

# Introduction

## In Local Hands

On November 8, 2022, the residents of the village of Highland Falls in Orange County, New York, went to the polls to decide the fate of their village. The question before them was whether to dissolve the 116-year-old village government and return the administration of village affairs to the town of Highlands.<sup>1</sup> This was not the first time that dissolution of Highland Falls (founded as Buttermilk Falls) was proposed. Residents had debated the question in 1908, just two years after the village was incorporated, and voted on the issue in 1916, rejecting it 228–66 in a referendum in which only property residents were (at the time) allowed to vote.

This latest dissolution effort in Highland Falls was prompted by growing residential concern over the village tax rate and the belief that that a community of its size (3,823 in population) could be more efficiently served by merging services (including policing and public works) with the embracing town (Randall 2016; Aiello 2021). Supporters of the dissolution were cautiously optimistic; they had collected sufficient signatures to put the issue onto the general election ballot. They had spent weeks campaigning and educating their fellow residents on the potential benefits of reuniting with the town. At the urging of several trustees, the village board commissioned a preliminary study that projected a post-dissolution reduction in property taxes for village residents. The neighboring communities of West Point and Fort Montgomery served as living examples that a separate village government was not necessary to preserve a satisfactory level of amenities and services. And because the town of Highlands' municipal buildings and facilities were physically located within the village, supporters believed the transfer of services was likely to be undramatic.

Yet dissolution advocates soon realized that they faced an uphill battle. Residents were wary. Skeptics argued that there were simply too many unanswered questions about the potential impact on critical services and amenities. Those who lived in the town-outside-the-village (TOV) had no vote on the matter, although their taxes too would be impacted by the decision. Some feared that dissolving the village government would result in a loss of a shared community identity. In other words, what proponents had anticipated would be a debate over service delivery options and relative costs had become increasingly contentious and highly emotional. By a vote of 779–450, the voters of Highland Falls rejected the measure, triggering a four-year moratorium on its resubmission.

In New York State, villages are the only form of general-purpose government that can be incorporated or dissolved solely by the local action of village residents.<sup>2</sup> Historically, the number of village government dissolutions has always been quite modest. From 1900 to 2009, only forty-six villages had officially dissolved. But, since the passage of the New N.Y. Reorganization and Citizen Empowerment Act (hereinafter the Empowerment Act), which went into effect on March 21, 2010, the number of New York villages actively considering dissolution has dramatically risen. Indeed, Highland Falls was the forty-seventh village to vote on dissolution under the Empowerment Act's provision—meaning that as many communities have voted on the question in the last twelve years as had dissolved in the prior century.

This book explores the contemporary village dissolution movement in New York State, the impetus behind these reforms, and the impact of the state policies and incentives that are driving local communities to reconsider the need for maintaining villages as governing units. Although New York is at the forefront of the village dissolution movement, it is not just a New York State curiosity. Similar debates are taking place in several states, including Ohio, Missouri, and Wisconsin, driven by a combination of state-level policies, fiscal pressures, and a grassroots interest in reducing local property tax burdens (Parshall 2022). Dissolution is an example of local democracy in action, an issue that is both timeless and timely, and one that is as important as it is messy and contentious.

Fundamentally, it is a debate over decentralized (local autonomy) versus centralized (or state) authority, shaped by the specific historical and legal framework of the state and against the backdrop of two competing legal theories of local power. In the first, local self-governance is a constitutional right, stemming from the rights of individuals aggregated

into self-governing communities that, in turn, constitute the state as the recipient of their delegated powers. In this view, residents have the right to form their own municipal governments to manage their internal property and affairs while state authority is restricted to statewide policy concerns. Such a view comports with a Jeffersonian embrace of rural communities as centers of autonomous self-rule that predate our constitutional system (Syed 1966) and is reflected by Alexis de Tocqueville's belief that localism is the wellspring of democracy (1835). The legal theory of an inherent right of self-governance is perhaps most famously expressed in the writings of Thomas M. Cooley, a state jurist and local government scholar. Yet even under Judge Cooley's robust conception of local autonomy, "while the local community is entitled to local government," in terms of managing its own affairs, "it cannot claim, as against the state, any particular charter or form of local government" (Cooley 1880, 379).

The state-centric theory of local government, by contrast, holds that local government structure and powers exist solely at the discretion of the state. This view has been memorialized as Dillon's rule—the legal theory that local governments may exercise *only those powers expressly granted to them by state law*. On this theory, localities are mere creatures of the states, lacking independent standing under the US Constitution.

Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy. If it may destroy, it may abridge and control. Unless there is some constitutional limitation on the right, the legislature might by a single act, if we can suppose it capable of so great a folly and so great a wrong, sweep from its existence all of the municipal corporations in the State, and the corporations could not prevent it. . . . [Local governments] are, so to phrase it, the mere tenants at will of the [state] legislature. (City of Clinton 1868, 475)

The United States Supreme Court embraced a state-centric view by holding that "in the absence of state constitutional provisions safeguarding it to them, municipalities have no inherent right of self-government which is beyond the legislative control of the state" (*City of Trenton v. New Jersey* 1923, 182). Because local governments exist for "a specific purpose," the state may withdraw these local powers of government at pleasure and

may, through its legislature or other appointed channels . . . enlarge or contract its powers or destroy its existence” (U.S. v. Railroad 1872, 329). Moreover, the state may do so “with or without the consent of its citizens, or even against their protest. . . .” (Hunter v. Pittsburgh 1907, 186–87).

Yet states have been traditionally reluctant to mandate local government reform, and local governments, once granted home rule authority, have been stubbornly resistant to state directive and reorganization efforts. New York is no exception. Indeed, constitutional and statutory grants of home rule require local consent for municipal reorganization, defined here to include incorporation, consolidation, and dissolution of local entities. Thus, rather than *mandating* reform, New York has attempted to encourage local government restructuring through both positive and negative inducements, along with an eased pathway for citizen-initiated efforts. With respect to village government dissolution (the primary focus of this work), the decision is one that, despite state-level pressures, rests in local hands.

## Methodology and Overview

This book adds to a growing literature on municipal formation and reorganization, much of which is focused on metro-area consolidations using a small number of cases. The case-based approach, incorporating dozens of cases of both rural and suburban character across time, reveals the deep connection that residents have to their local governing entities as reflective and protective of their community values and shared identity. This study blends historical, evidence-based research with interpretive lines of inquiry by accounting for the psychological and sociological attachments that motivate residents when considering whether to retain their incorporated status or merge their village with the embracing town (or towns). In so doing, I account for the legal frameworks, as well as the policy and political contexts in which village dissolution debates occur, to demonstrate that the decision is more than just an economic calculus yet is nevertheless shaped by the social and political interests of the residents in whose hands the decision rests. The empirical observations of the book and its claims, inferences, and theories are derived from:

- qualitative case studies of both successful and failed village dissolution attempts

- conversations and interviews with policy actors and citizen participants in selected case studies
- data, reports, audits, and policy briefings from New York State sources, including the New York Department of State (DOS), the Division of the Budget (DOB), the Office of the New York State Comptroller (OSC), the Office of Local Government Services (OLGS), and the Financial Restructuring Board for Local Governments (FRB)
- media and local news coverage of historical and contemporary (post-2010) dissolution efforts
- fiscal reports, minutes, and press releases by village and town governments
- village dissolution study reports and meetings that have been conducted by citizens groups, village-appointed dissolution committees, municipal organizations, including the New York Conference of Mayors (NYCOM), and various private consulting organizations that are contracted to perform dissolution studies and planning, including the Center for Governmental Research (CGR), the Development Authority of the North Country (DANC), Roundout Consulting, Fairweather Consulting, and the Laberge Group (LaBerge).
- archival records, including the official incorporation files maintained by the Department of State and housed at the New York State Archives, various legislative committee reports and hearings, state constitutional convention proceedings, and the New York State Session Laws database to track legislative changes to incorporation, annexation, and dissolution procedures (noted parenthetically throughout by the year and chapter number of the law).<sup>3</sup>

Historical cases of village disincorporation that took place pre-1900 are detailed in Appendix A on page 213. These dissolutions were identified through extensive primary source searches of local newspaper databases and New York State Session laws granting, amending, or repealing village charters. The list of incorporations and dissolutions maintained by the Department of State since 1920 (and listing dissolutions post-1900)

was verified through archival and newspaper coverage, resulting in the identification of several errors and omissions. The details for dissolutions between 1900 and 2009 are provided in Appendix B on page 214.

Contemporary (post-2010) dissolution efforts were tracked through print and online media coverage, village board minutes, and dissolution studies and reports publicly released by consulting organizations. The inventory of villages that have voted on dissolution since 2010 are provided in Appendix C on page 216, which includes additional details on the method (whether under Article 19 or the Empowerment Act, or if board or citizen-initiated) along with the referenda dates and outcomes. The county in which villages are located are noted parenthetically in the text throughout. Information on the town (or towns) for contemporary dissolutions can be found in Appendix C.

