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**RECENT CHANGES IN
PROVINCIAL-MUNICIPAL RELATIONS
IN ONTARIO:
A NEW ERA OR A MISSED OPPORTUNITY?**

By

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Municipal reform in Ontario has moved in fits and starts over the years. The pattern has been repeated over several cycles. For long periods of time, municipalities are simply ignored, then suddenly there is a relatively short period of intense interest in municipal reform during which the actual changes fall short of the early intentions, after which the next period of quietude sets in. It is fitting to review municipal reform in Ontario at this point because we seem to have just completed one of these cycles and are entering a new period of quietude. However, the real impact of some of these changes are still unfolding. The result could be a major change in the provincial-municipal or a missed opportunity and a reversion to the old way of doing things.

The beginning of responsible municipal government in Ontario is usually dated from the Baldwin Act of 1849. For over a hundred years after the establishment of responsible government, the municipal system experienced steady growth and incremental change, but no major shocks. The creation of Metropolitan Toronto in 1954 was the first major structural change in the system. This was sufficiently revolutionary to generate international interest, but after this flurry, the somnolence returned for over ten years, until the Smith Committee (the Ontario Committee on Taxation) reporting in 1967 recommended that all of southern Ontario be restructured in the form of Metro-Toronto-like regional governments. This led to the creation of ten regional governments (mostly in the Golden Horseshoe around Toronto plus Ottawa and Sudbury) in the period from 1969 to 1974 and then more somnolence. The period of 1996 to 1999 after the election of the Harris government in 1995 saw the most comprehensive reform of municipal government since 1849. This brief, but very important, spurt of activity and its aftermath will be the topic of this paper.

This paper will assess whether this flurry will result in any real lasting change in the system. The first section of the paper provides a description of the changes that have been made. The second section analyses these changes to determine what their real impact is likely to be.

THE COMMON SENSE REVOLUTION

In 1995, Mike Harris and his Conservatives swept the previous NDP government out of power with promises of major changes in the political landscape. The Conservative's success was attributed in part to the Common Sense Revolution. This was a short pamphlet which stated in a very clear and succinct way what the Conservatives would do when they came to power. The Conservative campaign strategy, which they started pursuing several years before the election, was to develop this clear and fairly simple campaign document and hammer on it throughout the election campaign to make sure that everyone knew where they stood.

While the Common Sense Revolution document made many of the Conservatives' policy goals very clear, it said very little about municipal government so it was not clear what the Conservative's goal for local government reform were or even if they had a goal.¹ Some have suggested that the government's real goal was to reform the primary and secondary education systems, and municipal reform was almost an unintended consequence of that.² While this might be an accurate analysis of the genesis

¹ Andrew Sancton, "Amalgamations, Service Realignment, and Property Taxes: Did the Harris Government Have a Plan for Ontario's Municipalities?" *Canadian Journal of Regional Science*, vol. 23, no. 1 (Spring 2000), pp. 135-56.

² John Ibbitson, John, *Promised Land: Inside the Mike Harris Revolution* (Scarborough, Ont.: Prentice Hall Canada, Inc, 1997), p. 221; Katherine A. Graham and Susan D. Phillips, "'Who Does What' in Ontario: The Process of Provincial-Municipal

of reform, it was clear that reform was ultimately pursued with such vigour that it could not really be considered an unintended consequence. At some point, the impetus for municipal reform took on a life of its own.

This paper will discuss the municipal reforms under a number of headings beginning with financial since there is some evidence that this was the prime motivator and the starting point for the more extensive changes.

Financial Reform

Prior to the Common Sense Revolution, boards of education had received about half their funds from the property tax, and the other half from provincial transfer payments. The province's chosen method of obtaining more leverage over boards was to shift this balance so that almost all education funding would be provided by the province. Then control would follow funding. Of course, the province did not have the funds to simply increase the level of transfers, and even if it did, it would have created a windfall if it had allowed school boards to retain the property tax.

