

A NATION OF CITIES AWAITS PAUL MARTIN'S "NEW DEAL" — FEDERAL FUNDS FOR "CREATURES OF THE PROVINCES"

T.J. Plunkett



A rural country of 4 million people after Confederation, and only 10 million after the Second World War, Canada in the first years of the 21st century is a nation of more than 30 million people, nearly two-thirds of whom live in our 25 largest cities. A nation of cities, writes T.J. Plunkett, one of Canada's eminent authorities on the history and development of municipal affairs. Resolving the issues confronting cities, he writes, requires reform of the revenue sources currently available to them, as well as reconsideration of the position cities occupy in our current governmental framework. Cities are constitutionally creatures of the provinces, yet their needs require funding available only from Ottawa to address a wide range of issues from urban sprawl and aging infrastructure to public transit and the homeless. Plunkett also suggests a new governance framework that would give cities a greater degree of autonomy within their provincial frameworks by allowing mayors and executives to have real power under city charters.

Pays rural de 4 millions d'âmes au lendemain de la Confédération et d'à peine 10 millions à l'issue de la Seconde Guerre mondiale, le Canada compte à l'aube du XXI^e siècle plus de 30 millions d'habitants, dont les deux tiers vivent dans les 25 principales villes du pays. Une nation majoritairement urbaine, écrit T.J. Plunkett, spécialiste canadien de l'histoire des municipalités, selon qui les problèmes actuels des villes ne pourront être résolus que si leurs sources de revenus sont revues et corrigées et leur place dans la structure gouvernementale reconsidérée. Sur le plan constitutionnel, les municipalités relèvent des provinces, mais elles doivent compter sur un financement qui n'est disponible qu'à Ottawa pour régler une foule de problèmes qui vont de l'étalement urbain au vieillissement des infrastructures en passant par les transports publics et la situation des sans-abri. L'auteur propose un nouveau cadre de gouvernance qui accroîtrait l'autonomie des villes au sein des provinces, grâce à des chartes municipales accordant de réels pouvoirs à leurs maires et dirigeants.

Now I wonder if you gentlemen and ladies who run the cities, whether you realize how much the cities have meant to the world. I suppose all the great things in the world come not from countries but from cities. You know that when Athens was smaller than Calgary no land or place ever did so much for the enfranchisement of the human mind and, as Lord Macaulay says somewhere, the victories of genius and truth over prejudice and power are part of the triumph of Athens. I do not need to tell you that the city of Jerusalem taught us the meaning of compassion and the lesson that out of agony comes salvation. I do not need to remind you that from Rome we got our grand ideas of

law and order; that Florence as a city gave us that great renaissance of art and literature; and the citizens of London have always been in great measure the founders and always the guardians of those ancestral liberties we call British justice. (Extract from a speech delivered to the Annual Conference of the Canadian Federation of Mayors and Municipalities — now Federation of Canadian Municipalities or FCM — in Calgary on July 1, 1952 by Leonard W. Brockington who was at that time the Rector of Queen's University at Kingston.)

When these words were uttered about a half-century ago at a conference of municipal politicians it is doubtful that the

attendees thought much about cities as such. Their thoughts were more focused on what they then considered to be the major issues confronting local or municipal governments. These included the high degree of dependence on the tax on real property, how to meet the infra-

However, the pace has accelerated considerably since the end of the Second World War. During that time our population has jumped from just over 10 million to more than 31 million, as revealed in the census of 2001. And almost all of this increase has con-

erate incomes; the growth in the number of homeless people forced to live on city streets; the need to develop and manage a satisfactory system for the disposal of garbage; and, the failure in some cities to treat urban transit as an essential public service.

Canadians are just now coming to the realization that we are a nation of cities. Those of us who live in cities are beginning to recognize that there are a number of issues currently confronting our cities which makes living in them difficult and frequently unpleasant but they are the places where most Canadians will live, raise their families and earn their livelihood.

