates and supporters resided.

Bill M222 proposed to loosen provincial control over local governments through the delegation of home rule. This action is *prima facie* against the provincial interest because home rule reduces the direct authority of the province over local governments. Conventional wisdom suggests that when political parties are in opposition they are more likely to propose the delegation of power than when they are in government and can exercise that power. No direct evidence was available to determine the complete intentions of the Liberal opposition in the presentation of Bill M222. Bill M222 did, however, offer the prospect of home rule for local governments, long held as the highest prize short of constitutional recognition.<sup>123</sup>

Many local government officials supported Bill M222 recognizing that additional legislative autonomy could grant some protection from partisan provincial actions that satisfied provincial political interests at the expense of local governments.<sup>124</sup> Bill M222's latent flaw was its very non-pluralistic development. This is not the hallmark of sustainable legislation. The policy network approach

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<sup>123</sup> Although evidence was not available to indicate duplicity, one could question the sincerity of this offer of home rule given the pre-election timing of Bill M222 in 1995. It may have only been a disingenuous exercise in mobilizing the support of community-minded British Columbia voters.

<sup>124</sup> Interview #5.

suggests that as networks move away from tight integration of the actors to a more open pluralistic environment more influences will come to bear on the policymakers resulting in different outcomes than expected. In the next iteration of the “Community Charter” after the 2001 election, this flaw proved fatal for the home rule aspect of the bill. Other principles were also discarded due in large part to the efforts of the provincial ministry, the broader public and associational groups.

The NDP won their second term in the 1996 provincial election. They then developed an agenda for making incremental changes to the *Municipal Act*, starting in 1998 and continuing until their electoral defeat in 2001. This was called the Municipal Act Reform (MAR) process. The government’s MAR process continued throughout their second term of office. This policy process finally resulted in the new *Local Government Act* in 2000.

#### **NDP government’s “MAR” post 1996 re-election.**

With continuing UBCM pressure the re-elected NDP government enacted the “Protocol of Recognition” in 1996 and established a “Municipal Act Reform” (MAR) process. By the end of the decade (1998- 2000), three bills designed to modernize the *Municipal Act* were presented to the provincial legislature in response to the UBCM’s reform agenda. In a three-year program of *Municipal Act* reform the government addressed many of the matters presented by the 1991 UBCM agenda for reform.

Municipal Act Reform was a slow and deliberate public policy process involving many of the local government’s institutional voices. The government’s need to reduce the political friction between themselves and local governments

likely prompted the MAR process. The provincial government's Ministry of Municipal Affairs coordinated the interests of other ministries such as the Ministry of Transportation, Finance and Attorney General and consulted local governments through UBCM working groups and conferences. They also presented for local government consideration numerous provincial policy options.<sup>125</sup>

This process was pluralistic and involved most local government policy actors engaged at the time. These included all municipal and regional local governments, the municipal law association, consultants and municipal associational groups. Interestingly, business groups did not present papers on any changes to the act and appeared to be disengaged with the process. The Ministry of Municipal Affairs managed the MAR process that represented institutionally driven incremental policy change. Legal experts, however, suggested no legally satisfying changes took place in MAR that would give additional autonomy to local governments.<sup>126</sup>

The UBCM made the argument to the provincial government that local governments needed legislative empowerment in order to manage their own financial affairs. In 1997, the government appointed Mike Farnsworth as Minister of Municipal Affairs and in a show of good faith and relationship-building enacted Bill 47 "*Protocol of Recognition Sub-agreement on a New Legislative Foundation for Local Government*."<sup>127</sup> This sub-agreement was the blueprint for the MAR process. The first step in MAR was the development of Bill 31 in 1998.

No direct evidence is available to determine if part of the province's motivation for this policy initiative was the tabling of the Liberal's Bill M222 in

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<sup>125</sup> Union of British Columbia Municipalities, 216-7.

<sup>126</sup> Buholzer, 12-4.

<sup>127</sup> Union of British Columbia Municipalities, 215-6.

1995. The 1996 *Protocol of Recognition* between the UBCM and the provincial government represented a prelude to the changes to the existing *Municipal Act*. The preamble or recognition sections of Bill 31 have no force or effect because it is not possible to alter local government's constitutional status through provincial legislation. To establish local government as an order of government, as Bill 31 suggests, requires an amendment to the Canadian Constitution. The wording of the protocol and the new recognition sections of Bill 31 are virtually identical, but the act accomplished little transfer of power since the preamble in Bill 31 was legally ineffective.<sup>128</sup> The establishment of a preamble does not grant exercisable power to local governments.

Bill 31 was the first of three NDP reform bills. Bill 31's provincial publicity material stated "... [Bill 31] recognizes local government as an independent, responsible and accountable order of government. That bill makes other significant changes, including establishing principles for relations between the provincial and local governments under the *Municipal Act*; empowering local governments with broad corporate powers; and providing greater flexibility for public private partnerships."<sup>129</sup> The *Local Government Statutes Amendment Act, 1999* (Bill 88) introduced broad service powers, provisions for council meeting transparency and a requirement for financial consolidation in municipal financial statements. This was followed by the *Local Government Statutes Amendment Act, 2000* (Bill 14) that transformed the *Municipal Act* into the *Local Government Act*.<sup>130</sup> According to the Ministry's website, the purpose of The *Local Government Statutes Amendment Act, 2000*, Bill 14's is to "[include] a number of

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<sup>128</sup> Buholzer, 12-14.

<sup>129</sup> Buholzer, 20.

<sup>130</sup> Union of British Columbia Municipalities, 217; The numbering of bills in the legislature starts over with each legislative session, therefore, Bill 14 (2000) is a different bill than Bill 14 (2003).



housekeeping amendments intended to clarify legislative policy, eliminate provisions that are no longer needed, and to facilitate improved local government processes.”<sup>131</sup> The Ministry of Municipal Affairs managed this reform process using their small staff of policy analysts with the legislative drafting expertise provided by the Ministry of the Attorney General’s staff.

Although many issues of contention between the provincial and local governments had been discussed in the MAR process, there was no effective transfer of authority or autonomy. MAR was at best incremental policy change similar to the many years of legislative changes that preceded it. With the election of the new Liberal government in 2001, local government autonomy was again a subject of substantial political interest.

#### **Bill 14 “Community Charter”**

In 2001, the Liberals elected almost a complete majority to the legislature.<sup>132</sup> One of the promises made in the “New Era Document” was the establishment of the Community Charter within 90 days of becoming the government.<sup>133</sup> In 1995, while in opposition, the Liberals had tabled a private member’s in the legislature called the “Community Charter”(Bill 14). Starting with the existing Liberal private member’s bill of 1995, Bill M222, the government developed a new process to establish a “Community Charter.”<sup>134</sup> No evidence was available to explain why Bill M222 was not tabled within 90 days of the Liberals taking office (as promised in the New Era Document) and a new process

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<sup>131</sup> Ministry of Community Development, *Miscellaneous Changes Related to Community Planning and Land Use Management* (accessed 09/12/08) at:

[http://www.cd.gov.bc.ca/lgd/intergov\\_relations/planning\\_bulletins/bulletinG800.htm](http://www.cd.gov.bc.ca/lgd/intergov_relations/planning_bulletins/bulletinG800.htm).

