CHAPTER II

THE DEVELOPMENT OF LOCAL GOVERNMENT IN NEW BRUNSWICK

I. *Introduction*

1. At present New Brunswick is completely organized for municipal purposes into fifteen counties, six cities, twenty-one towns, one village, ten commissions and approximately seventy local improvement districts. (Not all of the local improvement districts actually function. Between ten and twenty can be classified as "dormant"; they are not active yet have never been formally disbanded.) In addition, there are for educational purposes five city school boards, sixteen town school boards and fourteen county school boards. The county finance units cover the operations of about 350 rural school districts. However, the rural districts of Restigouche County continue to operate independently. Among the urban municipalities, the City of Lancaster has no city school board, while St. George, St. Leonard, Rothesay, Shippegan and Caraquet have no town school boards. The schools in these communities come under county school finance boards.

2. While the number of school boards has declined sharply in recent years, there were still 422 such units operating in 1962, giving the province a total of 547 local taxing and tax-supported authorities, or one for every 1093 persons.

3. As is the case throughout Canada, the municipalities of New Brunswick are the creatures of the provincial government. The British North America Act of 1867 divided power between the federal government and the provinces, giving the provinces jurisdiction over what at the time were regarded as matters primarily of local concern. Each province was free to organize local governments and to delegate or assign to them any of its functions and revenue sources it wished.

4. The legal foundation of municipal authority in New Brunswick is extremely complex. The powers of the cities are contained in their charters which, apart from Saint John's royal charter, are special acts of incorporation. These are amended from time to time by the legislature, usually at the request of the cities. The same applies to ten of the towns. The remaining eleven towns operate under the Towns Act, although even these have some special legislation under which they operate as well. Port Elgin functions under the Villages Act and the fifteen counties come under the Counties Act. The Local Improvement Districts Act applies to the operations of communities incorporated as local improvement districts.

5. The Control of Muncipalities Act provides for the appointment of a Commissioner of Municipal Affairs, a post held by the Deputy Minister of Municipal Affairs, and defines his powers and duties concerning the reporting, auditing, budgeting, borrowing, and administration of the municipalities. The Act provides for the appointment by the Lieutenant-Governor in Council of municipal inspectors where such appointment is deemed necessary. They are responsible to the Commissioner, and have the duty to inquire into, and to some extent to regulate, municipal activities. The Act also provides for the appointment of a committee of supervisors to take charge of the affairs of a municipality in case of default or danger of default by a municipality.

Table 2: 1

LOCAL TAXING AND TAX-SUPPORTED AUTHORITIES, NEW BRUNSWICK

1958-1962

Authority	1958	1959	1960	1961	1962
Counties	15	15	15	15	15
Cities	6	6	6	6	6
Towns	20	20	20	20	21
Villages	1	1	1	1	1
Local Improvement Districts	54	61	62	58	58
Commissions	12	12	12	10	10
Sub-total	108	115	116	110	111
School Districts	703	629	589	562	422
Sub-total	811	744	705	672	533
County School Finance Boards	14	14	14	14	14
TOTAL	825	758	719	686	547

Sources: *Annual Reports of Municipal Statistics*, 1958-61; Information supplied by officials of the Departments of Municipal Affairs and Education.

6. In the ordinary sense of the term there is no general statute governing assessing and taxing practices by New Brunswick municipalities. The Municipal Tax Act applies only in so far as its provisions are not varied by numerous special assessment and taxation acts. In practice the Municipal Tax Act has effect in the counties, and in conjunction with the Towns Act and the Villages Act in some of the towns and in the village. The cities and the remaining towns have special acts of their own. The situation is further complicated by numerous tax agreements between municipalities and particular business enterprises. By a recent amendment to the Municipal Tax Act the Department of Municipal Affairs has been given some supervisory authority over local assessors.

7. The Municipal Debentures Act and more recently the Municipal Capital Borrowing Act, which apply to all municipal units, regulate the procedure for bond issues. The Municipal Debentures Act requires the approval of the Commissioner of Municipal Affairs for the investment of funds by municipalities, which must be in accordance with the provisions of the Trustees Act. Certain important functions required of or permitted to municipalities are contained in special statutes such as the Community Planning Act, the Municipal Employees Pension Act, the County Schools Finance Act, the Water Act, the Health Act and the Social Assistance Act. A similar complex body of legislation exists for the operation of the province's 422 school boards.

8. The excellent historical survey comprising the remainder of this chapter is part of a longer paper on the province's municipal institutions prepared by Professor Hugh Whalen of the Department of Economics and Political Science at the University of New Brunswick. Although Professor Whalen undertook his study for the Department of Municipal Affairs and worked independently of the Commission, he and the Department have kindly consented to our making use of it here. His research into the early development of municipal institutions in New Brunswick is a necessary background for our subsequent discussion of present day problems.

II. *Trends of Incorporation*

9. The province of New Brunswick was created in 1784, largely as a result of the influx of Loyalists at the end of the American Revolution. In 1785 Saint John was incorporated by royal charter and thus has the distinction of being Canada's oldest incorporated city. After 1785 no further incorporations were authorized in New Brunswick until 1848, when Fredericton received its charter by special act of the Legislative Assembly. A few years later, upon petition of local ratepayers and subject to local agreement, the Legislative Assembly authorized the incorporation of counties with elected councils. Under the permissive legislation of 1851 and its subsequent amendments, four counties ultimately availed themselves of corporate status: Carleton (1852), York (1855), Sunbury (1856), and Victoria (1874). Two additional counties, Northumberland and Gloucester, were incorporated by special acts of the Legislative Assembly in 1875. Finally, under the provisions of the counties incorporation act, 1877, all units of rural local government, including the nine hitherto unincorporated counties, were established as corporate bodies with elected councils.

10. While steps were taken to provide for the mandatory incorporation of rural local authorities, many urban communities in the province also sought corporate status. By 1896, nine towns had come into being by special legislation. In 1855 Moncton was incorporated as a town, but its act of incorporation was repealed in 1862, apparently because the population was too small to meet the expenditures associated with incorporation. In 1875, however, Moncton was again incorporated as a town and continued in that status until 1890 when it became a city. The eight remaining towns incorporated by special legislation included: Woodstock (1856), St. Stephen (1871), Portland (1871), Milltown (1873), Marysville (1886), Campbellton (1888), Grand Falls (1890), and Chatham (1896). Portland, which ultimately was accorded city status, amalgamated with Saint John in 1889. The town of Upper Mills was established in 1874, but the act of incorporation was repealed in 1896.

11. Since all such incorporations were by special acts of the Legislative Assembly, urban incorporation during this period involved considerable expense. In addition, there was little uniformity in the structure, procedures and powers of early urban municipalities. Urban local government in New Brunswick outside of cities was rationalized to some extent in 1896 when a towns incorporation act was enacted by the Legislative Assembly. This public measure and it subsequent amendments established the general design of local government in New Brunswick's non-city urban communities. Between 1899 and 1920 twelve towns were incorporated by proclamation under the act: Newcastle (1899), Sackville (1903), Shediac (1903), St. Andrews (1903), Sussex (1904), St. George (1904), Edmundston (1905), Dalhousie (1905), Bathurst (1912), Sunny Brae (1915), Hartland (1918), and St. Leonard (1920).

12. In order to accommodate communities too small for incorporation under the Towns Act, the Legislative Assembly in 1920 enacted the

Villages Act. This Act permitted incorporation as villages by communities with a population of at least 300. The communities of Shippegan (1947), Dieppe (1946), Rothesay (1921), and Port Elgin (1922) were incorporated under the Villages Act, but the first three, Shippegan (1958), Dieppe (1951) and Rothesay (1956) together with the new town of Oromocto (1955), have acquired town status by special legislation. Although not technically incorporated by proclamation under the Towns Act, these latter units by and large are subject to the provisions of that Act. Port Elgin remains New Brunswick's only incorporated village.

13. Several New Brunswick towns in recent years have acquired city status by special legislation: Edrnundston and Lancaster (1952), and Campbellton (1958). The town of Caraquet (1961) was recently incorporated, and the town of Bathurst has taken steps to acquire city status. The growing popularity of city and town status is at least in part accounted for by the more favourable subsidies which these types of municipalities now receive from the provincial government.

14. Additional legislation has permitted some communities to provide limited municipal services as desired without obtaining town or village incorporation. Local commissions, established by special Iegislation early in the present century, include Albert Fire and Water, Dorchester Fire and Light, McAdam Water and Sewage, and Perth Fire and Water. In addition, several communities have taken advantage of provisions in the Electric Power Act enabling incorporation for street lighting:: Hampton Hydro, Hillsborough Hydro, and Chipman Hydro, for example. Finally, the Local Improvement Districts Act of 1945 facilitated incorporation for limited municipal purposes.

III. *First Period: Municipal Government by Quarter Sessions*

15. The development of municipal institutions in New Brunswick must be viewed in relation to British and American influences, to early municipal practice in Upper and Lower Canada before Confederation, and to the province's political evolution. From the founding of the province in 1784 through the enactment of the Counties Incorporation Act, 1877, for over 90 years that is to say, local self-government as we know it today was not practiced in most communities.

16. During these years, however, 15 territorial counties were brought into being, together with their respective original parish subdivisions. Eight unincorporated counties were established by legislation in 1786: Charlotte, Kings, Northumberland, Queens, Saint John, Sunbury, Westmorland and York. In 1827 Kent and Gloucester were established and in 1832 Carleton came into being. In 1838 Restigouche was created, followed by Albert in 1845, Victoria in 1850, and Madawaska in 1873. The seven units established after 1786 comprised territory from the eight original counties. (It must be emphasized that these dates refer to the actual creation of the several counties as physical and administrative units; they must on no account be confused with the dates on which counties acquired legal status as bodies corporate.)

17. Local government in New Brunswick during this period was patterned on a system which had developed in England over many centuries. The English system vested local power and authority in the hands of crown-appointed parish magistrates or justices of the peace who normally assembled once or twice a year in county quarter sessions to deal with legal cases but also to appoint parish and county officials and to supervise local administration. Because they held their appointment during the pleasure of the crown, these local officers were technically subject to central direction and control; in practice, however, they enjoyed considerable freedom in local affairs. Apart from the work of the grand juries, there was very little democratic participation in local government.

18. The English system of quarter sessions was transplated to North America, where it took root particularly in the southern colonies such as Virginia. But in the northern colonies, especially in Massachusetts, a new system was invented. The New England township was much smaller in area than the traditional English administrative county and it evolved a highly democratic structure of local authority. Whereas the English model vested local control mainly in a small number of prominent functionaries who were commissioned as magistrates, the New England system, by contrast, placed much power and the right to make appointments in the hands of a local assembly or "town-meeting" employing the principle of majority assent by the citizens and ratepayers.

19. Before the American revolution some of Nova Scotia's immigrants from New England brought with them the institutions of local self-determination, including the township, town-meeting techniques, and the practice of electing their own local officials. After the revolution, however, British officials objected to using the methods of New England in the colonies remaining under British control.[1] In the years after 1783, therefore, the Loyalist settlers of Nova Scotia and New Brunswick did not establish democratic local institutions.

20. The Loyalists who migrated to Upper Canada had greater success in establishing local self-government. Within a few years of settlement they secured the right to operate a system

of parish and township meetings for the purpose of electing certain local officials; in 1816 they secured the right to elect local school trustees. Rudimentary town incorporations were undertaken in Upper Canada between 1832 and 1834. During this period Brockville, Hamilton, Cornwall, Port Hope, Prescott and Belleville established boards of police, locally elected by ratepayers, who exercised certain powers formerly held by magistrates in quarter sessions. Shortly thereafter cities and towns were incorporated with broader areas of independence: Toronto (1834); Kingston (1838); London, Brantford and Bytown, now Ottawa (1847). In Lower Canada experimental incorporation was attempted in Montreal and Quebec before 1836; these cities received permanent charters in 1840. Between 1840 and 1849 a series of reforms resulted in the dissolution of municipal government by quarter sessions in Upper Canada. A two-tier system of large counties and smaller townships was eventually adopted for rural authority, while city, town and village status was provided for urban centres. Essentially the same system applied throughout Lower Canada by 1855.

21. Municipal progress in the Maritimes during these years was slow. A few towns and cities were incorporated by special legislation: Halifax (1841); Fredericton (1848); Moncton, Charlottetown and Sydney (1855). Notwithstanding some early rural incorporations under permissive legislation, local government by quarter sessions remained entrenched in the Maritimes until the enactment of counties incorporation acts in New Brunswick and Nova Scotia in 1877 and 1879.