Perhaps more important than any of the foregoing is the need to come to the realization that our cities are the places in which most of us will pursue advanced education, find employment, raise our children and pursue our recreational and cultural interests. Thus, virtual-

structure requirements of new development, and the cost of expanding the existing range of city services to meet the needs of a rapidly growing population. Cities were simply one element in what was the municipal government structure of each Canadian province. That the city was the main source of economic development, the place that furthered scientific and technological innovation, and the place that enabled great advances in education and culture to occur was generally overlooked. More often than not the city was viewed from the perspective of the values of rural Canada which saw cities as the source of crime, family breakdown, a weakening of moral standards, and the source of much undesirable social change.

tributed to a dramatic expansion of our cities and major metropolitan areas.

Almost two-thirds of the total Canadian population now live in just 25 of these major urban areas. Not unexpectedly Ontario has become our most heavily urbanized province where more than 70 percent of the total provincial population is contained in 10 major cities or metropolitan areas. In Alberta just two cities — Edmonton and Calgary — account for more than two-thirds of the total provincial population and in British Columbia the two metropolitan areas of Vancouver and Victoria account for nearly 60 percent of that province's population. In Quebec close to two-thirds of the provincial population is found in five metropolitan areas. Nearly 40 percent of Nova Scotia's population is located in its major city, Halifax, while in Saskatchewan two cities account for 42 percent of the population. And in Manitoba more than half of that province's population can be found in Winnipeg.

ly everything that happens or should happen in our cities is a matter that must be of civic concern. This means that the political process and institutional arrangements in our cities have to be assessed in terms of the tasks that are now within the ambit of city concerns. Political discourse will need to embrace a wider agenda that is much beyond the current city concerns of simply holding the line on taxes, delivering the traditional range of municipal services and defending obsolete land use by-laws. In this country the legislation establishing the institutional frameworks of our cities comes within the realm of provincial jurisdiction.

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Needless to say, the rapid expansion of our cities has generated a series of major problems. Some of these include the devastating cost of the extension of urban sprawl; the need to replace the aging urban infrastructure in most of our cities; the failure to recognize the consequence of the high degree of dependence on the automobile as the primary means of transportation between home and workplace; the failure to meet the housing needs of people on low to mod-

In Canada the first comprehensive municipal legislation, the *Municipal Act*, which provided for the establishment of a system of local government, was adopted in Ontario as early as 1849 when it was still Upper Canada. Following Ontario's example most other provinces also adopted general municipal or local government acts which set out the powers, responsibilities and institutional frameworks of municipalities. In general these legislative enactments established a sort of system of local government which, while it allows for different types of municipalities — usually cities, towns, counties, villages, and districts — make very little distinction between the powers allocated to the smallest and those assigned to the largest. Generally speaking the municipal legislation in each province makes little distinction between the powers

and responsibilities assigned to a village of 500 persons and a city with over 500,000 inhabitants.

It has to be recalled that this legislation was designed for what was essentially a rural country made up primarily of small settlements. In 1871, for example, the population of Toronto was only 59,000 but currently has nearly 2.5 million in the city alone and over 4 million in its metropolitan area. In that same year neither Calgary nor Edmonton existed as settlements, but each now has a population approaching 1 million people. Most provincial governments have established a ministry to deal with municipal affairs. However, it generally ranks quite low in terms of provincial policy importance.

In this context it has to be recognized that the principal source of revenue available to all types of municipalities, including cities, is the tax on real property. It accounts for some 50 percent of city revenues. While it is an excellent tax to support some services such as the maintenance of municipal infrastructure and a limited range of civic housekeeping services, like garbage collection for example, its expansive capacity is limited for it does not respond to changes in the levels of economic activity as well as other forms of taxation. It is, in fact, a regressive tax because it must be paid by all property owners irrespective of their income. But it is a greater burden on those at the low end of the income scale or on fixed incomes.