<sup>132</sup> The NDP lost all but two seats in the legislature falling below the necessary number of seats to form an official opposition party.

<sup>133</sup> New Era Document, (accessed 9/14/08).

<sup>134</sup> Interview #2.

was developed instead. It is notable, however, that the Ministry of Community, Aboriginal and Women's Affairs became the new entrant to Liberal government's policy subgroup at this time.

Although the NDP government had modernized the *Municipal Act* during the late 1990's, the opposition Liberals still presented the concept of a new "Community Charter" as central to their 2001 election campaign.<sup>135</sup> The "Community Charter" later became Bill 14 replicating, at least in name, the earlier private member's Bill M222. This new charter was heralded by the new provincial government as a grant of greater autonomy to local governments in British Columbia. Although the new government had promised a Community Charter bill within 90 days of taking office, it first enacted the *Community Charter Council Act* which created a council to oversee the development and implementation of the new legislation.<sup>136</sup>

The Council consisted of four UBCM appointed members, four provincial appointees on the UBCM's recommendation, and three members appointed by Cabinet and the Minister Responsible for the Community Charter, Ted Nebbeling. The members were Hans Cunningham, Patricia Wallace, Frank Leonard and Jim Abram representing the UBCM; Don Avison, Ben Marr, Keith Saddlemayer representing the province; and Helen Sparkes, Joyce Harder, Gerry Furney and Marilyn Baker as the joint appointees of the Cabinet and the Minister.<sup>137</sup>

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<sup>135</sup> Buholzer, 7.

<sup>136</sup> Buholzer, 7.

<sup>137</sup> Each of these appointees had either elected or appointed experience in local governments. Numerous had held the position of UBCM President and others had ongoing relationships with local governments. The provincial appointees represented the province's interests and the UBCM appointees represented local governments' interests. Frank Leonard and Jim Abram (all past or present Presidents of the UBCM), Don Avison, Ben Marr, Keith Saddlemayer (provincial deputy ministers, legal counsel and or former municipal administrators), Helen Sparkes, Joyce Harder, Gerry Furney and Marilyn Baker (prominent mayors and UBCM executive members)

The Council's mandate was to develop a "Community Charter" for Cabinet's consideration. All the members of the Council had either direct experience as elected or appointed officials of local governments, or had a long-standing involvement with local governments. As with MAR, the provincial ministry of responsible for local governments again managed the process of legislative development.<sup>138</sup> The Ministry and UBCM staff acted as a joint secretariat to the Charter Council and managed the public input and the consultative process after the draft charter was tabled. This involved a small staff at the Ministry including its Assistant Deputy Minister and senior policy analysts. The UBCM's staff included its executive director.

During the Community Charter discussions regarding issues of decentralization of power the Ministry staff were reluctant to support the Council's desire for greater autonomy. This was confirmed by numerous interviewees on the Charter Council. One concern of the Ministry was the alleged immaturity of the policy analysis and policy development capacity of local governments. The Ministry confirmed those considerations at seminars presented by the Ministry after the Charter came into force. The seminars focused on teaching local governments the process of policy development.<sup>139</sup>

In March of 2002, the Charter Council produced a draft Community Charter for Cabinet and subsequently released it for public comment in May of 2002. Due to Cabinet secrecy no evidence was available to determine if changes were made to the Charter between March and May 2002. The changes in the new draft Community Charter (May 2002) did not significantly alter the changes

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<sup>138</sup> The Ministry of Municipal Affairs was subsequently called The Ministry of Community, Aboriginal and Women's Services, The Ministry of Community Services and the Ministry of Community Development.

<sup>139</sup> Interview #4.

already made by the earlier NDP amendments to the *Municipal Act*, now referred to as the *Local Government Act*.<sup>140</sup> The provincial government left numerous important issues for future processes; for example, new revenue sources and the authority to develop them, and regional district reform. As recently as 2005, however, Minister of Community Affairs, Ida Chong, indicated that she was not contemplating a new reform process.<sup>141</sup>

The public release of the draft Community Charter encouraged other members of the local government policy network to engage the government. Numerous associational groups offered comments to the government. For example, the Local Government Management Association (LGMA), the Government Finance Officers of British Columbia and the Building Officials Association of British Columbia submitted written comments and recommendations.<sup>142</sup> The West Coast Environmental Law Society produced a paper entitled "Creating Livable Communities: A Submission to the Minister of Community, Aboriginal and Women's Affairs on Phase 1 of The Draft Community Charter, November 2002."<sup>143</sup> These associational groups were generally supportive of the draft and made numerous technical comments but gave little policy advice. Others, such as the newly formed Community Charter Business Coalition, were concerned about the possibility of more autonomy for local government. The Coalition included 26 business groups, councils and

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<sup>140</sup> Buholzer, 23.

<sup>141</sup> Personal communication, 02/02/05.

<sup>142</sup> Local Government Management Association, with the Government Finance Officers of BC and Building Officials Association of BC, *Proposed Contents of the Draft Community Charter*. Paper presented to the provincial government, June 14, 2003; Local Government Management Association, Government Finance Officers of British Columbia and Building Officials Association of British Columbia represent local government's appointed management staff in each area of their expertise.

<sup>143</sup> Deborah Curran, *Creating Livable Communities: A Submission to the Minister of Community, Aboriginal and Women's Affairs on Phase 1 of the Draft Community Charter* (West Coast Environmental Law, 2002).

associations. Some of the members included: the British Columbia Chambers of Commerce, Business Council of British Columbia, British Columbia Real Estate Association, Canadian Home Builder Association, British Columbia Construction Association, the Institute of Chartered Accountants of British Columbia and the Urban Development Institute.<sup>144</sup>

The Charter Council worked closely with the UBCM, the newly named Ministry of Community, Aboriginal and Women's Services, and local governments to improve the 2002 draft Community Charter. The Ministry held consultation meetings throughout British Columbia culminating in a two-day conference in Vancouver in June 2002. The Office of the Legislative Counsel of the Ministry of Attorney General prepared the draft bill.<sup>145</sup> Some of the Charter Council members complained that officials in the provincial Ministry of Community, Aboriginal and Women's Services and the Ministry of Attorney General's legislative drafts person resisted many of their initiatives and perspectives.<sup>146</sup> This is evidenced by the list of issues left unresolved because of a lack of consensus. These issues included: new municipal revenues, municipal liability limits for borrowing, exempting industry from taxation to attract business, and the role of the Charter Council after

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<sup>144</sup> The complete membership list of the Community Charter Business Coalition is: British Columbia Agriculture Council, British Columbia Auto Dealers Association, British Columbia Chamber of Commerce, British Columbia Construction Association, British Columbia Real Estate Association, British Columbia Restaurant and Foodservices Association, British Columbia Road Builder Association, British Columbia Trucking Association, British Columbia & Yukon Hotel Association, Business Council of British Columbia, Canadian Association of Independent Businesses, Canadian Association of Petroleum Producers, Canadian Council of Grocery Producers, Canadian Home Builders Association, Canadian Manufactures and Exporters Association, Certified Management Accountants Society, Council of Tourism Associations of British Columbia, Gateway Council, Greater Victoria Chamber of Commerce, Independent Contractors and Businesses Association, Institute of Chartered Accountants, Mining Association of British Columbia, Retail Council of Canada, Retail British Columbia, Tourism Victoria, Urban Development Institute.