22. Before the constitutional reforms associated with responsible government, political power in New Brunswick was formally centralized in the hands of an official elite composed of those who surrounded the Lieutenant-Governor. Even before the winning of responsible government, however, the official office-holding group could never completely dominate the public affairs of the colony. From the beginning, the Legislative Assembly was a focal point for the expression of local opinion, an instrument for the enactment of measures and the voting of public money of direct benefit to the local communities. Local magnates dominated the Assembly and sometimes controlled the bench of magistrates in their respective counties. Prominent assemblymen were frequently magistrates themselves or they possessed, in practice, the right to nominate the local justices. The Assembly, moreover, delegated virtually no law-making functions to the quarter sessions. What today is accomplished by municipal by-law through power delegated to municipal councils, was in the early days very much the prerogative of the Legislative Assembly. The early statutes of New Brunswick were cluttered with special acts permitting local communities to undertake works and provide services. Not merely did the performance of such services require legislative authorization; in addition the Lieutenant-Governor in Council appointed a great many of the officials responsible for the execution of community tasks: local commissioners of sewers (1786); supervisors of great roads (1822); commissioners for the almshouse in Fredericton (1822); grammar school trustees (1829); firewards in Fredericton (1824); Newcastle and Chatham (1828), St. Stephen (1833); local boards of health (1833); marine hospital trustees (1822); commissioners to collect dues for disabled seamen (1826). Even the appointment of lowly parish officers was sometimes the subject of provincial legislation or of central executive action.

23. In the pioneer conditions then prevailing, the quality of the local magistracy did not always inspire respect. From the earliest days, writes Professor W. S. MacNutt, "the difficulty of finding a sufficiently large number of persons capable of filling these important offices had been a source of anxiety to the provincial government."[2] When reviewing the commission of the peace each year, the government was usually compelled to dispense with some justices. Avarice or partisanship were frequently given as the reasons for dismissal. On one occasion, the entire bench of magistrates in Gloucester county was allegedly composed of drunkards and embezzlers. The justices in the same county deserted their posts at quarter sessions in January, 1831. In August, 1835, during a trip through Westmorland county, Lieutenant-Governor Sir Archibald Campbell was arrested, charged with breaking the law against travelling on Sunday, and fined six pounds by a magistrate "without coat and neckcloth". In the years before the reform of municipal institutions, complaints against the magistrates increased in number and replacements became more frequent. In many instances, however, suitable appointees could not be found for vacancies in the parishes.

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[1] There is ample evidence that ". . . British authorities remembered the strong influence that the town meetings of Boston had had in encouraging a spirit of rebellion. They were therefore determined to stifle the creation of such doubtful institutions in the colonies that had remained loyal." Rowat, D. C., *Your Local Government,* p. 7

[2] MacNutt, W. S., *New Brunswick: A History: 1784-1867,* pp. 88-89; also p. 300: "Extensive parishes still had no magistrates, but often they were better off without them . . ."

24. Within the framework of quarter sessions, the popular element in local government was supposedly the grand jury, a body selected periodically in each county from among the lesser land-owning and other groups. The jury, however, possessed a purely advisory function; the justices retained full executive power in local affairs, subject to the overriding direction of the central executive. For many years, juries in fact could decide nothing: at most they could present petitions of local grievances to the justices in session; they could prepare annual estimates of the expenditures necessary for poor relief, the maintenance of local institutions, and the payment of local officials; and, finally, they could sometimes offer the names of two persons for every county and parish appointment to be made by the magistrates in session.

25. In New Brunswick, as indeed in most other provinces, the role of the jury in local government varied from community to community and from time to time. In general, New Brunswick's juries did not participate actively in local administration; for example, they did not normally have the privilege of nominating parish officers. While in 1787 legislation providing for local assessment required that justices in general sessions could order an assessment only on the presentment of the grand jury, the act of 1831 relating to local assessment made no mention of the jury. Grand juries in New Brunswick were composed of persons resident in the community for at least three months, who possessed freehold in the county of the value of ten pounds or personal property of the value of at least one hundred pounds. In each year the sheriff of the county, an appointee of the crown, was required to compile a list of all persons eligible to serve on the grand jury.

26. The power of magistrates in session was curtailed to some extent in 1829 and again in 1833. Legislation in the former year provided for the annual publication of county accounts in some local newspaper; it required the opening of accounts to the public in the offices of clerks of the peace in the several counties; and it stipulated that no justice or clerk of the peace could be appointed a county treasurer. Four years later, justices were required by law to lay county accounts before the grand juries and the latter were empowered "to make such presentment thereupon as they see fit." Despite these limitations, however, the local magistrates in general sessions retained a large measure of control in local affairs.

27. Justices appointed and defined the duties of the following parish officers; overseers of the poor; parish clerk; assessors; constables; clerk of the market; fenceviewers; pound keepers; hogreaves; and sundry other officers such as surveyors and examiners of staple commodities. In addition, magistrates managed the so-called statute labour in the county, appointing the commissioners of by-roads who expended the money appropriated by the provincial legislature for local roads and bridges. In 1805 the justices were empowered to appoint parish school trustees. Magistrates ordered all assessments for jails, lockups, workhouses, almshouses and all levies for parish police purposes; they also supervised all assessments levied on parishes by acts of the Legislative Assembly and for a period received and audited county funds and controlled expenditures. Justices regulated ferries, streets, public wharves, bridges, timber driving, booms, parish commons, marshes, school reserves and river banks. In addition, they enacted regulations for the prevention of vice, disorders, the profanation of the Sabbath, the nuisances and noises in public places; they regulated the sale of liquor, circuses, exhibitions, the running loose of animals and other activities. Finally, local magistrates were responsible for the enforcement of all provincial laws and regulations relating to public health, management of the forests and crown lands, navigation, fisheries, trunk highways, the militia and other matters of general concern.

28. In spite of the formal concentration of authority in the hands of magistrates, this system appeared tolerable to most citizens. While there were frequent complaints against particular justices, and while opposition to the decisions of the magistrates was sometimes expressed in local petitions presented to the Legislative Assembly, there never was an outright repudiation of the system by the public at large. The few instances where determined opposition to the magistrates actually developed were exceptional cases due largely to personal and factional rivalries of local intransigent magnates. For example, when Wilford Fisher, the "Emperor of Grand Manan", maintained his "Ruritanian dictatorship" through the bench of magistrates he encountered strong opposition from a local group led by the Church of England rector. The Anglican church of the Island was soon destroyed by fire, but the opposition retaliated by organizing a mutiny in the local militia. Another case in point was the struggle between Hugh Munro and William End for control of local affairs in Gloucester. [3]

29. Although the history of New Brunswick's quarter sessions cannot be written in detail, available evidence suggests that as a rule the magistrate possessed neither the qualities of in-

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[3] These and other instances are cited in MacNutt, *New Brunswick: A History,* pp. 217-218 and p. 276.

tellect nor that knowledge of the law to make possible the development of sound local institutions of government. Frequently, the justices were substantial land owners, but they were seldom financially independent. Records indicate that they charged exorbitant fees for their services, and that many were unable to distinguish between their private advantage and the public interest. In view of the social and economic conditions then prevailing, however, it may be inferred that democratic, efficient and progressive organs of local government were probably not generally regarded as necessary. Local rates and levies were not widely used; the local services demanded by the inhabitants were few and rudimentary. For many years most counties had no jails and there was great difficulty in securing performance of statute labour by the population. From the outset, writes Professor MacNutt, there seems to have been "little confidence in local boards of justices and the parish officers whom they appointed."[4]

30. In recent years some writers have presented mistaken views on the role of Loyalists in relation to the development of New Brunswick's municipal institutions. J. C. Crosbie, for example, has asserted that,

> In the history of the struggle for local self-government, the importance of the United Empire Loyalists in the provinces of Nova Scotia (and) New Brunswick . . . cannot be over-estimated. Thousands of Loyalists settled in these provinces and, because of their experience in the New England town-meeting type of government demanded and worked for popular control of municipal government.'

It has been shown, however, that the facts of municipal development in New Brunswick cannot be made to sustain this assertion. Indeed, so far from promoting popular control of local institutions, the Loyalist leaders actively discouraged all tendencies toward town-meeting techniques, and even on one occasion prohibited, by statute, use of the term "township". In an attempt to explain the relatively late adoption of municipal incorporation in the Maritime Provinces, on the other hand, some writers suggest that most of the Loyalists were unfamiliar with the township system because they came largely from the southern colonies.[6] This hypothesis is similarly defective, so far at least as New Brunswick is concerned, since more than seventy per cent of the Loyalists who migrated to this province originated in New York, New Jersey and Pennsylvania. Approximately twenty per cent came from New England, while the southern colonies contributed a mere seven per cent.

IV. *Second Period: The Creation of Municipal Corporations*

31. The decade beginning in 1840 was a period of change and uncertainty in New Brunswick. Britain had embarked upon a programme of free trade which would, in the opinion of many, bring an end to the province's advantage in the timber trade. Unemployment increased, emigration to Australia and New Zealand got under way, provincial revenues fell off, and violence erupted in many communities. There were no crusades on behalf of responsible government as there had been in the Canadas and in Nova Scotia, possibly because "family compacts" did not flourish in the rough timber democracy of the province. Yet there were grave difficulties. Serious fires occurred in Saint John and Portland. Bondholders of the City of Saint John took action in the courts to seize the corporation's assets. Both the money supply and the level of prices had fallen disastrously, yet the public fiscal resources of the province, having contracted sharply, could not ease the situation. It was in this setting that the Lieutenant-Governor, Sir William Colebrooke, attempted to persuade the Legislative Assembly to create municipal corporations. In his view, the government could not deal with urgent matters so long as the legislature concerned itself mainly with local issues and voting money to be spent in the constituencies. This practice had begun very early in the history of the province and had served to obscure the advantages of municipal incorporation. Indeed, municipal corporations with their direct taxing powers were hardly welcome institutions in communities where most of the funds necessary for local works could be had from the legislature's indirect levies such as customs, tariffs and crown timber revenues. From the standpoint of the provincial executive, however, the use of scarce provincial revenues for local purposes limited the resources available to meet economic and financial emergencies and the re-

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[4] MacNutt, *New Brunswicks A History,* p. 301. No "decent degree" of public order was established in Saint John during the early years. A police force worth the name was finally brought into being in 1847.

[5] Crosbie, J. C., "Local Government in Newfoundland," *Canadian Journal of Economics and Political Science,* August, 1956, p. 334.

[6] Cf. Crawford, K. G., *Canadian Municipal Government,* p.39; also Rowat, *Your Local Government,* p.7.

quirements of essential province-wide programmes.

32. This first attempt to create municipal corporations ended in failure. The measure proposed by the Lieutenant-Governor, which would have transformed all counties into rural municipal corporations, passed the Legislative Assembly in 1842 with the casting vote of the speaker, but failed to secure a majority in the Legislative Council. The Lieutenant-Governor also failed in his attempt to have individual members of the legislature surrender their right to initiate money bills .

33. The wind of municipal reform, however weak and uncertain, did not cease blowing. In fact, it was strengthened with the arrival of Sir Edmund Head as Lieutenant-Governor. The creation of relatively independent municipal corporations, advocated in the Durham Report and put into effect by Lord Sydenham in Canada, was seen as the only alternative to the traditional centralized control over local affairs exercised by members of the Legislative Assembly. Municipal incorporation, in short, was considered not merely a device to foster local initiative and responsibility; it was also seen as a necessary condition for securing efficient government at the provincial level, by reducing the time consumed in the legislature on endless debates and squabbles over parish and county issues. In the absence of incorporation, the ability of assemblymen to get funds for local objects "by which the people are saved from local rates" was the principal criterion used to judge public men.[7] Deploring the prominence of the parish pump in provincial affairs, Colebrooke in 1845 had written to London: "In rural districts where lawyers are not returned to the Assembly, the persons elected are in many cases little conversant with subjects of legislation, but are swayed only by prospects of obtaining sums for their constituents for local purposes, roads and the like, to which the latter attach much importance."[8] Finally, there was the overriding factor of finance. By 1850, the provincial deficit had grown to some 107,000 pounds, whereas in 1837 when control of crown lands was vested in the legislature, there had been a surplus revenue of some 150,000 pounds. Municipal incorporation, which would introduce direct taxation for purely local purposes, clearly would have the effect of reducing demands on the provincial treasury.

34. Opposition to municipal incorporation came mainly, though by no means exclusively, from those who feared increased taxation. The debates in the Assembly on Colebrooke's proposal of 1842 elicited charges that incorporation would "encroach upon the liberties of the people." In the following year, an editorial in the New Brunswick Courier asserted that, had the municipal bill been enacted, "it would have cut loose that many-headed monster, Direct Taxation and its Myrmidon, the Tax-Gatherer, into the happy home of every poor man throughout the land." Another commentator, C. L. Hatheway, said: "When we look at the workings of municipal corporations in the United States; see their constant and continued elections and witness the ruinous effects of their numerous taxes, we see nothing desirable in their system, and feel much better content with our own."[9]

35. Fear of taxation was not the sole obstacle to municipal incorporation. Both assemblymen and magistrates had reason to oppose the establishment of independent local authorities. The former stood to lose a considerable local patronage in view of their ability to secure provincial funds for local purposes; the latter would be deprived of a substantial administrative competence and forced to restrict their activities to purely judicial functions in the inferior courts.