Mainly because of their high degree of dependence on the property tax, cities, as well as other types of municipalities, have tended to place great deal of emphasis on securing an increasing level of growth. Because this increased growth yields more taxable assessment it creates the illusion of surplus revenue. But the additional revenue is quickly absorbed by the need to provide additional services to the new growth areas. In many cities there is a constant drive to bring about new development that is all too often based on the simplistic notion that the additional taxable assessment will help to keep taxes down. Such an approach is



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Yonge Street in Toronto in the late 19th century. From a population of 59,000 at the first census in 1871, Toronto is today a city of 4 million in the Greater Toronto Area.

virtually an article of faith with some city booster organizations and local commercial and ratepayer groups.

When development occurs on previously undeveloped areas, land prices tend to increase with the result that developers indulge in a "leapfrogging" movement, thus by-passing partially developed areas and launching development projects further out from the city proper where land is less expensive. Most such development tends to be residential and of very low density, for example, single family housing on lots of 30-50 feet, or about 10 to 15 metres wide. When development brings about sufficient population, a shopping centre may be established. This type of residential development where each single-family house sits on its own plot of land probably reflects our frontier heritage, where the ownership of land was important to

the maintenance of the agricultural pursuits then dominant. When multi-story apartment buildings allowing for greater population density were first constructed in some of our newer growing cities, their occupants were often referred to as "cliff dwellers." Because they rented rather than owned their homes they were not considered as having the same stake in the community as homeowners. This reflected the values of rural Canada that have now given way to acceptance of the varied housing needs of a large city.

The low density development characteristic of many of our large cities makes the provision of public transit difficult, if not impossible. Thus, the residents who live in these areas must rely on the automobile not only for the journey from home to workplace but also to shopping facilities.

Another consequence of urban sprawl is the need to extend city services to the new developments. Often such services must be built through vacant land in order to connect to particular developments. In such cases the provision of services must be supported by the lower taxable assessment on vacant land. What all this means is that development has not proceeded in an orderly fashion, but rather has taken place in a very uneven and frequently inequitable manner that has been uneconomic from a civic point of view.

Another by-product of the uninhibited pursuit of property assessment growth is the virtual abandonment of city planning in the public interest. In too many instances what purports to be city planning is really not much more than subdivision planning and the maintenance of residential zoning regulations. Inappropriate structures are sometimes permitted on historic or waterfront sites, either destroying some part of the city's heritage or failing to secure development that is in the public's best interest.

Because urban transit in some cities is either unavailable or so infrequent as to be ineffective the residents of these outlying newly developed areas must use their automobile as the principal means of transport. The parking space available in the downtown core quickly becomes inadequate. Soon there are demands from both residents and downtown merchants for the city to provide more parking spaces. The acquisition of land for this purpose in the downtown core area of a city is expensive. And it matters little whether parking facilities are provided by the city or the private sector: the subsequent price charged for parking will be expensive thus adding significantly to the cost of the journey from home to place of work. The increased automobile and truck traffic eventually plays havoc with the state of the city's roads and streets with the result that they need almost constant repair.

Low density development also means that there is insufficient population or it is too widely distributed to make the provision of transit economic from the point of view of fare revenue

that is generated. There is a widely held view that the fare revenue generated by urban transit systems should at least equal the cost of operation. Any gap between revenue and operating costs must be made up by the city. Where fare revenues are frequently increased, often accompanied by a reduction in service, ridership often declines as a result. There is another school of thought that public transit should simply be regarded as a service to be provided at the lowest fares possible. To do so requires a new source of revenue for most cities.

In these circumstances the retail and service establishments located in the city's core area are adversely affected by the lack of parking and the increasing cost of the journey from home to shopping facilities. All they can do is watch helplessly as their customers are attracted to the generous supply of free parking spaces at the nearest shopping centre or "big box" store often located on the periphery of the city.

The dependence of the cities on the single source of revenue under their control — the tax on real property — has a restrictive influence on decision-making. For example, most cities are frequently confronted with new needs generated by changes in the workplace such as day-care centres. Other aspects of urban life generate the need for hostels for the homeless, low cost housing for those who cannot meet market rents and shelters for abused women and children, to name but a few. All too often the response to these needs is that they cannot be met because they would place an onerous additional burden on property taxpayers. Sometimes this same argument can be made in failing to provide for cultural facilities. Traditionally this argument has been bolstered by the proposition that the only real role for municipal governments, including cities, is to provide "services to property." Such services include water and sanitation, roads and protective services such as street lighting, fire and police protection.