<sup>145</sup> Buholzer, 8.

<sup>146</sup> Two members of the Council made similar comments in interviews with the author, interviewees #2 and #5.

the Charter's adoption.<sup>147</sup> As William Buholzer states in his comprehensive legal history and interpretation of the Community Charter: "The proposed legislation (draft Community Charter) was not a further refinement of Bill M222, but an entirely new proposal, blending a few key elements of that initiative with the recently [2000] amended *Local Government Act*."<sup>148</sup>

The draft Community Charter also attracted new entrants into the local government policy network. Important examples are the inclusion of the Community Charter Business Coalition, Urban Development Institute, the Vancouver Board of Trade and the British Columbia Chambers of Commerce. These are all organized groups that represent business interests associated with residential, commercial and industrial urban development. These groups were not active in the local government policy community under the NDP government, but became active before and after the Community Charter draft bill was proposed.<sup>149</sup> The process of presenting a draft Charter encouraged new policy actors to engage the government regarding their interests. This was similar to the NDP's MAR process, yet in stark opposition to the small, narrowly focused and secretive policy group that developed Bill M222.

Business groups had supported the Liberal government's bid for election in 2001, so naturally they expected more influence on the policymaking process. The Community Charter Business Coalition, the Vancouver Board of Trade and the British Columbia Construction Association, in particular, produced papers explaining the dangers of local government autonomy and encouraging the province to maintain strong central control and provincial standardization over

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<sup>147</sup> Buholzer, 8.

<sup>148</sup> Buholzer, 8.

<sup>149</sup> Interview #3.

local governments.<sup>150</sup> McCarthy Tetrault LLP, a law firm specializing in municipal affairs published a number of *Legal Updates* supporting the Community Charter Business Coalition's concerns and articulating the Coalition's specific complaints. These complaints included the need to reduce local government's general authority and numerous specific concerns regarding business regulation and prohibition. Later *Legal Updates* codified the resulting changes made by the provincial government to address the Coalition's concerns.<sup>151</sup> This is evidence of the influence the Coalition had on the provincial government of the day. According to the Coalition's documentation between May of 2002 and the spring of 2003, the Coalition was able to change the proposed draft Community Charter by discarding the following local government powers:

1. To regulate, prohibit or impose requirements regarding anything the municipality considered appropriate;
2. To impose requirements or prohibit business; regulate, prohibit or impose requirements on places open to the public;
3. To cut off utilities on a site by site basis for any other reason than non-payment;
4. To close highways without accommodating utilities;
5. To charge road tolls;
6. To require compensation for extraordinary traffic on a municipal road.<sup>152</sup>

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<sup>150</sup> Vancouver Board of Trade, *Report on the Proposed Community Charter* (Vancouver, 2002).

<sup>151</sup> McCarthy Tetrault, *Legal Update* (Vancouver: Municipal Law Group, 2003), 2

<sup>152</sup> McCarthy Tetrault, *Legal Update* (Vancouver: Municipal Law Group, 2003), 2

The Coalition also argued that the use of broad municipal powers should not affect existing land use regulations, or allow municipalities to avoid legislative limits imposed by statute.<sup>153</sup> The Community Charter Business Coalition requested these reductions in the Charter's powers and the provincial government subsequently made these changes.

Business's specific concerns about the draft Community Charter focused on local government's ability to secure new taxation regimes to finance municipal infrastructure services. The possibility of new charges and fees or increased development costs was a primary concern.<sup>154</sup> At the time, the provincial government approved development charges centrally, theoretically to maintain some equity between the existing taxpayers and the new development. Local government's ability to associate development costs, particularly externalities, with new development is an ongoing issue of financial equity. New residents pay for offsite service externalities through their property taxes if the development industry does not pay these costs at time of development. For example, if a municipality does not collect an appropriate share of the cost of a central sanitary sewage plant, servicing more than one specific development through offsite development charges, existing and new property tax payers have to finance these expenditures. Similar circumstances exist for major roadways, water systems and other infrastructure services. Local governments, although generally supportive of business interests, have been progressively moving towards extracting higher costs from the development industry for both on and offsite servicing requirements.<sup>155</sup> These were the reasons for the Urban Development Institute's reluctance to support more autonomy for local

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<sup>153</sup> McCarthy Tetrault, *Legal Update* (Vancouver: Municipal Law Group 2003), 2

<sup>154</sup> Interview #1.

<sup>155</sup> Interview #1.



government. The institute believed the Charter did not have the necessary statutory checks and balances to limit the potential financial burden placed on the institute's members.<sup>156</sup>

The Charter Council hotly debated the issue of financing local governments through user fees, development charges or new tax regimes.<sup>157</sup> However, no new revenue streams for local governments were included in the Community Charter. As a result, local governments still have a very narrow and conservative set of revenue sources. Regardless of the issues of fiscal autonomy raised by some members of the Community Charter Council, they failed to influence the policymakers sufficiently to implement the fiscal powers outlined in the earlier Bill M222.

The "Community Charter" became a government Bill and passed first reading on March 11, 2003. After second reading on April 29, the legislature referred the Bill to the Committee of the Whole House for consideration on May 7. It was during this debate that the Minister of State for the Community Charter moved two minor amendments and the bill was read a third time on May 8 and granted Royal Assent on May 29, 2003.<sup>158</sup> Regulation 423/2003 brought the Bill into force and it became effective January 1, 2004.<sup>159</sup> The most notable legislative debate regarding the bill debated the legitimacy of section 1's recognition of local government as an order of government. The opposition pressed the Minister of State for the Community Charter, Ted Nebbling, to state the constitutional significance of Section 1. His retort was that the previous

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<sup>156</sup> Urban Development Institute is a business organization that advocates for the land development industry.

<sup>157</sup> Interview #5.

<sup>158</sup> One amendment separated firearms from other weapons in section 8(3); the second added an obligation to allow representation to Council by any person affected by new business regulations in Section 59.