The province's original plan was to provide a significant increase in transfer payments to boards of education, but require them to relinquish their hold on the property tax. Municipalities could then occupy the property tax room vacated by the boards of education so that ratepayers would barely be aware that the destination of their property taxes had shifted. Since the municipal property tax take would increase, the province could then reduce its transfer payments to municipalities and use that money to increase transfer payments to boards of education. It was a grand circular movement that could

Disentanglement," *Canadian Public Administration*, vol. 41, no. 2 (Summer 1998), p. 187.

have worked very well, if the numbers worked out. In practice, the numbers did not work, and school boards are still in the property tax business to a reduced, but still fairly significant, extent. However, the main point is that this shift did occur to a certain extent.

The most significant outcome of the financial reforms is that municipalities are significantly more reliant on revenue from their own sources such as the property tax and user charges and considerably less reliant on provincial transfers payments. Table 1 illustrated the extent of this shift. The reduction in provincial transfer payments was greeted with howls of indignation from municipalities, although the increased availability of the property tax was accepted with considerably more equanimity. As will be discussed below, this shift from spending someone else's money to spending revenue from their own sources will have an impact on the municipalities' level of autonomy.

Table 1 Shift in Municipal Revenue				
	1996		2000	
	\$ millions	% of Total Revenue	\$ millions	% of Total Revenue
Real property tax	7,171.7	42.2	10,384.9	49.8
User charges	3,349.7	19.7	4,096.1	19.6
Other own source	1,050.7	6.2	1321.4	6.3
Total own source revenue	11,572.1	68.1	15,802.4	75.8
Conditional grants	4,542.9	26.7	4,365.3	20.9
Unconditional grants	881.6	5.2	679.3	3.3
Total grants	5424.5	31.9	5,044.6	24.2
TOTAL	16,996.5	100.0	20,847.0	100.0

Source: Statistics Canada, Cansim II Table number 3850004.

Functional Reform

At the same time that municipal reform was taking place, the province was working on the commitment made in the Common Sense Revolution to reduce government expenditure, reduce the debt and deficit, and ultimately reduce taxes. Thus, it was clear that whatever was done by way of municipal reform could not increase provincial expenditure and ideally would reduce provincial expenditure. This contrasted sharply with 1970s reform period when the provincial was quite willing to throw money at the new system of regional government to ease the transition.

As Table 1 indicates, the shift in the property tax discussed in the previous section meant that municipalities enjoyed a fairly significant increase in revenue. In the tight financial situation faced by the province, this windfall to municipalities was noticed. However, another element of the story needs to be introduced.

The complex web of provincial-municipal relationships had developed in a fairly haphazard way over many years. Everyone recognized that this web of approval requirements, funding arrangements, and mutual persuasion was so complex that it had become dysfunctional to all concerned. Previous governments had attempted to simplify without success. When the Conservatives came to power they appointed the well-respected former mayor of Toronto, David Crombie, to head the “Who Does What” task force. This was actual a group of committees charged with trying to simplify this complexity by going back to first principles to determine which level of government should be responsible for which services and what type of interaction should take place between the levels of government. The idea was to take a fresh look at each service and allocate it to the appropriate level of government, eliminating unnecessary interactions

and approval requirements between the two levels. And in cases where interaction was necessary, the idea was to structure the interaction in a functional manner.³

The task force made its recommendations based on a set of rational principles. Services were allocated to the level of government that was best-equipped to handle them. However, when the province began to implement the recommendations of the task force, it was clear that the ugly face of expediency impinged on the elegance of the task force's recommendations. In the end, the decisions made about allocation of responsibilities were heavily influenced by the financial considerations mentioned above, that is, provincial expenditures had to be restrained.

For example, the Who Does What task force recommended that social assistance be moved to the provincial level. This would bring Ontario into line with the other nine provinces. Instead the province restructured the system in ways that imposed greater responsibilities for social assistance on the municipal level and moved social housing which had previously been a provincial responsibility to the local level, that is, it acted in exactly opposite of what the Crombie task force recommended.