Yet these services are really not provided to property but are consumed by people. Their provision may, however,

enhance the value of property. This high degree of dependence on property taxation as the major source of revenue inhibits city decision-making. It tends to be focused unduly on those services and activities that can be justified within the limits of the tax on real property. As a consequence the major social, environmental, infrastructure and other concerns confronting most large cities are constantly being deferred.

Given their limited revenue sources cities cannot respond effectively to the challenges that now face them. Provincial grants have sometimes provided financial aid to cities, but these have generally been tied to specific programs and are subject to frequent change as the result of provincial budgetary priorities. This makes planning beyond a one-year time horizon difficult if not impossible. Most provincial grant programs are not specifically geared to the needs of cities but are aimed at all municipalities within a province. These are based on a provincial assumption that "one size fits all," which is clearly not the case. What cities need, therefore, is an assured source of revenue which will enable them to plan over a longer time horizon. This same need is evident when it comes to the planning and subsequent construction of major municipal works, such as water and sewerage facilities and highways. While some provinces do share gasoline taxes with cities — notably Quebec, Manitoba, Alberta and British Columbia — the most urbanized province, Ontario, does not.

There is a growing recognition that what our cities need is a new financial deal. As might be expected the Federation of Canadian Municipalities has placed a strong emphasis on this. Some elements of the media — notably the *Toronto Star* — have been focusing on it. And one of the major banks — Toronto Dominion — has devoted a whole economic report to the plight of the cities. There is little doubt that the cities' need for more funds is overwhelming. But a one-shot injection of funds will not suffice. What the cities need is a stable, additional source of



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Main Street, Calgary, at the turn of the 20th century, then little more than a frontier settlement, today a bustling metropolis of nearly 1 million people, home of Canada's oil patch and an important head-office city.

revenue like a specified share of the tax on gasoline or the retail sales tax.

The aging infrastructure of many of our cities requires rehabilitation, particularly in such areas as water and sewerage systems, roads and transit. As well, there is an urgent need to increase our stock of housing for people on low incomes. And this will require a substantial financial investment by senior governments if the cities are to achieve any effective results.

In any new consideration of the financial needs of cities the federal government clearly has a role to play. At present the power of the federal government to deal directly with cities is extremely limited. Because the provinces have a constitutional responsibility for the establishment of cities and assigning powers and responsibilities to them it is generally claimed that unless the province grants permission the federal government cannot deal directly with any of its cities. And it is rare for any province to grant such permission. Thus, any federal dealings

with cities can only be done through the province. Because provinces tend to regard the needs of cities as being the same as all other types of municipalities, the cities' voices become diluted in such a tripartite arrangement.

There have been indications recently that the federal government has recognized the financial plight of Canadian cities. Paul Martin, the new prime minister, is already on record as promising "a new deal for cities." He has also appointed a parliamentary secretary with responsibility for cities, reporting directly to him. Just what this "new deal" will involve remains to be seen. However, Martin, who previously hinted that it might include diverting a portion of the federal gasoline tax to the cities, emerged from a January caucus meeting saying this mechanism wasn't "the be-all and the end-all" and that another means of funding cities could be found.

Continued resort to this tripartite arrangement will not likely yield

much in the way of positive results. Does the mere fact that a province utilizes its powers to establish cities and other forms of local government mean that the province is required to monitor or participate in every relationship that its cities may have with the federal government? Most provinces are really not that much interested in their largest cities. Their primary municipal interest seems to be in the small towns and rural areas. Can a province not simply agree to permit its largest cities to work out revenue-sharing or other arrangements with the federal government? Some examination of these questions might lead to the possibility of a realistic and productive federal/city relationship.