<sup>159</sup> Buholzer, 23.

government had used similar language in Section 1 of the *Local Government Act* with similar effect.<sup>160</sup>

The provincial government developed the new Community Charter through a deliberate and iterative policy process involving the Community Charter Council, Cabinet, the UBCM, associational groups, business groups, local governments and numerous provincial ministries coordinated by the Ministry of Community, Aboriginal and Women's Services. As part of this process, the Ministry held regional local government meetings and proposed certain policy choices. For example, the Ministry questioned the participants on the advisability of granting businesses a tax advantage. The Ministry compiled this regional input and presented the findings at a later provincial plenary meeting. The wider local government policy community also had input. This broader process changed the draft Community Charter to reflect the varied needs and desires of the local government policy community. Not all perspectives, however, were included in the final bill.

The new Charter, in Section 1, proposes the principles of municipal governance. The act states:

1(1) Municipalities and their councils are recognized as an order of government within their jurisdiction that

- (a) is democratically elected, autonomous, responsible and accountable,
- (b) is established and continued by the will of the residents of their communities, and
- (c) provides for the municipal purposes of their communities.

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<sup>160</sup> British Columbia Government Hansard, accessed (03/14/09) at: [www.leg.bc.ca/hansard/37th4th/h3057p.htm#6574](http://www.leg.bc.ca/hansard/37th4th/h3057p.htm#6574), page1445.

(2) In relation to subsection (1), the Provincial government recognizes that municipalities require

- (a) adequate powers and discretion to address existing and future community needs,
- (b) authority to determine the public interest of their communities, within a legislative framework that supports balance and certainty in relationship to the differing interests of their communities,
- (c) the ability to draw on financial and other resources that are adequate to support community needs,
- (d) authority to determine the levels of municipal expenditures and taxation that are appropriate for their purposes, and
- (e) authority to provide effective management and delivery of services in a manner that is responsive to community needs.<sup>161</sup>

Part 1 of Bill 14 did not grant additional authority to local governments. It merely acknowledges that good local governance requires these attributes. Part 1 is similar to Bill M222, but M222 states: “The Community Charter guarantees communities the rights and powers set out in it, ... subject only to the limits prescribed in the Community Charter.”<sup>162</sup> A further example is the difference between 2 (d) above and the clause in Bill M222 which states that “[t]he ultimate determination of the public interest lies exclusively with locally elected officials, including the right to determine the level of local expenditures and taxation.” Bill M222 sets out clear authority through local rights and provincial prohibitions as opposed to recognition through a list of positive governance attributes.

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<sup>161</sup> *Bill 14-2003: Community Charter Legislative Assembly of British Columbia*, (accessed 09/13/08) at: [http://www.leg.bc.ca/37th4th/3rd\\_read/gov14-3-toc.htm](http://www.leg.bc.ca/37th4th/3rd_read/gov14-3-toc.htm).

<sup>162</sup> *Bill M222-1995*, (accessed 9/14/08).

Section 2 of Part 1 of Bill 14 is also different from Bill M222 in approach.

Section 2 concerns “Principles of municipal-provincial relations” and states:

2(1) The citizens of British Columbia are best served when, in their relationship, municipalities and the Provincial government

- (a) acknowledge and respect the jurisdiction of each,
- (b) work towards harmonization of Provincial and municipal enactments, policies and programs, and
- (c) foster cooperative approaches to matters of mutual interest.

(2) The relationship between municipalities and the Provincial government is based on the following principles:

- (a) the Provincial government respects municipal authority and municipalities respect Provincial authority;
- (b) the Provincial government must not assign responsibilities to municipalities unless there is provision for resources required to fulfill the responsibilities;
- (c) consultation is needed on matters of mutual interest, including consultation by the Provincial government on
  - (i) proposed changes to local government legislation
  - (ii) proposed changes to revenue transfers to municipalities, and
  - (iii) proposed changes to Provincial programs that will have significant impact in relation to matters that are within municipal authority;

- (d) the Provincial government respects the varying needs and conditions of different municipalities in different areas of British Columbia;
- (e) consideration of municipal interests is needed when the Provincial government participates in interprovincial, national or international discussions on matters that affect municipalities;
- (f) the authority of municipalities is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally;
- (g) the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution.

The relationship section of Bill 14 sets out the province's preferences in their relationship with local governments. Bill M222 provided a clear set of obligations on the part of the province. Bill M222 used language such as "will notify and consult" in principle 9. In this regard, Bill 14 – The Community Charter provides substantially reduced autonomy for local governments when compared to Bill M-222.

Both symbolically and practically Bill M222 provided for a higher degree of autonomy than Bill 14; Bill M222 offered home rule to British Columbia municipalities while Bill 14 does not. The provincial government had again refused to grant municipalities' home rule. Although seldom mentioned or debated since the legislature's last refusal in 1919, home rule remains the symbolic goal for additional local autonomy. Practically, Bill M222 included local

rights and protections against abuse of power by any provincial government. Like its predecessor, the *Local Government Act*, Bill 14 does not offer local governments the additional direct statutory authority that constitutes home rule. The act suggests vague general principles, easily misinterpreted as actual authority. Using the term “spheres of jurisdiction”, Bill 14 codifies ten spheres of independent and autonomous jurisdiction and five areas of provincial-municipal concurrent regulatory authority. These five concurrent jurisdictions include wildlife, public health, building regulation standards, protection of the natural environment and prohibition of soil removal or deposit.<sup>163</sup> Bill 14 offers an incremental increase in local government autonomy that is consistent with the long tradition of municipal-provincial policy change. This bill does not transform the basis of local government authority, as contemplated in Bill M222.

Rhetoric and optics aside, the new Community Charter is simply another incremental increase in the prescriptive authority afforded to local governments. This grant of authority is presented in legally untested language that broadens the statute’s authority to resist long held common law rules that interpret any local government authority-granting statute very narrowly.<sup>164</sup> The following chapter analyses the reasons for the differences between Bill M222 and Bill 14, and investigates and discusses the loss of local government autonomy in Bill 14.

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<sup>163</sup> Section 702 of the *Local Government Act*, the precursor legislation to the *Community Charter*, permitted the regulation and prohibition of common nuisance animals. Under the *Community Charter* animals or wildlife fall under the concurrent authority regime where “ad hoc ministerial approvals..., regulations defining the scope of exclusive municipal authority..., and provincial-municipal agreements...” are required.

<sup>164</sup> Buholzer, 10.

## Chapter Five: Analysis and Discussion

This chapter analyzes four main causal factors that explain the changes in autonomy between Bill M222 and Bill 14. They are: the inclusion of the Ministry of Community Aboriginal and Women's Services into the policy community, the role played by the Community Charter Business Coalition, the UBCM's ongoing involvement and various other macro-political events and trends. To explain the erosion of autonomy the thesis analyzes the local government policy communities in 1995-6 and again in 2002-4 for relevant factors or events that caused policy changes, and postulates the reasons for these changes. To place a relative efficacy on each factor is difficult with any degree of certainty. It is, however, valuable to understand the degree to which factors influenced policy changes. To help determine this influence, the thesis considers whether each factor or reason for change could have effected change independently or required other factors to effect change. The thesis postulates that factors that acted independently had more influence than those that acted in concert with other factors.