36. The first departure from the traditional system came not in the form of legislation requiring municipal incorporation, but rather in the form of an act passed in 1850 consolidating all previous legislation relating to local government in the counties and parishes, and severely limiting the power of the magistrates in quarter sessions. Here was an attempt, late in the day, to reform an antiquated and faltering system. While the justices retained their power to appoint such officers as county treasurer, auditor, and overseer of fisheries, they lost the right to appoint many parish officers. The new act provided for the election of such officers if requested by ratepayers of the parishes.[10] In addition, the act increased substantially the weight of the grand jury in the procedure of quarter sessions. Before ordering an assessment, for example, the magistrates were now required to place before the jury a detailed statement showing why such levy was

[7] MacNutt, W. S., "The Coming of Responsible Government to New Brunswick", *Canadian Historical Review,* June, 1952, p.120.

[8] Cited in Miller, J. L., unpublished M.A. thesis *A Study of New Brunswick Politics at the Beginning of the Era of Free Trade and Reciprocity.*

[9] Hatheway, C. L., *History of New Brunswick,* 1846, p.67.

[10] In fact, however, few local communities appear to have availed themselves of these elective procedures.

required. For the first time in the province's history it was stipulated that no assessment could be levied by the magistrates without the concurrence of the grand jury. The act finally required that an annual, full and detailed statement of county and parish accounts had to be laid before the jury, and the latter were empowered "to make such presentment thereupon" as they saw fit.[11]

37. These belated efforts to reform the old system did not deter the protagonists of the new municipal model. In 1851 the supporters of incorporation won at least a partial victory when, after a stormy debate, an act to provide for the establishment of municipalities was passed. In commenting on its enactment, G. E. Fenety said: "The measure was finally carried, but so mutilated and altered from the original that it was hard for its putative father to recognize his own offspring.[12] This law was permissive; it did not compel incorporation of counties. Upon the petition of at least 50 ratepayers in a county, the sheriff convened public meetings of householders and ratepayers in the various parishes. If two-thirds of those present and voting at such meetings favoured incorporation, an application for corporate status would then be entertained by the government; if the government approved, the county was incorporated by charter, under the great seal., not by special act of the legislature. Significant movements for incorporation developed in Charlotte, Northumberland, Carleton and Victoria counties, but in the event, only Carleton (1852), York (1855) and Sunbury (1856) took advantage of the act. (Victoria county had a special history worth noting. Originally it included the Madawaska settlement and was brought into being early in the 1840's mainly to thwart the territorial claims of Canada. The original act establishing the county, however, was disallowed in London. For some seven years -- virtually until a commission determined the boundary line between Canada and New Brunswick in 1850 -- this northern territory, with an estimated 4,000 inhabitants, was without local government institutions.) The necessary two-thirds majority was duly obtained in Victoria, but the petition requesting incorporation was rejected by the Legislative Assembly on the ground that the majority was obtained by intimidation at the hands of rowdies brought into the county by interested parties.[13] Finally, after nearly 20 years had elapsed, Victoria was incorporated by charter in 1874. Northumberland and Gloucester Counties were incorporated not by charters under the great seal but by virtue of special acts passed in 1875.

38. Despite the municipal act of 1851 and its subsequent amendments, it is clear that the vast majority of New Brunswickers remained indifferent to municipal incorporation. Apart from those who feared additional expense or who had a vested interest in the old system of quarter sessions, many felt that the permissive legislation defeated its own purpose. For one thing, the municipal councils to be established lacked authority. Every by-law enacted by newly incorporated counties had to be forwarded to the provincial secretary and was subject to disallowance by the Lieutenant-Governor in Council within thirty days. Secondly, a local franchise was imposed which virtually excluded most ratepayers. Finally, to quote the *Miramichi Gleaner:* "It (the law) is too complicated and the putting of it into operation attended with much unnecessary trouble."

39. The municipal act of 1851 was amended in 1854, 1856 and again in subsequent years. Some of the changes incorporated in the statute were designed to simplify incorporation procedures and to expand the power of' county councils. Then, in 1856, over the objections of the "county members" of the Legislative Assembly, who insisted on their "right" to control public expenditure in the constituencies, the Legislative Assembly by a vote of twenty to eighteen agreed, by resolution, to surrender control of financial initiation to the government. Some observerswere of the opinion that this long-sought constitutional change would speedily result in wholesale municipal incorporation. The speculations of one journalist on this point are of some interest.

> (Now that initiation has been surrendered) . . . we may speedily look for the introduction of Municipal Corporations, as the members being deprived to a certain extent of their patronage will have no motive to withhold it . . . and what will act as a greater stimulus to induce them to give their assent is that it will place the patronage of appointing persons to expend the Provincial Grants, which they have enjoyed, in the hands of their constituents instead of the Government, as would be the case were they simply to surrender initiation without the establish-

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[11] Eight years later, in 1858, the parish school act permitted but did not require communities to elect school boards. Such bodies were empowered to levy rates for local school purposes.

[12] Fenety, G. E., *Political Notes and Observations,* p.32

[13] MacNutt, *New Brunswick: A History,* p.313.

ment of municipalities in the different counties.[14]

But, in the event, this hypothesis proved incorrect. During the decade of the 1860's, in fact, popular interest in municipal incorporation waned.

40. The connection between provincial finances and municipal incorporation has already been indicated. This nexus appears to be the main reason why an interest in incorporation revived in the 1870's. In the years immediately following Confederation, provincial finances again became strained. In 1875 Northumberland and Gloucester counties were incorporated by special legislation. During that year a bill providing for compulsory incorporation was introduced in the Legislative Assembly but was defeated. In support of the bill all the old arguments were employed. Local rule by the justices in quarter sessions was described as unwieldy. It was also claimed that magistrates did not always attend the sessions, and that ratepayers had no assurance that their interests were safeguarded. Finally, in 1877, a general act requiring all counties to incorporate received majority assent in the legislature. As the *Saint John Daily News* commented: "The general establishment of the Municipal system in this province is not premature."

41. To the opponents of the Counties Incorporation Act the new system appeared as "a hideous invention to extort direct taxes from the people." At a meeting of residents of Kings county, held under the auspices of the Farmers' League at Hampton, the following proposition helped to sway the majority against incorporations: " . . . no argument against incorporation except taxes, taxes, taxes." Others, however, felt that municipal corporations were long overdue in New Brunswick, that they "were in accordance with the principles of responsible government", and that giving ratepayers control of the business of local government "makes them more capable to transact it." When introducing the measure in the Legislative Assembly the Attorney General observed that magistrates were prominent men in their communities who, as a rule, did not take a constant interest in the work of the quarter sessions, and that should they do so, the courts would become too cumbersome. It remained for an opposition member to appraise the government's interest in the issue: "The ulterior motive of this measure is to throw the burden of direct taxation, for the maintenance of roads and bridges, on the people."

42. With a few exceptions, rural municipal incorporation was thus not avidly sought by New Brunswick ratepayers. Public apathy and the natural conservatism of a rural people undoubtedly played a part, as did the vested interests of justices and assemblymen. Added to these considerations was the fact that reform of quarter sessions procedure in 1850 substantially reduced the weight of non-elective elements in local administration generally, introduced the practice of electing some parish officials, and permitted the old system to operate in a manner more consistent with the requirements of responsible, elective government. It seems clear that in the absence of financial stringency and the need to reduce provincial spending drastically during periods of business recession, most people in the province would have tolerated the older, more familiar, the "tried and true" system of county quarter sessions. For nearly four decades the leaders of democratic and progressive opinion, including Lieutenant-Governors, some of the members of successive governments and most journalists, championed the cause of incorporation and pointed to favourable financial consequence and the sturdy self-reliance of local corporations in the United Kingdom, the United States and the provinces of Quebec and Ontario. Opponents, on the other hand, underlined the reluctance to proceed with incorporation in Nova Scotia; their arguments against the use of elected councils included the assumed increased cost of transacting public business at the local level, the introduction of partisan considerations in council deliberations, and inefficiency in public expenditures, particularly on roads. In place of the county's two or more assemblymen, it was felt that a myriad of councillors would assert their claims to a share of the spoils, thus frittering away public funds in small amounts with no adequate return. Those supporting incorporation denied these alleged consequences and took refuge in the recollection that "if we are not able to operate the system we are not fit for self-government."[15]

V. Third Period: Local Self-Government

> 43. All the powers formerly vested in the Sessions of any county to make by-laws, impose rates, appoint officers or make regulations . . . shall be exercised by the council of such county, except only insofar as they may be altered by or be unconsistent with or repugnant to this Act; and whenever by an Act of the Legislature any power is vested in the Sessions, or in any committee, board or commission appointed by the sessions. the same shall be exercised by the council; and in reading any such Act the term "Sessions" shall mean county council, and the terms

[14] *The Miramichi Gleaner,* May 12, 1856.

> "Clerk of the Peace" and "Treasurer" . . . shall mean secretary-treasurer; and the whole and every part of such Acts and all provisions thereof, whether they relate to the Sessions, or to the county or parish officers, or to the duties, rights, liabilities or protection of county or parish officers . . . shall so interpreted, be applicable, except insofar as they are so altered, inconsistent or repugnant as aforesaid, to counties heretofore or hereby incorporated.

With these words the Counties Incorporation Act of 1877 transferred to elected municipal or county councils most of the legislative and executive authority formerly vested in the quarter sessions. Unlike the provisions of the permissive act of 1851, the municipal franchise was liberally extended to all male ratepayers who had attained the age of 21 and who possessed the necessary property and income qualifications. Again, unlike the act of 1851, which provided for the annual election of parish officers by local ratepayers, the act of 1877 gave county councils the power to appoint such officers. An exception of some historical importance relates to the limitation imposed on the Westmorland council's authority in this last respect: the dominantly French-speaking inhabitants of the parishes of Dorchester, Shediac and Moncton were empowered to elect their own assessors, overseers of the poor, and collectors of rates. Except in a legal sense this was hardly a concession; it merely continued what had in practice existed from the earliest years. Indeed, the Westmorland bench of magistrates had exempted the French-speaking parishes from most of the county rates. From the very foundation of the province, important local matters in these communities were dealt with by the Acadians who devised their own arrangements and levied their own parish rates.[16]

44. Another feature of the act which differed from the legislation of 1851 relates to municipal independence. The act of 1877 provided that by-laws enacted by councils would no longer be subject to disallowance by the provincial government. The new law merely stipulated that no county ordinance was valid if it conflicted with an existing statute of the legislature, a matter to be determined by judicial interpretation in the law courts. However, county officers could be directed to forward copies of council by-laws to the provincial authorities.

45. Officers to be appointed by the councils included the county secretary, treasurer (or secretary-treasurer), auditor, assessors, collectors of rates and other functionaries. Detailed provisions defining the power, qualifications, and conditions of appointment were set out, together with the necessary taxation, reporting and control procedures. Similar delegations of authority were made to councils regarding the appointment of parish officers such as overseers of the poor, parish clerks, constables, market clerks, assessors, collectors, and other inspectors and functionaries. These local appointments were not always avidly sought by the inhabitants, a fact indicated by a provision imposing a fine for refusal either to take the oath of office or to perform the duties specified.

46. With its subsequent amendments and consolidations the act of 1877 remains to this day the constitution of rural local government in New Brunswick. The parish was to be the basic unit for county electoral purposes. With exceptions that have grown more numerous over the years, two councillors were to be elected from each parish. County elections were held at various times of the year and councillors retained office for varying periods of time. Detailed electoral procedure was specified as were the qualifications required for both voters and councillors. The warden of the county was selected by the council from among the elected councillors. (The act of 1851 required separate and direct election of the warden by the county ratepayers at large.) No councillor was permitted to function as collector of taxes, or to transact business with either the county or its parishes. To be eligible for election as councillor in 1877 an inhabitant of the county had to own real estate to the value of $600. Twelve years later, individuals possessing a leasehold interest in county property to the value of $600 became eligible as councillors. By 1912, persons assessed to the value of at least $1,000 on personal property had become eligible to stand

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[15] There is some evidence that opposition to compulsory municipal incorporation was stronger in Nova Scotia than in New Brunswick. Before one year had elapsed after enactment of the counties incorporation act in the former province (1879), Yarmouth township petitioned for permission to revert to unincorporated status. The Nova Scotia legislature in 1883 and 1886 subsequently debated whether to return to a system of permissive incorporation. Government leaders in Nova Scotia, however were adamant regarding compulsory incorporation. In Premier Fielding's words: ". . . if we are not able to administer it we are not fit for self-government, but should have that wholesome form of despotism which is sometimes called the best of all governments." See Beck, J. M., *The Government of Nova Scotia,* p.303.

[16] MacNutt, *New Brunswick: A History,* p. 169.

for election. Over the years the franchise for rural municipal purposes had been steadily widened to include females and members of partnerships.

47. The first general legislation relating to towns in New Brunswick was not enacted until 1896. Prior to that date, however, Saint John (by royal charter) and the cities of Fredericton, Portland and Moncton, together with at least eleven separate towns, had been incorporated by special acts. It thus becomes necessary to stress the original diversity of New Brunswick's urban municipal system; a diversity of structure, powers and procedures that had grown substantially with the passage of years. Lack of coherence in the original design of urban municipalities may first be illustrated with reference to the charters of Saint John and Fredericton, after which attention will be directed to the provisions of the general towns act of 1896.