Until recently the cities' case for a different funding approach has simply been a general claim for more money from the senior governments. Some cities are now abandoning this approach and putting forward more specific proposals. Illustrative is the

plan currently being proposed by Mayor Glen Murray of Winnipeg. Under his plan Winnipeg would forego any claim for provincial grants in exchange for the following:

a new one percent city sales tax plus a half-cent share of Manitoba's provincial sales tax; an increased proportion of the provincial personal and corporate income tax it already shares; five cents per litre of federal gas tax revenues; and, a range of new tax options including a tax on hotel rooms, liquor, telephones (to fund 911 calls) and a \$1 per bag fee on non-recyclable garbage.

Winnipeg estimates that these reforms would allow the city to cut residential property taxes in half and reduce the total business tax levy by over 30 percent. Mayor Murray suggests that the city would be able to replace property taxes with tax revenues that "grow with the economy." The city council has appropriated \$900,000 to fund a consultation process to sell the plan to the residents of Winnipeg, as well as the provincial and federal governments. It will be interesting to see how this plan unfolds.

Important as is the need of the cities for additional sources of revenue these alone will not resolve the problems facing cities. The governance framework within which Canadian cities must operate also has to be considered.

There are two important elements that must be considered with respect to the governance of our cities. Firstly, there is the need to consider the position of cities within the governmental framework of the Canadian federation. Cities and, indeed, all other types of local governments are the constitutional creations of the provinces. Section 92.8 of the *Constitution Act of 1867* (now set out in the *Constitution Act of 1982*) gives the provinces exclusive responsibility for making laws with respect to "municipal institutions in the province." As a consequence, each province has established municipal institutions of varying types:

cities, towns, villages, counties and municipal districts, to name some of them. While these municipal institutions are regarded as "creatures of the province" there is little agreement on the definition of them in terms of the powers they can exercise. Population appears to be the only basis for distinguishing between them. Thus, for example, the *Local Government Act of British Columbia (RSBC Ch.323, Part 2 s.17)* is illustrative of this approach: a municipality may be incorporated as a village if the population is not greater than 2,500, as a town if the population is not greater than 5,000 and as a city if the population is greater than 5,000. However, a municipality may be incorporated as a district if the area to be incorporated is greater than 800 hectares and has a population density of less than five persons per hectare. This legislation applies to all municipalities in British Columbia with the exception of Vancouver, which is governed by a separate act.

While there are some variations most provinces have adopted what has been called a "laundry list" approach to the legislation governing municipalities. Under this approach the legislation governing municipalities spells out every power. If the power is not listed or necessarily implied, the municipalities do not have the power. Such legislation is not only unnecessarily restrictive but it often prevents a city from easily and efficiently adapting to changing conditions. To respond to changing needs a municipality must generally apply to the province for amending legislation.

Generally speaking most municipal corporations, including cities, lack what in law is referred to as the powers of a "natural person" which would give municipalities these powers. Provinces have been slow to recognize that cities must confront problems and issues that are rarely encountered by other types of municipalities. Consequently, cities need a broader range of powers. Some cities have now been established as charter cities. Rather than being subject to a general municipal act such cities are governed

by "stand-alone" legislation known as a city charter. There are just four such cities in Canada: Vancouver, Winnipeg, Montreal and Saint John (See *Powers of Canadian Cities*, FCM, 2001).

General municipal acts which attempt to provide a legislative framework for all types of municipalities, from the smallest village to the largest city within a province, cannot really meet the needs of the latter. A city needs powers sufficient for it to respond to a range of issues unknown to many of the smaller municipalities. To this end the US experience with "home rule" might be considered. Under home rule a city would be enabled to develop its own charter and regulate its own affairs. Permissive provincial legislation would be needed to permit the establishment of a charter commission. Such a commission would consist of representatives from the existing city government and some local citizens representing business, labour, and civic groups. In addition to the enabling legislation a province should also provide a budget sufficient for the commission to retain legal and other technical advisors to aid it in the drafting of the proposed charter.