The local government policy community acts as a closely associated network of provincial associations, many of which have cross membership and similar purposes.<sup>165</sup> Provincial policy development for local governments reflects an integrated and tightly knit policy network.<sup>166</sup> In part, this network structure helps explain the observed differences between Bills 14 and M222. When the power structure changes as a result of a provincial election the network structure takes on a new set of policy influences and new policy actors. The election of the

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<sup>165</sup> Local Government Management Association of British Columbia and the Government Finance Officers of BC are two examples.

<sup>166</sup> Bish and Clemens, 10.

Liberals in 2001 expanded the original policy community to include a provincial advocate (government ministry) and another powerful policy actor (Community Charter Business Coalition). The inclusion of these new policy actors created resistance to the idea of greater autonomy for local governments. At the same time, the Liberals were accountable for their earlier private member's Bill M222 and the promises that they made during the 2001 election campaign. The earlier NDP government had made numerous changes to the existing *Municipal Act*, which created difficult political circumstances for the new Liberal government. The NDP's *Local Government Act* had already made many of the incremental changes championed by the UBCM. The Liberal government made election promises for new autonomy for local governments in 2001 and now had the political power to deliver on those promises.<sup>167</sup>

### **New Policy Actors: Ministry Officials**

The first and likely most important change to the policy network subset in 2001 is the inclusion of officials from the Ministry of Community, Aboriginal, and Women's Services. The earlier opposition policy subset excluded these officials because they were accountable to the government of the day. Opposition parties do not have access to the policy analysis capacity or the policy development expertise of the provincial bureaucracy. The government controls those resources and uses them for its political advantage.

This group had substantial influence on the new policymakers and the development and execution of the policy process.<sup>168</sup> The Ministry had also managed the earlier NDP reform process resulting in the late 1990s *Local*

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<sup>167</sup> New Era Document (accessed 9/14/08)

<sup>168</sup> Interview #3, #4 and #5.



*Government Act*. These Ministry officials had just completed the last government's MAR process and were now leading a process to establish a new community charter. A number of Ministry officials remained the same during the policy development of Bill 14 and the MAR process.<sup>169</sup> Some policy community scholars believe individual public officials can strongly influence policy outcomes through their role as managers of the policy development process.<sup>170</sup> A weakness of this theory is the difficulty researchers have identifying how influences are attributable to individuals. In this case study the variable of changing ministry personnel is held constant such that other variables can be investigated independently. In this investigation, the thesis assumes Ministry officials acted consistently in the MAR and Bill 14 policy processes.

Policy discourse theory postulates that a policy frame is resistant to change because many of the actors have similar perspectives on the policy problem and its solution. The frame changes through the introduction of new ideas to the discourse either to augment the existing frame or to transform the frame with more substantial change. Policy actors determine their interests and preferences through this discourse. Using this theory, Bhatia and Coleman research suggests that the more pluralistic the policy community, the less likely substantive policy change is possible while highly integrated communities were more likely to make substantive change.<sup>171</sup>

In this case study, the addition of the Ministry to the policy community in 2001 changed the policy discourse. The Ministry championed the idea of provincial control over local governments. The policy community in 1995 did not include the Ministry and because the sponsoring party to Bill M222 had no

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<sup>169</sup> Interview #4

<sup>170</sup> Heclo, 159.

<sup>171</sup> Bhatia and Coleman, 723.

political power to effect change, certain policy actors such as the Urban Development Institute and other commercial interests were absent from the policy discourse.<sup>172</sup> The local government policy community was quite integrated in 1995 and therefore using policy discourse theory it was more likely to make substantial policy change but it did not. The idea that additional local autonomy could solve the policy problem of provincial downloading had been discussed in the policy community for many years. However, the Ministry had not presented the value of the status quo or their perspective on provincial downloading. Moreover, the problem of provincial downloading had abated between 1996 and 2001 with the improvement of province's finances. The province was prepared to address the policy problem with a legislative prohibition against provincial downloading rather than more municipal autonomy.<sup>173</sup> Policy discourse theory suggests that a transformative policy discourse is more influential in an integrated policy community. In this case study, however, as the policy community became more pluralistic, particularly with the inclusion of the Ministry, Community Charter Council, Community Charter Business Coalition and members of the local governments themselves, the discourse became less transformative.<sup>174</sup>

The simplest explanation for the overt influence of the Ministry is that, in the absence of professional advice in the development of Bill M222, the Ministry officials now had an opportunity to act as policy entrepreneurs and present their perspectives on local government autonomy.<sup>175</sup> The new government's priorities were with much larger economic policy issues. Therefore, the new government

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<sup>172</sup> Interview #1.

<sup>173</sup> New Era Document, (accessed 9/14/08)

<sup>174</sup> Interview #5.

<sup>175</sup> Dale Wall, Assistant Deputy Minister, Ministry of Community, Aboriginal and Women's Services. Presentation to the University of Victoria School of Public Administration, June 14, 2002.

likely allowed Ministry's officials to re-define the policy problem. It also seems that the Ministry responsible for communities in the province has perhaps the most vested interest in less local government autonomy since granting communities more power necessarily takes power away from the Ministry itself. The mere suggestion that communities need more power *from* the province may be perceived as questioning the competence of the Ministry officials since it implies that the Ministry is itself not providing for the needs of communities.

The UBCM defined local government's policy problem at the 1991 convention and determined that the problem be solved with more local government autonomy. By contrast, the policy problem defined by the Ministry in 2002 included "determining where powers need to be restricted in order to protect other interests."<sup>176</sup> Internally, the province was concerned about conflict with other provincial mandates, such as environmental protection and economic development.<sup>177</sup> The politically experienced Ministry officials likely understood the risks associated with more local autonomy and added this risk assessment to the internal provincial policy discourse.

The Ministry's strongest specific interest involved its potential loss of power and control over local governments.<sup>178</sup> The Ministry approves many of local government's bylaws. They also oversee local government's financial, land development and regulatory authorities. These issues help to justify the size and budget of the Ministry. The Ministry's concerns included the workability of the proposed new local government autonomy (autonomy understood from Bill M222); the capacity and maturity of local governments to make good policy decisions; and the loss of internal provincial resources associated with this loss of

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<sup>176</sup> Wall.

<sup>177</sup> Interview #4..

<sup>178</sup> Interview #3 and #5.

power.<sup>179</sup> As mentioned earlier in the literature review numerous scholars have written about bureaucratic theory and behavior. It has been suggested that bureaucracies act to maximize their budgets, staff complements and numbers of programs they operate. This secures their power and influence within government and the broader society.<sup>180</sup>

In this case study greater local government autonomy would presumably lead to a reduction in the Ministry's budget and therefore its influence and size. Several interviewees suggested that the Ministry advocated for a much more conservative change to the level of local government autonomy than Bill M222.<sup>181</sup> It is also important to note that the Ministry led the policy processes for the NDP government regarding the *Local Government Act*. This act also provides for less autonomy than Bill M222 even though the UBCM has consistently called for more autonomy since 1991. Given that Bill 14 allows for less autonomy than Bill M222, it is clear that the Ministry's professional agenda resulted in a reduction of local government autonomy outlined in Bill M222.