48. In the case of Saint John, power to make "laws, rights and ordinances" was vested in a common council composed of an appointed mayor together with elected aldermen and assistants. In addition to the mayor, the province originally appointed the city recorder, common clerk, sheriff and coroner. The practice of a non-elective mayoralty was continued until 1849, after which the mayor was chosen by the common council from among the elected aldermen. Four years later the charter was further amended to provide for direct election of the mayor by qualified city ratepayers. In its early years Saint John's charter severely restricted the power of the common council with respect both to local appointments (most of which were in the gift of the crown-appointed mayor or vested in the hands of the Lieutenant-Governor in Council), and to fiscal matters. The corporation, for example, was not at first empowered to levy taxation. By mid-point of the nineteenth century, however, most of these restrictions had disappeared and the common council had acquired many of the normal powers and functions of an autonomous municipal institution.

49. The charter of Fredericton similarly is illustrative of the tendency over time to assign greater independence and responsibility to locally elected urban municipal bodies. Fredericton's city council was composed of nine elected aldermen, one of whom was to be selected by the council each year to act as mayor. The Fredericton act was amended in 1851 to provide for the election of the mayor directly by qualified ratepayers of the city. Another noteworthy feature of the act was its restriction of the mayor's voting power. He was not empowered to vote on all questions before the council, but merely to exercise a casting vote in the event of a tie. Fredericton's city council was assigned the usual municipal authority respecting appointments and by-laws. The council could appoint a city clerk, assessors, auditors, treasurer, marshal, clerk of the market, constables, surveyors of roads and collectors of rates. The council's assessment powers extended to real and personal property, to income derived from any profession or trade, to the poll of inhabitants, to the sale of goods at public auction, and to the capital stock or other trading capital of banks insurance companies, or other trading units and joint-stock companies. An interesting amendment to the Fredericton act in 1859 provided that city assessors, formerly appointed by the council, thereafter would be elected by qualified city ratepayers. This practice applied for a number of years but was eventually abandoned.

50. After 15 separate incorporations had taken place, the need for some uniformity in urban municipal governments resulted in the enactment of the Town's Incorporation Act of 1896. This general measure provided a less expensive and cumbersome method of town incorporation in the case of communities with inhabitants in excess of one thousand. The Act established procedures to be followed in establishing town wards, electing mayors and aldermen, conducting town business, and appointing the required town officials. Municipal legislative and executive powers were assigned, their extent and limits defined, and the usual taxation, reporting and auditing procedures were specified.

51. In those towns governed by the general act, elections were to be held annually on the third Tuesday in April. Non-residents were given the franchise provided they possessed the necessary property and other qualifications. Towns incorporated by proclamation under the act originally elected a mayor and eight aldermen; the first elected council, however, was required immediately to divide the town into wards and in subsequent elections two aldermen from each ward were elected annually by the votes of qualified town ratepayers. Like the practice in county government, therefore, the size of town councils, except in the case of the first election, was not fixed by the act.

52. Some of the original contrasts between town and county arrangements may be observed here. Town mayors were elected annually by ratepayers; county wardens were selected by councils from among the elected councillors. Non-residents were accorded voting privileges in towns but not in the counties. Elections in town wards were fixed at a specific time on an annual basis; county elections were established at different times and the duration of councils was placed on either a biennial or a quadrennial basis. Until recently, the towns were accorded greater freedom regarding the dates and frequency of council meetings as compared with county units. Until very recently, again, town mayors and aldermen did not receive

remuneration, whereas county wardens and councillors under permissive legislation of 1896 were empowered to vote themselves $3.00 per diem during sessions of councils. Two years later, legislation authorized payment of travel allowances not in excess of $3.00 per diem. Finally, an important procedural contrast should be indicated: mayors do not vote on questions before councils, except in cases where it becomes necessary to break a tie with a casting vote; wardens on the other hand, vote on all questions and tie votes are considered to be negative determinations.

53. In Canadian municipal practice the structural and functional relationships of urban incorporated units with the rural municipalities in which they are situated had always been the source of grave difficulty particularly with respect to matters such as boundary adjustments and cost sharing for common local services. In the provinces of Quebec and Ontario a structural solution was provided with the adoption of a two-tier system of local government. Under this arrangement, large territorial counties were created to administer common services required by the basic rural incorporated townships and parishes and some of the urban communities located within their boundaries. In Nova Scotia, on the other hand, a complex procedure involving so-called joint expenditure boards was adopted.[17] In New Brunswick, with the exception of the city of Fredericton, all urban municipal units were given representation on the relevant county councils, usually but not always by *ex-officio* members whose voting privileges were restricted in some degree. The latter exceptions refer to the county representatives of the towns of Woodstock, Hartland, Newcastle, and Marysville, who are elected by town ratepayers in the usual way, at the same time and for the same duration as all other parish councillors, and who do not therefore hold *ex-officio* status on the Carleton, Northumberland and York county councils.

54. In the Saint John area, an even more thoroughgoing integration of urban and rural authority was achieved from the very beginning; for the city charter specified that the mayor, recorder and aldermen of Saint John were also and equally justices of the sessions for "the city and county" of Saint John. (This method of urban-rural integration was apparently suggested by the original charter of the City of New York on which the Saint John charter was modelled. Technically, the city representatives on the "municipal" council are *ex-officio* members, but their combined voting strength has always outnumbered that of the elected parish or ordinary members.[18]

55. The Counties Act of 1877 provided for urban representation on the county councils. Subsequent legislation in 1898 was intended to clarify the role of these urban *ex-officio* councillors in county council proceedings. In general, urban representatives were free to participate in all discussion and to vote on all questions relating to county appointments and affairs. They were prohibited from taking part in the appointment of parish officers, except in cases where the ordinary representatives or a majority of them, where there were more than two, failed to agree. These early restrictions on *ex-officio* councillors were reduced somewhat in 1912: after that year all councillors, including *ex-officio* representatives were required to appoint all parish officials whose duties in any way extended to the urban centre or centres in question.

56. The Towns Act specified that all powers formerly vested in a county council for "regulating any matter affecting solely the town" and for "directing the levying of any assessment for the payment of any debentures" chargeable only on the town ratepayers, were thereafter vested in the town. The county council, however, retained the power "to assess the district included in the town for the proportionate amount assessable on that district as a part of the parish in which it is" in order to obtain funds for such purpose as the retirement of debenture debt of the area outstanding at the time of incorporation, and for the normal county operations concerning the administration of justice and the maintenance of county gaol, court house, registry office and other buildings. If at the time of enactment of the towns act a county almshouse was functioning, the county was to continue such service on behalf of the town and urban taxpayers to be rated accordingly. For many years, in addition, counties had the power to assess towns within their borders for the purpose of the county school fund.

57. After 1903 all such levies were payable to the counties in strict accordance with the proportional relationship between aggregate assessed valuation of the town and that of the parish in which it was situated, as determined in decennial valuations. Parish assessors directed their requests to town officials; the latter collected the appropriate county levies along with the town rates.

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[17] Beck, *The Government of Nova Scotia,* p.304.

18 See Paragraphs 88 and 89 in Section VII below for further details regarding municipal structure in the Saint John metropolitan area.

VI. *Nineteenth Century Municipal Administration*

(a) *Introduction*

58. The structure of representative local government and administration outlined in the previous sections was designed to foster self-reliance and independence on the part of communities with differing traditions and needs in an age of slow-paced agrarian development. For the most part, New Brunswick's urban centres were small and scattered. Patterns of land settlement and the territorial extent of counties were determined, among other things, by rivers, trunk roads and the requirements of horse-drawn transportation. Communication among provincial inhabitants was improved to some extent later in the nineteenth century by railways. The dominant economic activity during this period was agriculture, supplemented by seasonal forestry and fishery activity, and., in some localities, by shipping and shipbuilding and by rudimentary handicraft and manufacturing operations. There were virtually no large population concentrations and few service establishments. In such circumstances, public wealth, aspirations and needs were limited and the subject matter of local public administration was neither elaborate nor complex. Isolation, self-sufficiency, local pride and a fierce independence were the facts of political and social life. But there were many difficulties. The main municipal problems during this period related to assessment and taxation, liquor control, schools, roads, public health, provision for the poor, and electoral revision.

(b) Taxation

59. At the first session of the Legislative Assembly in 1786 a measure was adopted authorizing general assessment and taxation procedures for county purposes. Although general in the sense that it applied to all authorities, the act was not intended to introduce standardized or uniform fiscal methods. Assessment procedures and taxation devices were, as a matter of principle and policy, assigned to the discretion of local magistrates, commissioners or officers. One of the few limitations imposed on local officials, apart from the requirement that their fiscal decisions must be "just and reasonable", was the rule which directed that in all jurisdictions "the inhabitant", if he wished, could pay a part of his taxes in the form of statute labour computed at the rate of two shillings and sixpence for each ten-hour day. The diversity of practice which resulted soon led to conflict; and in 1822 an act of the Legislative Assembly directed that one-half the sum required for local purposes had to be raised by means of a poll tax, while the remaining half had to be secured by a levy on the real propertytv of residents and non-residents. Each of the latter categories was to share the tax burden "in just and equal proportion" at the discretion of the county assessors. In 1831 it was decreed by statute that only one-eighth of local fiscal requirements was to be collected by means of the poll tax, whereas the remainder was to be obtained by taxation of "visible" property and income. Very early in the history of local taxation, therefore, assessors became engaged in the process of discovering, recording and assigning values to a wide range of personal assets, both tangible and intangible, for tax purposes.

60. Commencing in 1850, income not derived from real and personal property, was rated five times more heavily than real and personal property, for county tax purposes. This practice became widely accepted for a number of years; it was adopted by Saint John in 1869 and by Fredericton in 1871. It was finally abandoned by the counties in 1875, by Saint John in 1882, but remained operative in Fredericton until 1907. Early municipal tax legislation frequently specified a maximum tax rate: thus the act of 1854 required that "in no case shall (the rate) exceed two pence in the pound in the value assessed, to be apportioned equally on all property assessed." Since assessment procedures were discretionary, however, this limitation probably had little real effect in controlling the upper limit of taxes actually levied.

61. Then, as now, legislation of both general and specific application provided for numerous exemptions and special tax concessions. Laws relating to local fiscal matters thus became extremely complex, reflecting the growth of special arrangements. Since the entire local government system was oriented toward diversity and decentralization, little emphasis was placed at that time on the value of uniformity or of standardized procedure. With the rapid increase of urban units within county boundaries, however, the need to develop a suitable system to permit intermunicipal cost-sharing of essential services became imperative. But no satisfactory system was ever developed. Diversity of fiscal technique required periodic valuations by participating units, but the formulae used to obtain equalization of assessment aggregates were fashioned by interested parties, and the funds actually transferred were usually negotiated. Frequent inequities resulted and became the basis for much inter-municipal conflict.

(c) *Liquor Licensing*

62. The licensing and regulation of wholesale and retail liquor sales similarly created many municipal problems. Authority to grant licence to tavern keepers and other retailers-of liquor was assigned to the mayor of Saint John in 1785 and

to the county justices in 1788. Money received from licensing and administration was throughout the nineteenth century retained for the exclusive use of local authorities. Provincial legislation of 1852 and 1855 imposed a virtual prohibition on liquor traffic, but both acts were repealed shortly after enactment. A form of prohibition was introduced in 1870 when parish ratepayers, by a two-thirds majority, were empowered to prevent the county council or the justices in session from licensing liquor outlets within parish boundaries. The local option principle was made more stringent in 1871 when the liquor issue was to be determined in each parish by simple majority voting. Beginning in 1878, however, local authorities were permitted to enforce prohibition under the provisions of the Canada Temperance Act, a federal statute popularly called the "Scott Act". Ten of the counties ultimately imposed a form of prohibition under the federal statute, while the remaining five northern counties and the city of Saint John remained under the provincial licensing law. Diversity of procedure respecting this contentious issue thus developed throughout the municipal system. But in practice municipal council's of all description possessed substantial discretionary enforcement powers through their right to appoint local inspectors. In addition, in those areas where liquor outlets were permitted, municipal authorities were authorized to levy duty on licensees, the proceeds of which were diverted to general municipal purposes.

63. In the course of time, however, municipal authorities gradually lost their control of liquor regulation. An act of 1887 gave the province some influence in regulating the administration of licences. Under this law local councils were required to nominate chief inspectors to execute regulations made by local authorities concerning liquor licensing. The appointment of these officials was thereafter potentially the subject of provincial veto. In addition, local authorities were for the first time required to report the number of licences granted and the proceeds accruing from local liquor licensing. Local control was further restricted in 1896 when the right to issue liquor licences was taken from local authorities and vested in a provincial board of licence commissioners. This provincial body assumed the right to appoint all local liquor inspectors and to fix all local fees and tax levies. Ultimately, in 1927, the retailing of liquor was removed entirely from local licensees and placed in the hands of a provincial liquor control board. This latter system remained in effect until the recent provincial licensing system was introduced.