When the commission has completed drafting a new city charter, copies should be given to any civic or other groups that indicate an interest. Commission members and staff should be available to explain to interested parties any matters that they may raise. In this connection the commission should actively seek comments on its draft and incorporate any suggestions that it deems appropriate in its final draft. Such an approach might also yield a benefit by giving citizens a voice in determining the kind of government powers and structure they want for their city. It is interesting to note at this point that Ontario has recently adopted a new municipal act to replace the current one that was over 150 years old. This new act came into effect on January 1, 2003. It clearly demonstrates the limits of provincial understanding of the needs of cities, for nowhere does this new act even mention them.

At the very least the development of a city charter should consider a review of the role of the mayor. At present most general municipal legislation assigns only a very limited role to the mayor. Beyond the very limited role assigned to

no place in city government is one of the continuing myths inherited from the municipal reform movement of an earlier era in the US. Because city government does involve the exercise of power it is inevitable that there will be

the general municipal acts that currently prevail. Such an act should provide a definition of what constitutes a city as distinct from other types of municipalities and provide revenue-raising and other powers deemed appropriate to meet the needs of these cities.

At present most general municipal legislation assigns only a very limited role to the mayor. Beyond the very limited role assigned to the mayor most large Canadian cities do not have any kind of political executive such as can be found in the provincial and federal governments with a first minister and the cabinet. A political executive consisting of the mayor and an executive committee would have several advantages.

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A political executive consisting of the mayor and an executive committee would have several advantages. Firstly, it would provide a focus for establishing city priorities. This would enable the city council to consider and debate the major issues that confront the city. Finally, this political executive could be delegated authority by the city council to deal with the many administrative and other matters which currently seem to dominate the agenda of many cities. Establishing a political executive would provide a firm basis for securing effective leadership. It could also enable a city council to have worthwhile debates regarding the major issues confronting a city.

It has to be recognized that the task confronting anybody attempting to develop a new approach to city governance is fraught with some difficulties, not the least of which is the notion advanced by many that city government should be considered as a business and the structures necessary to support it should be designed to serve this end. Politics is therefore to be avoided. We should therefore have very small councils, for conventional wisdom suggests that the smaller the number of people involved the more efficient the decision-making process will become. The idea that politics has

contention as to how and for what purpose power should be exercised. Politics in this sense can hardly be avoided.

Another problem confronting those attempting to draft a new city charter is the lack of relevant literature dealing with city government in Canada. While some books and articles do exist, many are now out of date. The paucity of relevant literature stems in part from the fact that the study of city government has never found much favour with university political science departments. Only a relative handful of political scientists have made city governance a subject of serious study. This is in marked contrast to the situation in the United States and Great Britain where it is considered an important subject of study. Similarly, the matter of city management and the implementation of city policies receive scant attention in public administration literature or in university programmes in public administration.

Drafted in the manner suggested and with substantial public support might make it difficult for any provincial government to abrogate arbitrarily any of the charter's provisions.

Initially, the development of a city charter should be considered for our largest cities, those with a population in excess of a half million people. This does not mean that cities below this population should be ignored. Their needs should be met by the adoption of a general city act — as distinct from

Our large cities are now the places where the majority of Canadian live and work. They are also the places that generate the bulk of the economic activity that supports the Canadian economy, and it is to these cities that new investment is attracted, which in turn creates more employment opportunities. Because our cities have been so long neglected in terms of funding they have been unable to maintain their infrastructure or to make any dent in the social and environmental challenges that currently confront them. This will make life for its citizens not just more difficult but will also make them less attractive as places for the kind of investments that create employment opportunities.

Cities can no longer be treated as simply large villages, as provincial governments have been wont to consider them. They need to be provided with the funding sources and the powers that will enable them to be genuinely self-governing entities capable of dealing effectively with the issues that currently challenge them. Our largest cities, particularly, must be considered as vital elements in our total governmental framework and given the resources and the political institutional framework that will enable them to fulfill their role effectively. If the provinces cannot meet the resource needs of our largest cities they have little justification for prohibiting the federal government from attempting to do so.

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