Using the efficacy test of influence on the policymakers, it is likely that the Ministry had the greatest influence on changes to Bill M222's local autonomy. Bill 14 does not provide for home rule, and the home rule provisions of Bill M222 were not even included in the earliest iteration of Bill 14.

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<sup>179</sup> Many of the issues raised by the Ministry reflected the difficulty of integrating the new Community Charter with other provincial statutes, the fear that new taxation regimes would conflict with existing provincial taxation and the concern that any change to the collective credit of the Municipal Finance Authority would result in lowering of the municipal bond rating by New York bond rating agencies. Municipal Finance Authority is the collective borrowing agency acting for all the municipalities within British Columbia in the capital markets of the world. This collective credit is predicated on the joint financial health of all the municipalities within British Columbia. It was suggested that a change to this status quo could cause a reduced bond rating which in turn would increase the cost of borrowing to all municipalities.

<sup>180</sup> Mark Dickerson and Thomas Flanagan. *An Introduction to Government and Politics: A Conceptual Approach* 5<sup>th</sup> ed. (Scarborough: International Thomson Publishing, 1998), 411.

<sup>181</sup> Interview #5.

### **New Policy Actors: Business Interests**

The second change to the policy network and subsets was the attraction of new policy actors that resided outside the sphere of government to the policymaking process. The policy communities approach suggests that newly elected governments change the policy environment because new political influences are established in the policy environment after an election of a new political party. This results in different influences attributable to existing and new policy actors. For example, the provincial bureaucracy became a new actor in the opposition's policy subset after the opposition became government. Groups that were outside the policy community under one government, often for political or ideological reasons, find new influence under a more friendly government.

The draft Community Charter, publicly presented in 2002, attracted new entrants into the local government policy community. An important example in this case study is the inclusion of the Community Charter Business Coalition. This coalition represented many business groups associated with commercial and residential land development and was established specifically to lobby the provincial government. It was not active in the local government policy community under the NDP government, but became very active after the public presentation of the draft Community Charter. Both the process of presenting a draft charter and subsequently the establishment of a Charter Council made up of representative policy actors encouraged new policy entrants to engage the government regarding their interests. This is in stark opposition to the tightly bound, narrowly focused and secretive policy enclave that developed Bill M222.

Bill M222 was an outcome of the policy discussions that began at the 1991 UBCM convention. The larger local government policy network supported the

1991 reform agenda.<sup>182</sup> However, the Community Charter Bill 14 was a more pluralist public policy process and therefore attracted actors outside the local government policy network, including private sector business organizations. The reasons for this business engagement are varied. A growing number of citizens in British Columbia object to land development.<sup>183</sup> This has frequently caused development delays, and resulted in higher costs to the development industry. Industry representatives suggest that as these pressures have grown, industry's influence on local government policymakers has decreased.<sup>184</sup> The trend towards more pluralistic policy discussions, particularly with local land development, concerns the industry.<sup>185</sup> Under the *Local Government Act*, the provincial government had some control over development issues. The province, for example, had to approve local government's development cost charge bylaws - the costs charged to developers for offsite servicing obligations. This provincial oversight function has satisfied industry that development charges will be fair and standardized.<sup>186</sup>

The construction industry voiced similar concerns regarding building regulation standardization.<sup>187</sup> The province regulates building construction through the province's *provincial building code*. Local government's building bylaws must follow the provincial building code. These groups indicated that increasing local government autonomy could risk these provincial standards and increase their costs.<sup>188</sup>

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<sup>182</sup> The reform paper was voted on and passed by the 1991 UBCM convention,

<sup>183</sup> Interview #1.

<sup>184</sup> Interview #1.

<sup>185</sup> Interview #1.

<sup>186</sup> Interview #1.

<sup>187</sup> British Columbia Construction Association. "The Community Charter What does it mean for the BC Construction Industry?" December 2001, 4.

<sup>188</sup> British Columbia Construction Association; Interview #1.

Local autonomy was also a concern of commercial businesses. Some businesses are controversial, causing perceived or real social problems. Local governments must deal with the problems these enterprises generate, which increase costs for communities. For example, escort services cause additional policing costs. Local governments have attempted, without success, to restrict certain types of businesses for social and financial reasons. However, restricting certain business activities through zoning is legal.<sup>189</sup> The business community was concerned that additional autonomy would include the prohibition of certain types of businesses presently permitted within the commercial zoning context.<sup>190</sup> Based on the evidence, the first draft community charter included this prohibition authority, but the province excluded it from the final charter. The business community used their political influence with the policymakers to protect their existing interests.

The Vancouver Board of Trade, and McCarthy Tetrault, legal counsel for the Community Charter Business Coalition produced papers warning of the dangers of local government autonomy and encouraged the province to maintain strong control over local governments.<sup>191</sup> The Community Charter Business Coalition formed specifically to lobby for less autonomy for local governments and, based on the research presented in this paper, was quite successful in its efforts.

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<sup>189</sup> Lidstone, Young, Anderson, "The District of Squamish enforces their Zoning bylaw that prohibits the processing of pumice" *Newsletter* Vol. 14 no.3, October 2003.

<sup>190</sup> Interview #1.

<sup>191</sup> Vancouver Board of Trade. *Report on the Proposed Community Charter*. Vancouver, August 26, 2002, (accessed 2/19/03) at: [http://www.boardoftrade.com/vbot\\_page.asp?pageid=653](http://www.boardoftrade.com/vbot_page.asp?pageid=653); McCarthy Tetrault, "The British Columbia Community Charter: What is Going On and What Does it Mean for You?" *Legal Update* Part 1,2,3, Municipal Law Group, June 2003.

From the evidence, both the provincial bureaucracy and the business community's inclusion and activism in the local government policy community resulted in effective influence to reduce local government's autonomy. Although the Liberal party proposed Bill M222 with its substantially increased autonomy in 1995, the party's new role as government and these new powerful policy actors caused the substantial erosion of autonomy in Bill 14. Other factors also influenced the government policymakers to change their earlier intentions of Bill M222.

### **Ongoing UBCM Influence**

The UBCM had established a reform agenda in 1991 in response to provincial downloading and reductions in fiscal support for local governments. Over the period 1991 to 2003 the UBCM lobbied consistently for more local autonomy to solve these pressing policy problems. The provincial government, however, found other methods of reducing the severity of these policy problems. In 2003, they legislated a restriction against provincial downloading, stopped the reduction of fiscal transfers to local governments and made incremental increases in legislated local autonomy.<sup>192</sup> A few select UBCM members had substantial access to the policymakers during the development of Bill M222.<sup>193</sup> They again had unprecedented access to the policymakers during the development of Bill 14 in 2002-3 through the Community Charter Council and their ongoing contacts with the government.<sup>194</sup> Yet, they failed to influence the policymakers in government sufficiently to grant local government meaningful local autonomy. There is no clear explanation for the failure on the part of the

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<sup>192</sup> Union of British Columbia Municipalities, 218-222.