At the beginning of this process, the phrase "revenue-neutral" was used quite a bit. And at various stages in the process scorecards were prepared that purported to show the dollars associated with various transfers. This produced quite a bit of debate because the amounts to be assigned to various transfers was contentious. And even if the total impact on the municipal system could be determined, the nature of the changes were such that they had very differing impacts on different municipalities. For example, the

³ Peter Meyboom and Dana Richardson, "Changing Who-Does-What in Ontario: Ontario's Approach Towards Municipal Empowerment – process, Results and Lessons Learned," Paper presented at conference of the International Institute of Administrative Sciences, Québec City, July 14-17, 1997.

requirement that every municipality would now pay for the cost of policing had no impact on the large and medium-sized municipalities that were already paying this cost, but had a devastating impact on smaller municipalities who would be paying this for the first time. Over time, the use of the phrase “revenue-neutral” seems to drop out of the lexicon. Municipalities talked a lot about downloading, whereas the provincial phrase was local services realignment.

Table 2 summarizes some of the changes in the responsibility for functions and some related changes. It avoids the rigid scorecard approach, but does show whether a particular change was a benefit (+) or a cost (-) to municipalities. There are many more minuses than pluses on the table, but that can be misleading. For example, the one plus associated with Education Property Tax reform brought in much more money than some of the cost factors.

**Table 2
CHANGES IN THE PROVINCIAL-MUNICIPAL RELATIONSHIP**

Municipal benefit +
Municipal cost –
No change 0

Before Common Sense Revolution	After Common Sense Revolution
Education Property Tax	
+	
Province has been funding a declining portion of total education cost. The major portion of education funding comes from local school boards through the property tax. Education portion of the property tax has been increasing more rapidly than the municipal portion.	Province will fund approximately 50% of cost of education. School boards will reduce their residential property tax levy, which will result in rates being reduced by about 50%; municipalities will be able to increase their tax rates accordingly. Province will specify uniform school tax rate for commercial and industrial properties.
Farm Tax Rebate	
-	
Farmer pays 100% of property tax to municipality, and receives 75% rebate from province.	Farmer will pay 25% of residential tax rate to municipality; no provincial involvement. Municipal will bear this cost instead of province.
Property Assessment	
-	
Responsibility of province.	Responsibility of municipalities. Will be performed by autonomous entity funded collectively by municipalities.
Social Assistance	
-	
Province funds some programs 80/20, others 50/50; administration costs shared 50/50.	All programs shared 80/20; administration still shared 50/50.
Social Housing	
-	
Province funds most of the deficit through a variety of means.	Province will spend \$215 million in capital upgrades, after which municipalities will be responsible for future deficits.

Municipal Transit		-
Province provides some grants for both capital and operating.	Existing commitments for capital grants will be honoured, then no further grants for either capital or operating.	
GO-Transit		-
Province meets deficit.	Operation will be assumed by the Greater Toronto Services Board. No provincial funding.	
Roads		-
Province maintains some roads within municipalities.	Many roads switched to municipalities. One-time maintenance funding provided.	
Province provides conditional grant.	Grants eliminated.	
Ferries & Airports		-
Province provides most funding.	Most ferries and airports will be turned over to municipalities, except those in sparsely-populated areas.	
Policing		-
OPP provides service free to small municipalities.	All municipalities will be responsible for the cost of policing. This can be handled through contracts with OPP or establishing a local police service.	
Libraries		-
Province provides grant.	Grant eliminated.	
Public Health		-
Most programs funded by 80-100% grants from the province.	Province will continue to fund 50% of mandatory programs.	
Ambulance Service		-
Provided by province.	Municipalities responsible for land ambulance, province funds 50% of approved expenditure; province provides air ambulance.	
Gross Receipts Tax		-
Collected by municipalities.	Must be turned over to province.	

Provincial Offences Revenue		+
Collected by province.	Net proceeds (after adjudication and prosecution costs), directed to municipalities.	
Water and Sewer		0
Province provides service to smaller municipalities on a user-pay basis.	Municipalities will be responsible to service, but this was self-funding in most municipalities before anyway.	
Community Reinvestment Fund & Transitional Assistance		+
	Unconditional grant will be provided. Total amount has varied over time because this is the balancing figure which is intended to make the entire package revenue neutral. Will be discontinued at some point to be replaced by special circumstances funding on application from municipalities each year.	
SOURCE: Thomas R. Hollick and David Siegel. <i>Evolution, Revolution, Amalgamation: Restructuring in Three Ontario Municipalities</i> . (London, Ont.: Department of Political Science, The University of Western Ontario, 2001).		