(d) *Education*[19]

64. In the nineteenth as in the twentieth century, education was the most costly municipal function. By 1805 the Legislative Assembly had authorized the establishment of parish schools in New Brunswick and had provided small unconditional grants in aid of education in local schools. Originally two "common" schools were operated in each county directly under the supervision of the justices in general session. This system was expanded in 1816 when county "grammar" schools were authorized and a more-elaborate programme of provincial financial assistance was introduced. School grants were made conditional and were scaled in "proportion to local contributions. These contributions were at first voluntary in nature (technically, they were called subscriptions); but the legislation of 1816 authorized compulsory assessment for school purposes if parish ratepayers agreed. The separation of educational functions from other municipal activities occurred at this time: parish boards of school trustees were appointed and the justices lost much of their direct control in school matters. Next, boards of counts grammar school trustees were appointed by the provincial government in 1829. In 1833 parish school boards were empowered to divide parishes into local school districts and to operate not more than two "female schools" (i.e., schools employing women as teachers); school districts acquired boards of trustees, some of which were ultimately elected rather than appointed.

65. Control of teacher licensing and training (or examination) was at first vested in the hands of provincial officials; but with the rapid development of the parish school system these matters were transferred in 1837 to appointed boards of education established in the counties. Soon, however, there was a return to the original system: in 1847 the county boards were superseded by a provincial board of education empowered *inter alia* to make regulations regarding teacher licensing, training, and the selection of text-books. To facilitate administration a provincial superintendent of education was appointed in 1852,

66. From the earliest years provincial assistance for local educational purposes was the subject of heated controversy and conflict. Conditional grants based at first on local contributions and the number of parish common schools were instituted in 1816. Provincial grants were subsequently scaled in accordance with the qualifications of locally employed teachers (1847) and with the sex of teaching staffs (1852). Next, a bonus system was added to the provincial grants which provided 25 per cent (1852) and 10 per cent

19 For a description of educational development in New Brunswick to 1900, see MacNaughton, K.F.C., *The Development of the Theory and Practice of Education in New Brunswick 1784-1900.*

(1858) to school districts adopting the assessment method of financing rather than the original subscription system of raising local school funds. In 1871 local districts were compelled to employ the assessment method exclusively; accordingly, the so-called "free" school system became general in New Brunswick. Later in the 1870's an attempt was made to condition provincial payments in accordance with the annual reports of provincial school inspectors. The resulting scheme produced a major political uproar, led to the resignation of the superintendent of education, and was eventually abandoned.

67. At the turn of the century New Brunswick possessed county grammar schools and parish or district common or superior schools. District school taxes were levied by district boards in accordance with ordinary municipal valuations. In most cases collections were also in the hands of school boards. Provincial grants were conditioned by teacher qualifications and by the character of the school. (The superior school was intended to do for the parish what the grammar school did for the county; it was described as a hybrid, half common and half grammar school, or "a first class common school with a tincture of Latin".)[20] The existence of a variety of special grants, such as those to "manual training" and "domestic science" schools, indicates that the proliferation and complexity of provincial school grants was already well established.

68. Shortly after 1900 a few experiments in school consolidation were undertaken in New Brunswick. The systems used in Riverside, Kingston, Hampton and Florenceville, however, were not widely adopted and a decentralized school system continued in operation for many years thereafter. Administrative fragmentation was not considered an evil, and although it produced many problems, it was never carried to the extremes experienced in Nova Scotia, where, to quote one observer, district school commissioners used their powers "...chiefly in subdividing already minute school sections to satisfy quarrelsome local factions."[21] Although an early attempt was made to abolish the small district in favour of the larger parish unit, nearly four decades elapsed before school district consolidations were undertaken in a serious manner, and before the county replaced the small district as the basic operating financial unit for local educational purposes.

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[20] Murray, W. C., "Local Government in the Maritime Provinces" in Wickett, S. M. (ed.), *Municipal Government in Canada,* p. 71.

[21] Murray, "Local Government in the Maritime Provinces," p. 71.

(e) Great Roads and Bye Roads

69. In the first session of the Legislative Assembly an act was passed "for laying out, repairing and amending highways, roads and streets, and for appointing commissioners and surveyors of highways within the several towns and parishes." Similar acts were passed in frequent sessions empowering the justices in sessions to require so-called statute labour, or an alternative financial contribution, toward the maintenance and repair of county roads. An act of 1816 authorized the construction of so-called great roads; in 1822 supervisors of great roads were appointed by the province and expenditure on such highways became a charge on the central authority. Much responsibility for highways and all authority for by-roads was ultimately transferred to local authorities with the compulsory incorporation of counties in 1877. During the years which followed, locally appointed "bye road" commissioners held sway, largely independent of central supervision. Yet there were many complaints about county road administration and local patronage. The widely used system of statute labour was considered by many to be extremely inefficient. The Highways Act of 1886 permitted local governments to levy a road tax. Most inhabitants of the counties, however, preferred to perform work on the roads in commutation of the highway tax, a levy raised by a poll on all male residents from 21 to 60 years of age. In 1896 counties were permitted but not required to enact by-laws prohibiting statute labour and requiring instead payment of the road tax. In 1904 the first attempt to abolish statute labour was finally made. A new highway act of that year imposed a locally collected road tax, the proceeds of which were turned over to county treasurers for the use of centrally appointed road supervisors under the control of the provincial commissioner of works. A concession to local interests was evident in the provision requiring that money raised within a parish had to be expended within that parish. The act of 1904, however, re-established the principle of provincial control over roads and highways. For years thereafter local authorities continued to have some responsibility regarding highway and by-road maintenance. Statute labour for this latter purpose continued in New Brunswick until the 1940's, when it was at last abolished.

70. Today the counties possess no power over roads: responsibility for construction, maintenance and repair of all rural roads and provincial highways, including snow removal, has been assumed by the province. Urban municipalities, on the other hand, have retained control of streets and roads, but receive assistance from the province for the construction and maintenance of streets considered to be main traffic arteries. Urban

municipalities also receive an annual snow removal grant based on $1.00 per capita of the municipal population.

(f) Public Health

71. From the beginning local institutions exercised certain authority in the fields of public health, welfare and care of the poor. Early statutes assigned to the justices in session power to prevent "the importation and spreading of infectious or contagious distempers." By 1833, however, the magistrates had lost much of this jurisdiction in favour of centrally appointed county boards of health receiving susbtantial provincial contributions. A moderate central influence was apparent in public health administration until the enactment in 1887 of a new public health act. This legislation created a provincial board of health and divided the province into a number of health districts. The boards of these various districts were appointed by the appropriate county, city or town councils and, for the first time, municipal governments assumed principal responsibility for local public health costs. But local participation in public health functions was shortlived. An act of 1893 provided that if municipalities refused to supply the funds warranted- by boards of health, provincial officials could by order direct the appropriate municipal treasurers to make the necessary payments. Finally in 1898, the province reassumed the power of appointing board chairmen and reasserted the right to order local assessments when recommended by the health boards. With the growth of elaborate public health services and the development of extensive hospital facilities since 1900, federal and provincial participation in local public health administration has increased sharply. Today, local governments, especially the county units, possess a minimal jurisdiction in the field of public health services, and the annual charges formerly borne by local authorities on behalf of hospital operations and borrowings have been reduced through the provisions of a centrally administered hospital insurance programme.

(g) Public Welfare

72. In the field of public welfare, local governments have long played a major role. Apart from special provincial assistance to meet emergency situations (for example, payments to Saint John and St. Andrews to assist needy immigrants, grants of seed potatoes in 1817 and 1846, and assistance to those who suffered in the Miramichi and Saint John fires), local authorities assumed the main responsibility for social welfare programmes. In 1786 an act to regulate and provide for the support of the poor was passed. In the following year magistrates were authorized to issue warrants of assessments to raise money for relief purposes. Overseers of the poor, appointed in all communities, administered the distribution of poor relief. Relief funds were at first distributed to persons, usually parents or relatives, who undertook to look after lunatics, crippled children and adult unemployables. Through a hard-hearted system of auction and tender, poor children in the parishes were often apprenticed to a trade. This practice was subject to serious abuses and was gradually stopped, but its use was reported in some New Brunswick parishes as late as 1900.[22] For some years the poor insane became a provincial responsibility; later they became a charge exclusively on the local authorities. Since there was little central concern and assistance in welfare matters (it was widely believed in the nineteenth century that charity began -- and ended -- at home), there developed over the years "not a little ungenerous rivalry" in assisting poor people to move to other localities. This, in turn, prompted the enactment of by-laws specifying required periods of residence before relief applicants could qualify for assistance.

73. The key welfare institution during the nineteenth century was the city, town or parish almshouse. Until a general act of 1897 empowered parishes either singly or in groups to erect and operate them, special legislation was required to establish such institutions. Control of almshouses was in the hands of commissioners, some appointed centrally, some locally elected, and some appointed by the county councils. Almshouse administration, however, was a parish rather than a county responsibility and great variations of welfare practice were accordingly recorded. The development of highly specialized, province-wide welfare programmes in recent years has served to introduce an approach toward minimum standards of welfare services. Local welfare functions are still performed by municipal officials and institutions, but increasingly the procedures employed and the standards attained are established by the province.

(h) *Electoral Revision*

74. In 1877 county councillors possessed important power in the matter of revising provincial electoral lists. The importance of this responsibility is underlined when it is recalled that for a considerable period the franchise for provincial voting purposes was also the franchise for federal purposes. In the beginning, members of county councils were revisal officers for their respective parishes; later the act was amended and provin-

22 Murray, "Local Government in the Maritime Provinces," p. 72.

cial authorities appointed the chairmen of revisal committees; ultimately this power was removed entirely from local elected representatives and placed in other hands.

(i) *Summary*

75. Local self-government in New Brunswick at the end of the nineteenth century was extremely diverse and decentralized in form, particular in its dynamics and emphases, but generally self-reliant in fiscal matters. From the 1870's onward, the policy strategy followed by the province was to promote municipal incorporation and to transfer greater financial responsibility to local authorities. Yet the resulting measure of municipal autonomy must not be exaggerated. By 1900, for example, the province was already supplying nearly one-quarter of local school financial requirements and was regulating the details of education in all districts. The brief experiment with local independence in the field of public health was a failure. Here an attempt was made to make municipalities responsible for both appointments and financing, while at the same time ensuring province-wide performance standards. Provincial control in this area was shortly re-imposed. In addition, municipal powers with respect to electoral revision, liquor control and highway administration were progressively reduced and ultimately taken away. Along with these measures can be observed the tendency to fragment local authority through the appointment of special-purpose boards and commissions. Powers formerly in the hands of county and other municipal councils were assigned increasingly to a variety of independent local agencies whose members were frequently appointed by the Lieutenant-Governor in Council. It is widely believed today that central surveillance of local affairs, often termed provincial interference with the immemorial right of municipalities, is a recent phenomenon, but such a view is not sustained by the historical facts: in one sense, indeed, municipal deterioration was well under way in New Brunswick within a generation after the establishment of most incorporated municipalities.

VII. *Fourth Period: Municipal Government in the Twentieth Century*

(a) *Introduction*

76. A basic fact of life in the present century has been the accelerating rate of social change. It is no exaggeration to suggest that the forces promoting change in municipal and provincial-municipal affairs have in three generations revolutionized the temper of local self -government, Yet it is significant that during this period, unlike the practice in some of the western provinces, there has not been a sweeping structural adjustment of municipal government in New Brunswick. At present this province has much the same local institutions it acquired during the second half of the last century. Clearly, however, the environment within which municipalities operate has been transformed since 1900. While general municipal forms have for the most part remained intact, the realities of local government have been adapted increasingly to meet changing circumstances.

77. In 1901 the population of New Brunswick was 330,000; in 1961 the total was approaching 600,000. In the space of 60 years, that is to say, the number of people requiring municipal services has grown by more than 90 per cent. Six decades ago the urban residents of the province comprised but 23 per cent of the entire population, as compared with 38 per cent in 1961.[23] During this interval the pattern of social, political and economic life has radically altered. Today a significantly larger proportion of the labour force is employed in manufacturing and service establishments than in agriculture and other primary occupations. With the growth of urbanization and the spread of sub-divisions into rural municipal territory, the average citizen has become more dependent on local government services; the former independence of isolated agrarian life has been replaced by increasing interdependence in both town and country.