<sup>193</sup> Interview #2

<sup>194</sup> Interview #5.



UBCM to obtain meaningful local autonomy for local governments. The only explanation is that the UBCM did not have the necessary influence over the policymakers to make the desired legislative changes. Although the UBCM was a significant policy actor in both the 1995 and 2002-3 policy communities, their influence was minimal with respect to obtaining local government autonomy that approaches home rule.

### **Macro-Political Changes and Political Maneuvering**

Changes to policy communities can be caused by other macro-political variables such as changing political circumstances and partisan political maneuvering. Compared to the 1990's, the financial positions of the provincial and federal governments had improved substantially by 2003. The UBCM agenda for reform of 1991 was a reaction to service downloading of provincial governments. In 2001, the new Liberal government promised not to download additional services to local governments in their "New Era" election platform. Although no direct downloading to local governments took place in the early years of the Liberals, provincial core ministry reviews had the effect of reducing certain public services that in turn put pressure on local governments to operate similar services. This reduced the urgency to solve local government's policy problems. Some policy scholars suggest a precondition for substantial policy change is the need for a broad consensus within the policy network or sub-government that the policy problem is severe.<sup>195</sup> The redefinition of local government's problems is one explanation of why Bill 14 was incremental.

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<sup>195</sup> Bhatia and Coleman, 736.

Political manoeuvring takes place on a daily basis in the provincial legislative arena. Opposition parties make statements, propose policies and generally engage the media and the government on the issues of the day. They also respond to the policy positions of the other parties in an attempt to win political advantage. These events change the dynamics of the policy network by emphasizing one issue over another. Other members of the policy network act similarly to influence the policymakers. The government defends its actions, proposes new policies and actions and engages the media on the daily issues. Much of this activity attracts media attention with the purpose of informing the voting public. The daily political agenda changes with the issues raised by the media. The government and their opposition manoeuvre to take political advantage and be perceived by the public to be worthy of their vote.

Political maneuvering played a part in the actions of both the NDP and Liberal governments regarding Bill M222 and Bill 14. For example, the development and tabling of Bill M222 could have numerous partisan explanations. It appears that Bill M222 was a hasty and skeletal approach to local government legislative reform.<sup>196</sup> This is partly due to the adversarial environment in which the Liberal opposition party found itself within a government dominated policy network; their limited policy resources; and the small and non-pluralistic attributes of the policy actors developing Bill M222.

There is also evidence that the Liberal opposition was concerned in 1995 that the NDP government was improving their relationship with local governments through the *Protocol of Recognition* and developed Bill M222 as a response.<sup>197</sup> The intention of Bill M222 was to solidify the Liberals political support with local

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<sup>196</sup> Interview #2.

<sup>197</sup> Interview #2.

governments, especially given Gordon Campbell's long history of support for additional local government autonomy. On the other hand, the NDP government may have supported the *Protocol of Recognition* to offset the negativity generated by their cuts to local government grants. The NDP were likely aware of Gordon Campbell's affinity with local governments and tried to undermine that support by building a better relationship with local governments.

Leadership in the policy arena is an important method of attracting political support. Local elected officials are not homogenous in their support of either of the two major parties. Indeed, civic leaders may be supporters of either party.<sup>198</sup> These constituencies need positive policy examples to proselytize for their party of choice. The policy issues of importance to most local government elected officials included the manner and extent of local government's authority and their ability to solve community problems locally.

Opposition parties are also free to act in a less accountable manner when they propose legislation because there is virtually no chance of the legislation succeeding without government support.<sup>199</sup> Election planning may also have played a role in the timing of Bill M222. An election call was expected in 1995, therefore the opposition needed to present their best policy proposals as election marketing.

To describe political maneuvering and attribute causality is difficult given that most evidence is not transparent except to the internal government and opposition policy actors. These factors cannot act alone to affect change but can influence the policymakers and their policy strategies over time. The reduction in the perceived severity of local government's policy problem likely did have a large

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<sup>198</sup> Interview #5.

<sup>199</sup> Bish and Clemens, 10.

effect in reducing the amount of local government autonomy in Bill 14. This change in the problem reduced the government's incentive to grant more autonomy and allowed the voices for less autonomy to have more influence.

With respect to the efficacy of each factor's political influence, the Ministry of Communities, Aboriginal and Women's Services did not need help from other sources of influence to reduce local government autonomy. It acted independently to remove home rule from Bill 14 and controlled the process of Bill 14's policy development. The Community Charter Business Coalition acted within the local government policy community to affect changes in Bill 14 that benefited their interests. The evidence suggests that the Coalition also had substantial influence on Bill 14. The UBCM had little influence in developing the local autonomy in Bill 14 that reflected the earlier home rule in Bill M222. The changes to the policy problem (provincial downloading) and the larger macro-political changes to the policy environment had substantial influence on the policymakers. Political maneuvering may have had a high level of influence on the policy makers. All these factors, except the UBCM, were effective in influencing the policymakers and could have acted independently to exercise that influence.

## **Chapter Six: Conclusion**

In British Columbia during the 1990s, local governments attempted to obtain provincially legislated home rule. In 1995 a private member's Bill M222 entitled "Community Charter" failed to pass the provincial legislature. This bill included home rule for local governments. In 2004 the British Columbia legislature enacted Bill 14 also entitled "Community Charter". Bill 14 did not include home rule; however, it did include incremental improvements to local government autonomy. The purpose of this thesis is to answer the question: what factors explain the changes from Bill M222-1995 to Bill 14-2004? The factors under examination include changes in the policy network membership, the relative political influence of certain policy actors, contextual change to the policy environment, and changes to the nature of the policy problem. In order to determine the significance of these factors, the study examined several related questions: what effect does moving from opposition to government have on policy change? Can changes in the policy network and policy sub-system explain these policy changes? Moreover, can this case study generalize explanations for policy change when parties move from opposition to government? These questions speak to the very heart of our understanding of policymaking, the appropriate exercising of political power and its ultimate impact on policy outcomes.

In the course of this case study numerous independent variables were investigated to determine their influence on the dependent variables (Bills M222 and 14). Many of the attributes of the two dependent variables are similar. Both were called "Community Charter", both were advocated by the same individuals

and political party and both proposed to accomplish more autonomy for local governments.

The factors that explain the changes to these two bills are the inclusion of two important and influential policy actors into the policy network, one to the sub-government and the other to the larger policy network. The Ministry of Community, Aboriginal and Women's Services joined the policy community through the election of the Liberal Party in 2001. Until then the Liberal opposition policy subset excluded the Ministry for partisan reasons. Evidence indicates that the Ministry held views, ideas and norms that were conservative regarding radical policy change. The Ministry was also in a conflict of interest regarding Bill M222's proposal for more local autonomy. The Ministry's inclusion in the policy community in 2001 influenced the policymakers and reduced local government's autonomy in Bill 14.

