

John Sewell
speech to
Retired Teachers
October 21, 2020

Current legislative status

- Constitution from 1867 says `Province may exclusively make laws in relation to ... Municipal institutions in the province.'
- Also, province is responsible for education
- BNA Act passed in 1867, when 80 per cent of the population lived in rural areas, 20 per cent in settlements. Today, the per centages are reversed.
- Courts have interpreted the constitution to say that `municipalities are creatures of the province.' Also applies to local educational institutions.

Province has a free hand

In 1997 – 98 Mike Harris cut number of school board trustees in half.

He also stripped school boards of local property tax revenue and took it over so the province was given control over local school finances.

He amalgamated the six municipalities in Toronto into the megacity, in spite of referenda showing 76 per cent of the population was opposed to the megacity.

Court was asked about these changes and concluded he demonstrated 'mega chutzpah' but the province had the authority to make those changes.

McGuinty intervenes

In 2003 Premier McGuinty attempted to rectify the situation in respect to municipal government.

City of Toronto Act. Gave city powers to amend its own governance – ward system and other matters. Act says province cannot interfere without prior consultation.

Seemed like Toronto had a new arrangement because of this provincial legislation.

Doug Ford arrives

Ford elected premier in June 2018.

The municipal election was soon underway with a new ward system – 47 wards created after an extensive consultation period, and approval by both the courts and the OMB. In the midst of this election Ford brought in legislation to destroy 47 wards and replace with 24 wards. No consultation. No amendment of the City of Toronto Act.

Court of Appeal said province had the authority to do what it did. Now appealed to the Supreme Court of Canada.

No local security

Since the province can amend its own laws, local institutions have no security. Some protection needed for the idea that local government is a `creature of the province.'

How to get out of this box??

Amend the Constitution by changing Section 92 which puts cities under the province?? Raises all the unresolved issues in Canada – Indigenous issues, compensation of Senate, approval by seven provinces. Impossible and lengthy.

Single province amendment

Section 43 of the Constitution Act permits an amendment that applies to one or more, but not all provinces, and can be approved by a resolution of the House of Commons and the Senate. Simply begins with a request from a provincial government.

Has been used half a dozen times. To end the separate school system in Newfoundland; to permit the construction of the bridge to PEI; to resolve various issues in Quebec. Not contentious. Simply requires a majority vote of the Commons and Senate.

The amendment could secure an agreement about local autonomy between local government and the province, an agreement that could not be changed unilaterally by the province. Could be used by any province in Canada with any city.

An agreement is needed

Local government needs to work out an agreement with the province about what things will provide autonomy in the local sphere.

For schools, an agreement might include:

- Stronger school board
- Restoring local revenue sources
- Independent local financial decisions
- Control over teachers and class sizes
- Finances for state of good repair

The agreement would return the province to establishing general standards and getting it out of managing how those standards are implemented.

An agreement for cities

It might include:

- Control over land use planning decisions within the authority of the Planning Act
- Control of the local transit system, including subways
- Control over decisions about roads, stop lights, crosswalks.
- Control over the property tax system, including assessment
- A new Independent revenue source such as an expanded sales tax to fund transit and affordable housing without such a reliance on shared cost programs
- More information on what could be in an agreement about education, cities, police, and so forth, is in our detailed proposal, chartercitytoronto.ca

Prospects

An agreement with the Ford government? Looks unlikely.

Our proposal to the city: say the city will pay 20 per cent of the cost of the city's pandemic deficit if the province will give it the ability to levy a sales tax that is protected by a charter. Sales tax of 1 per cent gives Toronto about \$600 million a year.

But, there is an election in 2022, and we want to get the Liberals and the NDP to endorse the idea of a city charter, for Toronto or for any other interested cities in Ontario.