78. While noting the fact of environmental change, any review of local government development in New Brunswick must emphasize as well the long term stability of many basic municipal forms. Even some procedural details, such as the holding of annual county council meetings in January and February, for example, represent a continuation of nineteenth century practice. Despite an endless annual parade of amendments and in spite of successive consolidations, the general municipal acts of 1877 and 1896 have maintained their original basic character to this day. On many points of detail, however, there has been an increasing tendency to permit departures from the provisions of the general acts through changes authorized by private legislation. As will be indicated below, the extent of these specific changes in certain areas results in an anomaly:

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[23] The *Census* of *Canada,* 1961, indicates a total population for New Brunswick of 597,936, distributed in terms of 319,923 (54 per cent) rural and 278,013 (46 per cent) urban. For census purposes, however, the category urban includes all population centres of 1,000 or more, whether incorporated or not. Counting only the population in incorporated centres as urban, the provincial population is distributed in terms of 62 per cent rural and 38 per cent urban.

current municipal practice in these cases bears little or no resemblance to general statutory provisions and a strong argument exists for appropriate amendments to make the general acts conform to reality.

(b) *County Councils*

79. At present, and in general, the county franchise in New Brunswick extends to all persons, male or female, aged 21 or over, who are citizens resident in the parish, whose names appear on the voters list, and who are ratepayers of the parish on poll or personal property to $100, or on real property to any amount. (Provided that they otherwise qualify, members of partnerships are similarly eligible to vote for parish councillors.) Exceptions to this rule are four in number: in Gloucester the required rating on poll and personal property is reduced to $50; in York and Queens a person eligible to vote in provincial elections is eligible to vote for parish councillors; and in Albert, in addition to the above requirements, a qualified elector must among other things reside in the parish for approximately one year prior to the election. In towns governed by the Towns Act the municipal franchise is now roughly similar to that prevailing for county elections. Property qualifications at any rate are much the same, though voting by non-residents is possible in some towns but not in the counties.

80. For some time the legal specifications relating to eligibility for election to county councils were unclear. Several amendments in recent years have now clarified the matter. A candidate offering for election must now have the following property qualifications, in addition to those relating to citizenship, residence and literacy: ". . . he must have been assessed in the county in the year of the election on (1) real estate of which he is legally seized as of freehold for his own use to the value of $900 above incumbrances; or (2) on leasehold interest on real estate of which he is possessed for his own use to the value of $1,800 above incumbrances; or (3) on personal property of which he is the owner to the value of $2,000."[24] Provisions of the Towns Act specify much the same property and other qualifications, except that in the case of a mayor, possession of at least $1,000 of real or personal estate (or both) is required, and in the case of aldermen property valued at $400 is mandatory.

81. Persons explicitly not qualified to stand as candidates in county elections include: judges of the supreme or county courts; judges of probate; justices of the peace who currently hold appointments as municipal collection officials (or who may have failed to turn in funds collected while acting in an official capacity); any person, whether individually or in partnership, who is "interested" in a contract with the municipality, other than as a member of an incorporated company or as a lessee of the municipality; any person on the county payroll or a person who receives payment from the municipality for other reasons. The Counties Act further excludes as candidates persons convicted under the intoxicating liquor act" . . . within the five years previous." None of these limitations, however, extends to persons appointed to the county councils as *ex-officio* representatives of the urban centres.

82. An elected county representative can be removed by order of the council for any of the following as well as some other reasons: (1) if he is convicted of an offence under the criminal code or under the intoxicating liquor act; (2) if he becomes insolvent and applies for relief; (3) if he is jailed; (4) if he assigns his property for the use of creditors; or (5) if he absents himself from two consecutive meetings of the council "without being authorized to do so by a resolution of the council entered in its minutes."

83. County elections in New Brunswick are held in the autumn but at different times. The duration of elected councils similarly varies. All counties hold elections in October, with the exception of Madawaska, Northumberland, Restigouche, Victoria and York, where elections are held in September, and in Sunbury, where they are held in November. In thirteen of the fifteen counties, councils are elected for a four-year period. In Madawaska the council is elected for a two-year period, while in Sunbury elections take place every two years, one councillor for each parish being elected for a four-year term. The latter county is therefore the only rural unit whose councillors serve overlapping terms.

84. There are 15 county councils representing approximately 370,000 rural inhabitants. The census of 1961 indicates that Gloucester (59,218) and Sunbury (10,626) are the units with the largest and smallest rural population respectively. Kings (21,669) had the median county population. The counties are divided into a hundred and fifty-two parishes, ranging in population from 20 in the Parish of Clarendon in Charlotte County to 15,897 in the Parish of Simonds in Saint John County. Their average population is 2,392. Although formerly the parishes were important for administrative purposes, there has been a pronounced tendency to place all administrative responsibilities in central county offices. With this trend toward centralization the parishes are rapidly receding in importance and before long it is likely that their sole purpose will be to serve as electoral divisions.

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[24] Allen, E. G., "Legislation Affecting Municipalities," *Municipal Monthly,* October, 1960, p. 3.

85. In the election of county councils each parish as a general rule is entitled to return two councillors. The exceptions here are six in number: Simonds parish (Saint John) elects five additional councillors, while St. Martins (Saint John), Moncton (Westmorland), St. Stephen (Charlotte), Kent (Carleton), and Coverdale (Albert) elect one additional representative each. There are thus 313 elected parish councillors on New Brunswick's county councils. The largest council in terms of elected parish representatives is that of Charlotte (31); the smallest is that of Albert (13). Four other councils have a rural representation in excess of twenty-five members: Kings (30), Madawaska and York (28), and Northumberland (26). There is no apparent correlation between county population and the size of councils. Among the 15 units, Charlotte ranks twelfth in terms of rural population yet it has the largest council, whereas Gloucester with the largest rural population has a council that ranks only eighth in terms of elected rural representatives.

(c) *Urban Representation on County Councils*

86. The method used to secure urban and rural integration for certain municipal purposes in New Brunswick has been outlined in an earlier section of this chapter. Apart from the city of Fredericton, all urban communities are entitled to some form of representation on county councils. Since Albert, Kent and Queens have no incorporated urban centres within county limits, their councils are composed entirely of rural representatives. But the form in which urban units are accorded representation is variable and has been subject to piecemeal statutory change over the years. The Counties Act provides that incorporated urban centres within parish boundaries are entitled to appoint certain *ex-officio* representatives to the appropriate county councils. Particularly, it is specified that the mayor and six councillors of Saint John city, together with the mayor and five aldermen of Lancaster city, shall be appointed *ex-officio* representatives on the municipal council of the city and county of Saint John. The same act, as recently amended, provides that Moncton city is entitled to eight *ex-officio* representatives on the Westmorland council, that the cities of Edmundston and Campbellton each have three such appointed councillors, and that the towns of St. Leonard and Dalhousie each have two. The Counties Act further outlines the limitations imposed on *ex-officio* councillors of Saint John and Lancaster: ". . . they shall not take part in the appointment of parish officers, nor shall they vote upon the imposition of any taxes or assessments which are to be borne by one or more of the parishes only, nor in matters solely relating to the property and finances of any parish."[25] The act specifies, finally, that the towns of Woodstock and Newcastle are each entitled to elect three representatives. These urban councillors do not have *ex-officio* status on the Carleton and Northumberland councils; they are elected along with parish representatives by town ratepayers in the regular county elections. Two other towns in New Brunswick have secured a similar arrangement by special acts: Marysville (York) and Hartland (Carleton) now elect two and one county councillors respectively.

87. The Towns Act, on the other hand, prescribes but one *ex-officio* appointed councillor on rural councils for incorporated towns. But this provision has frequently been set aside in practice through special legislation authorizing increased town representation on county councils. Indeed, at present, only nine of the twenty-one towns appoint one councillor: St. Stephen, St. Andrews, St. George and Milltown (Charlotte) ; Rothesay (Kings) ; Oromocto (Sunbury) ; Dieppe, Sackville and Shediac (Westmorland). Port Elgin, New Brunswick's single incorporated village, has one *ex-officio* appointee on the latter council as well. As the result of private acts, eight towns now have two appointed representatives at the county level: Bathurst, Shippegan and Caraquet (Gloucester); Sussex (Kings); Chatham (Northumberland); Grand Falls (Victoria); St. Leonard (Madawaska), and Dalhousie (Restigouche). The remaining four town units, as indicated above have no *ex-officio* appointees but rather elect their own county councillors in the normal way. Because of the use of much special legislation in recent years, neither the counties nor the towns acts gives a precise picture of actual urban representation on county councils in the province. When the 60 urban *ex-officio* and elected councillors are added, total membership in New Brunswick county councils amounts to 374.

88. In urban relationships the cases of Saint John and Moncton require special notice. In 1961 some 20,000 inhabitants, or about 22 per cent of the population of Saint John county, were resident in the four parishes of Simonds, St. Martins, Lancaster and Musquash. The cities of Saint John and Lancaster together had some 70,000 people, or approximately 78 per cent of the population. Although the cities are entitled to a total of 13 *ex-officio* councillors out of 27 on the municipal council, the seven representatives of Saint John city (but not the six representatives of Lancaster city) are each entitled to have four votes in coun-

[25] Counties Act, Revised Statutes of New Brunswick, 1952, Section 6(a) and (b). Further limitations on the right of *ex-officio* councillors to vote are outlined in Sections 78 and 94 of the Act.

Table 2:2

SUMMARY STATISTICS: NEW BRUNSWICK COUNTY COUNCILS, 1963

County	Rural Population 1961	Number of Parishes	Elected Rural Councillors	Appointed or Elected Urban Councillors	Total Councillors	Election	Duration of term in years
Albert	12,485	6	13	—	13	October First Tuesday	4
Carleton	18,177	11	23	4	27	October Second Tuesday	4
Charlotte	15,349	15	31	4	35	October First Tuesday	2
Gloucester	59,218	10	20	4	24	October First Monday	4
Kent	26,667	11	22	—	22	October First Tuesday	4
Kings	21,669	15	30	3	33	October Last Tuesday	4
Madawaska	24,526	14	28	5	33	September First Tuesday	2
Northumberland	37,690	13	26	5	31	September Second Tuesday	4
Queens	11,640	10	20	—	20	October Last Tuesday	4
Restigouche	25,244	8	16	5	21	September First Tuesday	4
Saint John	20,250	4	14	13 (34)	27 (48)	October Third Tuesday	4
Sunbury	10,626	7	14	1	15	November (4 with overlapping terms) Second Tuesday	
Victoria	15,729	7	14	2	16	September First Tuesday	4
Westmorland	39,949	7	15	12	27	October Second Tuesday	4
York	29,756	14	28	2	30	September First Tuesday	4
TOTAL	368,975	152	314	60	374		

Source: Study prepared by Professor Hugh Whalen of the University of New Brunswick

cil proceedings. This weighting system results in a total of 34 *ex-officio* votes for the two cities (71 per cent), as against 14 ordinary votes for the four parishes (29 per cent)[26] Strictly in terms of local population vote ratios, therefore, existing arrangements slightly favour the parishes. But with the postwar suburban spread into the rural areas, and particularly in Simonds parish, with the rapid development of heavy industry, problems associated with inter-municipal service integration, metropolitan planning and the joint sharing of over-head costs have generated severe local conflicts.

89. Apart from the incorporation of Lancaster as a city in 1952, there have been no boundary adjustments in the Saint John area during recent years. But in Simonds parish there has been divided opinion whether to favour amalgamation with Saint John city or to opt for incorporation as, an additional city within the metropolitan complex. This matter was recently the subject of a special investigation by another Royal Commission. [27] However, it may be noted here that the incorporation of a third autonomous city in the Saint John metropolitan region will hardly by itself ease the present difficulties. Experience with similar problems elsewhere shows that the creation of new urban incorporations within dynamic metropolitan regions, unless accompanied by other structural innovations, is worse than merely a bad solution; it is, in fact, a missed opportunity to secure adjustments of long term benefit.

90. In the Moncton area problems of urban-rural accommodation have given rise to fewer difficulties. The city of Moncton has recently acquired two additional *ex-officio* representatives on the Westmorland county council. Urban members on that body, including those from Moncton, Dieppe, Sackville, Shediac and Port Elgin, now number 12, or 44 per cent of the entire council. Municipal boundary adjustments and changes in corporate status have been frequent during the postwar years in Moncton's metropolitan area. Portions of Moncton parish were annexed to Moncton and to the town of Sunny Brae in 1949. Dieppe was incorporated as a village in 1946 and as a town in I952 with added area. The town of Sunny Brae, in turn, was annexed to Moncton city in 1954. In each of the three following years, moreover, the city annexed additional territory from the surrounding parish.'"

(d) *City Councils*

91. From a consideration of county council structure and the problems of urban-rural relations in metropolitan areas, we next examine briefly the constitutions of New Brunswick's cities and towns. In 1961, the present six cities in the province had more than 155,000 inhabitants, or about 26 per cent of the total population. Some 51 elected mayors and aldermen or councillors now serve on city councils. Unlike the case in some other Canadian provinces, there is no general cities act applicable in New Brunswick. Each city's constitution is found in a special act of the Legislative Assembly which assigns corporate status and outlines procedures regarding elections and the conduct of city business. Although incorporated by royal charter in 1785, Saint John's constitution is a city government act. Similarly, Moncton has its consolidation act, Fredericton and Lancaster have their city charters, while Edmundston and Campbellton operate under their acts of incorporation. Technically, the latter city still is controlled by its original town incorporation act of 1888 and amendments, notwithstanding the fact that it assumed the status of a city corporation in 1958.