The province's consultative policy process attracted numerous business groups and associations into the network resulting from the public presentation of the draft community charter in May 2002. These groups were lead by the Community Charter Business Coalition, a coalition with a broad and encompassing business membership, including organizations such as the British Columbia Chambers of Commerce, Business Council of British Columbia, British Columbia Construction Association, Retail Council of Canada and others. Evidence indicates that this group had substantial influence on the policy makers and reduced local government autonomy particularly on matters of business self-interest. These groups were transparent with their positions and policy outcomes making the evidence clear regarding their influence on the policymakers.

Other explanatory factors include macro-political circumstances and the severity of the policy problem. In 1995, the province's financial circumstances were difficult resulting in substantial budget deficits. The provincial government reduced grants to municipalities and downloaded service responsibilities as a result of its financial position. This caused a number of challenges for local governments and generated a call for more autonomy to help manage these challenges. Local governments saw the policy problem as severe. In 2001, the new Liberal government promised not to download additional services to local governments in their "New Era" election platform. The economic outlook had also improved causing less stress on the provincial government. The macro-political circumstances had changed as the general economy started to improve. The policy problem had also changed. The problem of provincial downloading had abated and the drivers for these provincial actions had lessened. Some members of the policy network saw the policy problem as less severe than in 1995. This lessened the likelihood of substantial or radical policy change. These two factors, macro-political change and the changing perception of the severity of the policy problem worked to reduce local autonomy in Bill 14.

Institutional arrangements have influence on policy outcomes. In this case study a number of these arrangements changed in the course of the nine years under study. The most significant change was the Liberal party's move from opposition to government in 2001. In 1995, the party was in opposition when they presented Bill M222 for legislative consideration. The same individuals that championed that bill became the government decision makers in 2001, notably Gordon Campbell and Ted Nebbeling. Throughout those nine years, the Liberals made the same rhetorical statements regarding the need for more local

government autonomy. The 1996 Liberal's New Era election platform stated that a Liberal government would "[p]ass a Community Charter to outlaw provincial government 'offloading' of costs onto municipal government, and to give local governments greater autonomy and better planning tools to reduce pressure on property tax."<sup>200</sup> The advent of political power changed the approach the Liberals took regarding local autonomy. This factored into the reason local government autonomy was eroded in Bill 14.

Political manoeuvring takes place daily in the provincial legislative arena. Opposition parties make statements, propose policies and generally engage the media and the government on the issues of the day. Other members of the policy network also act to influence the policymakers. The government defends its actions, proposes new policies and actions and engages the media. Much of this activity attracts media attention with the purpose of informing the voting public. The government and the opposition manoeuvred to take political advantage and be perceived by the public to be worthy of their vote.

Bill M222 was presented to the legislature under the same political manoeuvring. The 1996 election was due to be called in 1995, therefore the opposition Liberals wanted to present publicly their intentions if they were in government.<sup>201</sup> Evidence also suggests that the presentation of Bill M222 was a reaction to the NDP's offer to recognize local governments as an order of government, which they did in 1996 through the *Protocol of Recognition and Bill* 31. Discussions between the government and UBCM were ongoing throughout 1995 on this matter. The NDP government may have been engaging in similar

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<sup>200</sup> New Era Document, (accessed 9/14/08).

<sup>201</sup> This was prior to the "New Era Document". Prior to fixed election dates, provincial governments had up to five years to call an election. It was, however, traditional to expect an election call after a government was in office for four years.



political manoeuvring by offering the *Protocol of Recognition* in the first place, recognizing that Gordon Campbell was a respected member of the local government policy network. Conjecture could be endless. The evidence collected supports the first contention and for the purpose of this thesis confirms that political manoeuvring can influence policymakers. In this case, the Liberal opposition “trumped” the government’s initiative for a *Protocol of Recognition* with the presentation of Bill M222. This leads to us to question the seriousness of Bill M222’s intentions. Regardless, the thesis concludes that political manoeuvring was an influential factor on the final policy outcome.

Numerous public policy approaches were used to understand the policy influences in the course of this case study. The policy communities and networks approach was used to determine what happened in the local government policy community in 1995 (Bill M222) and again in 2002-3 (Bill 14). The evidence indicated that two groups not present in 1995 community were very influential in 2002. These are the Ministry of Community, Aboriginal and Women’s Services and the Community Charter Business Coalition. Through the investigation of each of these group’s ideas, norms and values it was determined that they did not support additional local government autonomy. Bureaucratic theory suggests the Ministry supported reduced local government autonomy because it needed to protect its budget and power. The business coalition favoured provincial control over local governments, thereby allowing less local regulation over business and protecting its self interest.

In determining the reason why home rule did not survive in Bill 14, the policy discourse and policy frame approach was used indicating that the severity of the policy problem had changed with the passage of time. The transformative

discourse instituted in 1991 by the UBCM was less urgent by 2002. An augmentative discourse resulted and supported the status quo or the “dominant policy frame”. The macro-political circumstances had changed and the Liberals suggested an alternative solution to the policy problem of provincial downloading through a prohibition against the practice.

Policy discourse and institutionalist theory used by Bhatia and Coleman suggests that the stronger the pluralistic interest groups are the less likelihood of substantial policy change.<sup>202</sup> In this case study as the policy process became more pluralistic the discourse became more augmentative, a development that supports this conclusion.

The literature was reviewed on the matter of policy change. Since this case study does not represent a radical policy change but only incremental change, the literature was helpful in determining why radical change did not take place. The transformative discourse for more radical local autonomy could not sustain itself over time given the powerful influences against such changes.

One aspect of this case study that is not widely reported in other studies is the influence factor of partisan political manoeuvring on policymaking. Policymaking is usually driven by a particular policy problem. However, there may be tactical political advantages in the timing, presentation and content of any given policy. This was the case of Bill M222. When studying policy changes it may be necessary to investigate the timing and content of a policy for any aspect of partisan political manoeuvring before determining a policy's influences.

Given the findings of this thesis, further case study research to determine if there is a demonstrated correlation between policy change and the

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<sup>202</sup> Bhatia and Coleman, 715-739

characteristics of a policy community would add to our understanding of policymaking. In this case study, the possibility for policy change was reduced as the process became more pluralistic. As our society becomes more engaged in governance this tendency towards augmentative discourse may reduce our ability to enact changes. This possibility may have far reaching implications for policy development and society as a whole.

Access to provincial information (cabinet briefing documents) would result in a better understanding of the internal provincial policy processes and help clarify how internal provincial policy is developed. Access may also allow the discovery of how and why home rule disappeared in the first iteration of Bill 14.

This thesis adds to our understanding of public policy development. The case study is a particular set of circumstances regarding the important issue of local autonomy. It outlines the influences that were present in the development of Bills M222 and 14 and uses the policy communities and networks approach to investigate these influences. In the future, this study and others like it will allow citizens to better understand how and why government policy choices are made.

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