Since 2010, I attended dozens of dissolution meetings (in person or virtually) and interacted with a wide array of participants through interviews and informal conversations. I have analyzed dozens of social media accounts and websites of village and town governments, as well as those of the citizen coalition groups that form on both the pro- and anti-dissolution sides of the debate. Accompanied by a photographer, I visited more than thirty villages and towns, mostly in Western and Central New York. The places visited included both recent and historical cases and villages where dissolution was rejected as well as approved. The visits were informative to the book project, providing an opportunity to observe a diverse array of villages and to speak to residents. Such portraiture and interaction with a range of actors helped to inform my interpretation of the factual artifacts of the dissolution debate (i.e., the legal records, dissolution studies, agency reports, and news coverage). To the greatest extent possible, I have tried to depersonalize often contentious debates over dissolution and to refrain from discussing the actions of specific individuals, referencing most by their title (or role) rather than by name. In this way, interviews provided context and color, allowing me to verify my observations while protecting the privacy of individuals willing to speak about their experiences as citizens and policy actors.

My primary focus is the phenomenon of village creation and dissolution *as a community-level choice*. I am not interested in how or why individual citizens vote as they do on dissolution but concentrate instead on the collective choice of the community. The book is not an argument in support of or in opposition to dissolution, but rather an effort to explain the phenomenon and the contours of this important debate. The

explanations offered are not causal; that is, no general theory as to the precise combination of factors necessary to convince a community to dissolve its village government is presented. Instead, I seek to generally understand the many factors that are at play when residents consider the dissolution question. While antecedent contextual circumstances, such as depopulation and fiscal or environmental stress, are important, I argue that perceptions may matter more than objective indicators, that narrative framing fundamentally shapes public support or opposition to dissolution as a policy solution. From a state policy-making standpoint, such understanding is critical. Viewing the choice to dissolve as a purely economic decision driven solely by a demonstration of potential savings misses the mark in facilitating local government restructuring.

Part I of the book addresses the legal authority for local government reorganization by tracing changes in New York State laws controlling the incorporation and dissolution of village governments. As Burns and Gam (1997) note, local government studies too often neglect the effect of state legislative action on local outcomes. The laws and procedures under which dissolution takes place matter. To comprehend why villages sometimes dissolve, it is beneficial to understand how and why they incorporate in the first place and the legal requirements for forming and dissolving villages. To detail and contextualize changes in New York's incorporation and dissolution procedures, I relied on a variety of sources, including state constitutional conventions, legislative session laws and proceedings, gubernatorial messages, bill and veto jackets, state court rulings, and the hearings and reports of the various state legislative committees on the recodification of municipal law. Additional source material was obtained through the Frank C. Moore Papers at the Archives of Public Affairs and Policy of the University at Albany.<sup>4</sup>

Part II turns to the political and social context of the village dissolution debate to better understand what motivates citizens to pursue dissolution and why it is so often resisted. New York's recent policy support for local reorganization is based on the twin assumptions that an outmoded structure of overlapping and duplicative units of general-purpose governments is a major driver of New York's high property taxes and that increased fiscal pressure on local units will facilitate restructuring. State-level policies reflect a deliberate effort to encourage reorganization, incentivize reform, and tie local financial assistance to the quest for greater efficiency. As will be seen, pro-dissolution efforts are largely, although not exclusively, about the search for potential savings, but fiscal stress alone is not a reliable indica-

tor of either dissolution activity or success. I argue that it is the everyday politics of village living, the iconography, symbolism, and psychological attachment residents have for their local government, that explains the often-fierce resistance to dissolution efforts. To help explain the contours of these local debates, I use the theories of Narrative Policy Framework (NPF) to elucidate how both pro- and anti-dissolution coalitions seek to structure the voters' choice ahead of the public referendum (Kear and Wells 2014, 161).<sup>5</sup> The within-case and cross-case comparisons of successful and unsuccessful dissolutions suggest that the narrative framing deployed in the community-level debate has more persuasive influence than does the cost-benefit assessment of potential tax savings (Parshall 2011; 2012b).

Studying the village dissolution movement in New York and the attempt to eliminate smaller municipal units produces a richer understanding of the myriad reasons that communities consider, accept, or reject municipal reorganization efforts. In terms of policy change, dissolution is on the radical side, reflecting a disruption of the status quo. There must be sufficient impetus behind the effort not only to overcome a natural tendency toward policy inertia, but also to promote dissolution against competing policy solutions, such as shared services. The Empowerment Act's mixed record of success, given the state's dedication of resources, suggests that even bolder reform may be in order.