92. There is little uniformity in the matter of city constitutions, except that all units elect mayors and aldermen (or councillors in the case of Saint John and Campbellton) for two-year terms. The largest city council is Fredericton's with eleven members; the smallest is Saint John's with seven members. The remaining city councils function with nine members each. In addition to the mayor, ratepayers of Moncton and Campbellton each elect two council members at

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[26] Of the four rural units in the Saint John complex, Simonds parish has seven, St. Martins has three, and Lancaster and Musquash parishes each have two elected municipal councillors.

[27] The inquiry took the form of a one-man commission in the person of Mr. Carl Goldberg, Q.C. He has recommended the amalgamation by Saint John city of Lancaster city and of a major portion of Simonds parish. cf. the *Report of the Royal Commission on Metropolitan Saint John.*

[28] In other parts of the province relatively few boundary adjustments have been required in recent years. The parish of Allardville (Gloucester) was created in 1947 out of territory formerly in Bathurst and St. Isidore parishes, Bathurst town annexed parts of the surrounding parish in 1946, 1951 and 1958. In Restigouche county, Campbellton was incorporated as city in 1958 with a part of Addington parish annexed. In Victoria county, the parish of Denmark was created in 1935, comprising territory formerly included in Drummond parish. The town of Grand Falls in 1956 annexed a part of Drummond parish. Shortly after its incorporation, the town of Oromocto annexed certain territory in Sunbury county.

large. The remaining council members in these two cities and all the aldermen or councillors (excluding the mayor) in Fredericton, Lancaster and Edmundston are elected on a ward basis. Saint John has no ward system for local electoral purposes. (However, wards are used in Saint John city as units for provincial and federal electoral purposes.)

93. In three instances (Saint John, Moncton and Lancaster) the elected city representatives serve two-year terms concurrently, all aldermen or councillors together with the mayor retiring or re-offering for election each biennium. In the remaining cities, terms of councillors or aldermen overlap, one-half the council being elected annually. The period favoured for elections in the cities is late autumn or early winter, a practice which enables incoming council members to familiarize themselves with committee, budgetary and other procedures before the major fiscal decisions are taken in the spring. For many years Moncton has held its city election in mid-April, but steps have been taken to amend the city's consolidation act so that future elections will be held on the third Saturday in October. City voting requirements, together with the legal qualifications needed to be eligible for election to city councils and many other procedural matters, vary substantially from unit to unit. Saint John, for example, does not require residence in the city as an essential condition for election to the common council, whereas other cities require all candidates to meet the residence test. Detail with respect to all such matters must be had by reference to the appropriate city charters, city government and consolidation acts, and other acts of incorporation.

(e) *Town Councils*

94. In 1961 there were 21 towns in New Brunswick with a combined population of over 70,000. The number of inhabitants in all of these units thus approximates the total population in the twin cities of Saint John and Lancaster. The

Table 2:3

SUMMARY STATISTICS: NEW BRUNSWICK CITY COUNCILS, 1963

	Saint John	Moncton	Fredericton	Lancaster	Edmundston	Campbellton
Date of Incorporation as a city	1785	1890	1848	1952	1952	1958
Present Controlling Statute	Saint John City Government Act	Moncton Consolidation Act	Fredericton City Charter	Lancaster City Charter	Incorporation Act	Incorporation Act 1888
Population, 1961	55,153	43,840	19,683	13,848	12,791	9,873
Composition of Council	Mayor 6 Councillors	Mayor 8 Aldermen (2 at large)	Mayor 10 Aldermen	Mayor 5 Aldermen	Mayor 8 Aldermen	Mayor 8 Councillors (2 at large)
Number of Electoral Wards	None[a]	3	5	5	4	3
Duration of Terms	2 years	2 years	2 years	2 years	2 years	2 years
Date of Election	October First Monday	April[b] Second Saturday	November First Monday	November First Monday	January Third Thursday	January Fourth Tuesday
Frequency of Election	Biennially	Biennially	Annually	Biennially	Annually	Annually
Aldermanic Terms	Concurrent	Concurrent	Overlap	Concurrent	Overlap	Overlap

a) Saint John is divided into wards for some other purposes, but members of the council are elected at large.

b) Shortly to be changed to October: Third Saturday

Source: Study prepared by Professor Hugh Whalen of the University of New Brunswick.

Table 2:4

SUMMARY STATISTICS: NEW BRUNSWICK TOWN COUNCILS, 1963

Town	Incorporation	1961 Population	Composition of Council[a]	Number of Wards	Aldermanic Terms	Date of Election
Bathurst	1912	5,494	8 Aldermen (2 at large)	3	2 years: Overlap	February: Third Tuesday
Caraquet	1961	—	8 Aldermen	4	2 years: Overlap	February: Third Tuesday
Chatham	1896	7,109	8 Aldermen	0	2 years: Overlap	January Second Day
Dalhousie	1905	5,856	8 Aldermen (2 at large)	3	2 years: Overlap	January Third Tuesday
Dieppe	1951	4,032	8 Aldermen	4	2 years: Overlap	February: Third Saturday
Grand Falls	1890	3,983	8 Aldermen	4	2 years: Overlap	January Last Monday
Hartland	1918	1,025	6 Aldermen	3	2 years: Overlap	January Second Monday
Marysville	1886	3,233	8 Aldermen	4	2 years: Overlap	January Last Saturday
Milltown	1873	1,892	6 Aldermen	3	2 years: Concurrent	January Fourth Wednesday
Newcastle	1899	5,236	8 Aldermen	0	2 years: Overlap	January Third Tuesday
Oromocto	1955	12,170	7 Commissioners	0	Federal and Provincial Appointees	No election
Rothesay	1956	782	2 Councillors	0	2 years: Concurrent	February: Third Tuesday
Sackville	1903	3,038	8 Aldermen	4	2 years: Overlap	January Last Tuesday
Shediac	1903	2,159	8 Aldermen	4	2 years: Overlap	January Third Tuesday
Shippegan	1958	1,631	4 Aldermen	0	2 years: Overlap	February: Third Tuesday
St. Andrews	1903	1,531	8 Aldermen	0	2 years: Overlap	February: Last Tuesday
St. George	1904	1,133	6 Aldermen	0	2 years: Overlap	February: Third Tuesday
St. Leonard	1920	1,666	6 Aldermen	0	2 years: Overlap	February: Third Tuesday
St. Stephen	1871	3,380	6 Aldermen	3	2 years: Overlap	January Third Wednesday
Woodstock	1856	4,305	6 Councillors	3	2 years: Concurrent	January Third Monday
Sussex	1904	3,457	7 Aldermen (1 at large)	3	2 years: Overlap	March First Monday

a) All towns also elect mayors for two-year terms, except Woodstock which elects its mayor annually and Oromocto which is governed by an appointed commission.

Source: Study prepared by Professor Hugh Whalen of the University of New Brunswick.

largest town is Oromocto (12,170), and the smallest is Rothesay (782). Only seven towns have populations in excess of 4,000, whereas six have fewer than 2,000 inhabitants. Some twenty elected mayors, one hundred and thirty-seven elected aldermen or councillors, and seven appointed commissioners provide the manpower for town government in New Brunswick.

95. In many respects the general Towns Act serves as an unreliable guide to electoral and other corporation practice, again because of the prevalence of much special legislation for each town unit. As with the cities, however, most towns elect mayors and aldermen or councillors for a two-year period. The major exception is Oromocto, where elective principles are not used, the town being governed by a commission of seven members appointed jointly by the federal and provincial governments; a minor exception is Woodstock, where the mayor is elected for a one-year term but through convention is accorded a second term by acclamation.

96. Eleven of the twenty towns have nine-man councils, one (Woodstock) has an eight-man council, six have councils of seven members, while two towns elect five and three-man councils respectively. Only three towns elect aldermen at large: Bathurst, Dalhousie and Sussex; the remainder elect two aldermen per ward, except that the towns of Rothesay, Shippegan, St. Andrews, St. George and St. Leonard have no wards (or only one ward) for electoral purposes. Of the towns having ward systems, eight have four wards and seven have three. The use of wards, however, does not result in self-contained election contests within specified districts of towns or cities. Ratepayers in all cases vote for a mayor (if a mayoralty election is required), and for two aldermanic candidates in each ward when the entire council is being elected, or for one alderman in each ward when half the council is being elected.

97. Council members serve for two years concurrently in three towns (Milltown, Rothesay, St. Stephen), and in these units an election of the entire council takes place biennially. In the remaining towns, other than Oromocto, aldermanic terms of two years duration are overlapped, and an election for one-half of the council seats must take place annually. Although the Towns Act specifies that elections shall be conducted in the month of February, in fact most towns have their elections in either January or February. In this regard Sussex is somewhat of an exception since its civic election is held early in March.

98. The foregoing summaries, together with some items of non-financial legislation recently enacted, show clearly the main trends of development in New Brunswick's municipal system. Notwithstanding earlier provisions of the towns act, all urban units except Oromocto and Woodstock have adopted the two-year term for mayors, councillors and aldermen. In those towns regulated by the Towns Act, overlapping terms of office have recently been made mandatory. Similarly, there has been a tendency to have councils elected earlier in the year, thereby enabling members to become familiar with committee, departmental and other procedural routines. In 1956 both the Counties and the Towns Acts were amended to authorize the holding of plebiscites. There are three conditions, however, which govern local plebiscites. First, each appropriate council must vote by a two-thirds majority that they will be held; second, they cannot be held except when authorized by the Lieutenant-Governor in Council; and third, the questions to be voted upon must be adequately communicated to ratepayers.

99. In former years it was the practice to define in rigid statutory form the specific dates on which county council annual, semi-(annual, general or regular meetings were to be held. Amendments to the (Counties Act in 1955 and 1957 now permit each council to decree by ordinance whether it meets once, three, or four times a year, or whether it meets regularly each month. Such by-laws, however, are valid only when approved by the Lieutenant-Governor in Council and duly gazetted. Other recent amendments of interest are those (1) permitting counties to prepare election lists based on an enumeration of voters, rather than on the assessment rolls traditionally used in the preparation of such lists; (2) a change permitting counties by ordinance to require deposits from persons contesting elections, provided such payments do not exceed $50 and are returnable to all candidates who receive at least one-half as many votes as the winning candidates; (3) an amendment to the towns act permitting the establishment of advance polls; and (4) a revision of older provisions setting new scales of allowances for councillors, mayors and aldermen attending both regular and special meetings of county and town councils, or for other expenses necessary and incidental to their functions as elected representatives.

(f) *Villages and Local Improvement Districts*

100. Although there have been three additional city and seventeen new town incorporations in New Brunswick since the turn of the century, the pace of urbanization in the province lags considerably behind the national movement of population to towns and cities. At present, for example, only 46 per cent of the population is classified for census purposes as urban, whereas the comparable ratio for Canada as a whole exceeds 70 per cent. New Brunswick's rural population in 1961 was slightly more than its total population in 1901, but the present rural population of some 320,000 includes barely 63,000 inhab-

itants classified strictly as farm population. The gradual decline of farming, except for the few areas of concentrated commercial production, has had grave revenue consequences for rural local government. At the same time, the disproportionately large rural non-farm population has a serious administrative implication, since it tends to generate rural service requirements not traditionally provided by county councils. In order to meet some of the immediate needs of smaller population centres in the rural areas, the legislature enacted a Villages act in 1920 and a Local Improvement Districts act in 1945.

101. The former act has not been widely used, only four villages having taken advantage of it for incorporation: Shippegan (Gloucester), Dieppe (Westmorland), Rothesay (Kings) and Port Elgin (Westmorland). All but Port Elgin have since acquired town status. It has been suggested that the present structure of provincial grants to local governments is one reason why villages have not been incorporated in greater number.[29]

102. In order to qualify for corporate status under the villages act, a community must comprise not more than 1,500 acres and must have at least 300 inhabitants. An elected village council of three persons, one of whom is selected by the council to be chairman, is assigned the usual delegated authority, including the right to appoint village officers. As compared with the power of a town council that of a village council is restricted. Before taking effect, village by-laws require the concurrence of provincial authorities. Moreover, certain village powers cannot be exercised without the holding of plebiscites requiring a two-thirds majority of the ratepayers. Central officials are authorized at their discretion to appoint a person or persons to exercise all powers of elected village councils and of officers appointed by the latter; they can even order disincorporation of a village.

103. The more recent Local Improvement Districts Act provides an even less elaborate procedure for strictly limited municipal incorporation. This law prescribes the election of three-man councils whose role is largely to function as the executive agency for an annual general meeting of district ratepayers. In this case it is the annual meeting that enacts by-laws and orders assessments. As with villages, provincial authorities are given an extensive discretionary authority which extends in this case to the altering of district boundaries. The objects of district incorporation include the provision and maintenance of a few essential services : drainage, sewerage and water systems, sidewalks, street lighting, fire protection, community planning, garbage and refuse disposal, civil defence, and marshland reclamation. Incorporated districts are now operating in more than fifty New Brunswick communities.

(g) *Local School Boards*

104. While there have been few major institutional changes in the general municipal field, the structure of local school administration has been altered radically since 1900. Traditionally the small school district, of which there were 1,550 in 1938, was the basic unit for educational purposes. These local organizations possess corporate status, appoint their own officers, have a considerable delegated power in school affairs, and at one time levied and collected their own revenues. (With a few exceptions, all school funds are now secured by requisition on the appropriate municipal authority.) At annual meetings of the qualified electors in these small districts, it is decided what school accommodation is required, what sums are to be raised locally for current purposes such as salaries (in addition to the funds provided by the county and the province), and what amounts are to be spent for capital and other purposes. It requires only three qualified voters of the district, of whom one is a trustee, to constitute a quorum for the annual district meeting. A married woman, at least 21 years old and otherwise qualified, whose husband is a qualified voter, is also eligible to vote at such a meeting.

105. The school district normally elects three local trustees, whose terms of office are of three years duration. In districts with eight class rooms or more the board of trustees can be increased to five at the discretion of ratepayers. No teacher is eligible to be a trustee. Trustees receive no remuneration and may not be "interested" in school contracts, either directly or indirectly. Trustees appoint a secretary who functions as the district's executive agent and reports annually to the Department of Education. In 1944 there were upwards of 1,500 such small school districts; by 1962 a wave of consolidation had reduced their number to just under 300.

106. The first consolidated school district in New Brunswick was established in Albert county at Riverside (Hopewell and Harvey) by order of the Board of Education on May 6, 1904. Other early incorporations were authorized at Kingston, Hampton and Florenceville, but the larger systems were not widely adopted. However, after the Second World War and following upon introduction of the county unit for school finance purposes and a capital assistance- programme for rural

[29] Allen, E. G., "History and Nature of Local Government in New Brunswick," *Municipal Monthly,* April, 1962, pp.3-4.

districts, the trend toward school district consolidation got under way. By 1946 some 18 regional high schools were established in New Brunswick; by 1962 there were 153 consolidated and regional school districts in operation. (See Table 2: 5.) The trend toward enlarged units has not been of uniform intensity throughout the province. In counties such as Queens, Sunbury, Victoria and Madawaska, the process of consolidation is now virtually complete: in Restigouche, Kings, Gloucester, Westmorland and Saint John the pace has been much slower. Until recently, consolidated and regional school districts, unlike the small districts, had boards of trustees party appointed by the provincial government and partly elected by qualified voters of the district. Normally these boards comprised seven positions, of whom three (including the chairman) were appointed by the Lieutenant-Governor in Council and four were elected locally. This procedure was recently changed, and now all of the members of consolidated boards are elected by the district ratepayers.

(h) *City and Town School Boards*

107. Under section 96 of the School Act a number of urban communities have been designated single districts for school purposes. There are now sixteen units in this category: Saint John city, Fredericton, Moncton, Campbellton, Chatham, Dieppe, Hartland, Marysville, Milltown, Newcastle, Oromocto, Sackville, Shediac, St. Andrews, St. Stephen and Woodstock. Except in the case of Saint John, these cities and towns have nine-member school boards, with four of the members (including the chairman) appointed by the Lieutenant-Governor in Council and five appointed by the city or town council. (At least one woman must be appointed by both provincial and local authorities.) In Saint John the board consists of eleven members, five appointed provincially and six appointed by the city council. There are thus no elected trustees on any of these urban school boards.

108. Of the remaining cities and towns two elect seven-man school boards along with their other municipal representatives (Edmundston and Grand Falls); five are included in consolidated districts where the central school is located in or near the town (St. George, St. Leonard, Rothesay, Caraquet and Shippegan); four have boards elected locally and may have more than one school district within the town limits (Sussex, Lancaster, Dalhousie and Bathurst).

(i) *County School Finance Boards*

109. Beginning in 1943 a county school finance system was superimposed on most but not all of the school districts in rural areas. This system does not extend to the city or town school districts, except in the few instances where the town is included in a consolidation, or to school boards in Restigouche county. Like many city and town school boards, county finance boards are not elective bodies; they consist of seven persons, three of whom (including the chairman) are appointed by the Lieutenant-Governor in Council and four by the county council. All members serve for three-year overlapping terms, and the chief official of the board is an appointed secretary-treasurer. County school superintendents function in an advisory capacity *vis-a-vis* the boards.

110. The purpose of the county school finance device is to secure minimum school services in all districts of the county, irrespective of district fiscal capacity. In order to achieve this objective, a county school budget for ordinary (non-capital) purposes is prepared annually by the finance board, based upon the budgetary submissions of school districts both small and enlarged. Included in the county school budget as well is an estimate of the board's administrative expenditures. Most of the financial requirement for all districts to be obtained through taxation. as determined by the finance board in this way, is then levied uniformly on the county at a fixed rate by the county council.[30] The remaining

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[30] Technically, however, only a few counties (Kent, Madawaska, Westmorland and York) actually levy a uniform county rate for municipal and ordinary school purposes. Projected expenditures for these purposes are normally assigned to the parish units in proportion to assessed valuation. Parishes, that is to say, contribute to county expenditures in proportion to their level of assessed valuation within the county. Other expenditures are peculiar to the parishes alone and do not strictly form a part of the county budget. In some counties, finally, the proportion of projected expenditures allocated to each parish is diminished by virtue of credits. In Gloucester county, for instance, the general municipal subsidy paid by the province to the county is "credited" to each parish on the basis of parish population. This decentralized method of budgeting favours the parishes with low relative assessed valuations. During the current year in Gloucester county, for example, the ordinary municipal (county) rate in Bathurst parish is .74, a reflection of that parish's relatively high assessed valuation within the county. The parishes of Allardville, Inkerman and St. Isidore, on the other hand, have county rates of zero. In these latter units, that is, credits exceed the amounts payable by the parishes on the basis of assessed valuations. There appears to be no statutory provision for this method of rating.

amount is contributed by the province through various grants. By this method parishes and districts with higher than average assessment aggregates contribute toward the operating cost for schools in the lower than average parishes and districts, while the province assists in the equalization process. Supplementary budgets to provide services or salaries beyond the established county minima, or for capital purposes, are levied by the county fiscal authority solely on the ratepayers of districts submitting such supplementary budgets.

111. County school finance boards have operated during the postwar years in all counties except Restigouche. Although the proposal for a county unit was accepted by school ratepayers in Restigouche, the county council rejected the system, and it appears clear that it will never prove acceptable in the foreseeable future. Recently special legislation was enacted to encourage greater consolidation in Restigouche county. In June 1962 consolidated districts accounted for only four of the 59 rural districts in the county.

112. In summary, then, we may say that for the administration of a school system presently accommodating more than 150,000 pupils in over 5,000 class rooms and employing some 6,000 teachers, the provincial government appoints 65 trustees for city and town boards and 42 members of county school finance boards. County councils in their turn appoint 56 members of county school finance boards, while city and town councils are responsible for the appointment of 81 school trustees. As a result of the recent change in the constitution of consolidated boards, local qualified ratepayers in these districts now are responsible for the election of more than 1,050 trustees. Another estimated 950 trustees are elected in unconsolidated districts, as are some 14 trustees in Edmundston and Grand Falls. Persons appointed to positions on New Brunswick's local school authorities thus number 24, while persons elected exceed 2,000. All told there are about 2,250 trustees and board members in the province, and the nomination or election of many but not all school authorities is required annually.

VIII. *Twentieth Century Municipal Administration*

113. Some of the more basic factors producing change in municipal affairs during the last three decades were mentioned in the opening re-

Table 2:5

SUMMARY STATISTICS: NEW BRUNSWICK LOCAL SCHOOL AUTHORITIES, TERM ENDED JUNE 30, 1962

County	Small Districts	Consolidated Districts	Urban Districts[a]	Total Districts
Albert	10	3	0	13
Carleton	7	6	2	15
Charlotte	8	8	3	19
Gloucester	44	24	1	69
Kent	20	17	0	37
Kings	7	7	1	78
Madawaska	5	15	1	21
Northumberland	17	20	2	39
Queens	0	7	0	7
Restigouche	55	4	2	61
Saint John	21	2	1	24
Sunbury	1	6	1	8
Victoria	1	6	1	8
Westmorland	23	15	4	42
York	14	13	2	29
TOTAL	296	153	21	470

[a]) Although not under section 96 of the Schools Act, the town school district of Bathurst, Dalhousie and Sussex are here listed as urban districts.

Source: Study prepared by Professor Hugh Whalen of the University of New Brunswick.

marks of Section VII. More important perhaps than any of the causes already discussed has been the change in social and political attitudes of the voting population. Technological changes in transportation and communication have shrunken the provincial community, increased social mobility, generally quickened the tempo of life, and provided much broader standards of comparison and expectation. In recent decades, as a result, a major change in attitudes toward government has occurred. This fundamental change was induced partly by protracted economic dislocation during the depression years and by subsequent war experience, but partly also by a striking increase in the nation's wealth during the postwar period.

114. People today demand not merely new and expanded programmes by governmental bodies; in addition they require an equitable if not an equal share in the distribution of public goods and services. Poorer provinces, for instance, demand of federal authorities that they be enabled to attain reasonable minimum service standards in relation to national norms or to those provided in wealthier provinces. This tendency in public demand and expectation has accordingly produced a complex development of federal-provincial intergovernmental arrangements and payments of both a conditional and non-conditional nature.[31] Similarly, at the provincial-municipal level, it is now widely held that in certain key fields such as education and public welfare. it has become a provincial responsibility to provide all citizens with at least an essential minimum of facilities and services -- a so-called foundation programme -- irrespective of fiscal capacity in the particular municipal unit or school district in which they happen to live. A recent amendment to the county schools finance act provided, for example, that the equalization fund paid by the province to county finance boards ". . . shall be expended by the Department of Education in accordance with the regulations to be prescribed by the Board of Education for the purpose of providing better educational services in the school districts of the county requiring special aid." A provision contained in the social assistance act of 1960 requires that the costs of assistance shall be spread uniformly across the country, which means that parishes having a disproportionate number of indigents or relief applicants are no longer required to finance all of their welfare costs single-handedly. Other programmes seek to provide minimum service standards not only within each county but among all counties of the province.

115. The attitudes which have produced these policy departures in intergovernmental co-operation are not feathery abstractions floating in the minds of a small minority; they are today widely shared by political and administrative leaders, and often perhaps unconsciously by the public at large. In the realm of action, these views have increased substantially the discretionary power of federal and provincial cabinets, ministers, boards and commissions, and have blended together all three levels of public administration into an increasingly interdependent whole. This fact is well illustrated by developments in the field of public finance. In New Brunswick, approximately fifty per cent of provincial revenues accrue in the form of federal payments, whereas provincial grants now account for roughly one-third of the revenues of municipalities and school boards. In the last three decades, through the development of co-operative federalism, we have moved far from the traditional nineteenth century view of the political system: a system, that is to say, comprising three relatively insulated and independent jurisdictions, each with its appropriate area of administrative responsibility rigidly defined in constitutional terms, and each endowed with the necessary fiscal competence. This latter view of present political reality is pure mythology.

116. So far as local government is concerned, the many forces promoting federal-provincial-municipal interdependence have required major operational adjustments. In the first place, all local authorities have steadily introduced new or expanded services made possible largely through provincial financial assistance. Municipalities have also broadened considerably their regulatory authority, often as a result of provincial insistence. The administrative consequences of these changes have produced larger local budgets and a larger, more specialized and technically more efficient municipal civil service. In these respects the New Brunswick municipal system has been greatly developed and strengthened when compared with the practice of an earlier period.

117. Secondly, however, local authorities are now subject to supervision in increasing detail by provincial officials deriving power from an expanding body of legislation touching virtually all aspects of local administration. The growth of provincial supervision has been particularly far-reaching in the field of municipal finance.

118. Thirdly, there have been a number of important reallocations of function. In traditional

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[31] In 1962 municipalities in Canada received some $1,060 million from provincial and federal sources. More than a billion of this sum came from the provinces, while the provincial governments in turn received about a billion dollars from the federal treasury.

municipal areas where outright or partial provincial control has been deemed more appropriate, local authorities have lost a measure of their former competence. This trend has occurred most noticeably in the areas of public works, protection, health, welfare and education, but has varied considerably as between urban and rural units of local government.

119. Finally, municipalities have in recent years acquired a broad range of new functions. Responsibility for certain of the new activities is shared jointly by local authorities and the senior governments: various inspection programmes connected mainly with construction, plumbing and electric wiring standards, housing programmes and urban renewal schemes, public libraries, winter works projects, civil defence arrangements, community planning and water pollution control. New municipal functions have also appeared in such fields as recreation (parks and playgrounds, rinks, swimming pools, beach management and other services), public utilities (water, electric sewerage, bus and other services), snow removal, waste collection and disposal, street cleaning, the operation of scales and parking lots, and industrial or tourist promotion. In these latter areas, as a general rule, provincial participation and supervision have been very limited.