Structural Reform

Structural reform is tied to the other elements of reform because the Common Sense Revolution promised the municipal government would be rationalized and the overlap in the layers of government reduced. Structural reform is also tied to financial reform because structural reform was seen as a way of saving money and thus offsetting the reduction in provincial transfer payments to municipalities.

In practice, structural reform meant the amalgamation of municipalities and the restructuring of two-tier counties and regional governments into single-tier governments. The highest profile amalgamation was the 1998 creation of one city of Toronto from

Metropolitan Toronto and its six area municipalities. This was followed in 2001 by the creation of large single-tier municipalities in what were the Regional Municipalities of Hamilton-Wentworth, Ottawa-Carleton, and Sudbury. Throughout this time there were many smaller amalgamations occurring within county systems including the creation of some large single-tier municipalities such as Chatham-Kent and Prince Edward County. The extent of the amalgamations can best be appreciated through the fact that in 1995, there were 850 municipalities in Ontario, but by 2001, this number had been approximately halved.

In some cases, these amalgamations were accomplished by provincial edict, particularly in the Toronto, Hamilton, Ottawa, and Sudbury cases mentioned above. In other cases, there was a strategy of persuasion with some level of coercion waiting in the wings. The legislation that applied to all of southern Ontario except the regional governments provided mechanisms to allow municipalities to amalgamate voluntarily, but it also allowed the minister of municipal affairs to appoint a commissioner if requested to do so by any municipality. The commissioner had binding authority to order type of structural change. A strong message about the use of commissioners was sent when the first commissioner ordered a complete amalgamation of the twenty-three municipalities in the Kent County-City of Chatham area in spite of the fact that no one recommended such an extensive change. This sent all sorts of other municipalities scurrying to effect smaller amalgamations before something so extensive was imposed on them. A typical arrangement occurred in Elgin County where fifteen municipalities were restructured into seven and some realignment of services between the county and the

lower tiers was achieved. Outside of Toronto and a few other places, the changes were frankly more incremental than earth-shattering.

In many cases, there was a great deal of acrimonious debate around the amalgamation. On the one side, the province promised that larger units of government would generate significant efficiencies that would result in lower taxes. On the other side, many local citizens feared a deterioration in services and a loss of local community spirit. As frequently happens in these cases, neither extreme view seems to have come to fruition. None of the amalgamated municipalities have reported major efficiencies and tax reductions, but there are also no major examples of serious deterioration in the quality of service. There have been concerns in Toronto about problems associated with the amalgamation, but John Barber, the local affairs columnist in *The Globe and Mail*, has argued that many of the sins laid at the door of amalgamation are simply examples of good old-fashioned bad management that can occur in organizations of any size. A colleague and I have done extensive residents' surveys in three amalgamated municipalities that indicate that local residents have not seen a deterioration in quality of service or sense of community since the amalgamation.

The outcome of most of these amalgamations is enough to make one wonder is all the focus that some place on structure is worthwhile. Maybe structure does not matter very much. Structures mean a lot to people who work in them and to academics who study them, but the structures are not nearly as important to the average citizen as having the garbage picked up on time.

Legislative reform

A final reform was the first major revision in the municipal legislation in Ontario since the Baldwin Act of 1849. This act which took effect on January 1, 2003 was consciously modeled on the Alberta legislation passed in 1994. The Baldwin Act was a very detailed piece of legislation that was based squarely on the classic Dillon's rule—a municipality could take no action unless it was given express authority to do so under some piece of provincial legislation.

The purpose of the new act is to give municipalities greater autonomy by providing them with a broader “permissive policy framework” rather than the narrower “restrictive regulatory framework.” (Garcea, 2002) This is done by identifying ten spheres of jurisdiction in which municipal councils have considerable latitude to operate. The spheres include:

1. Highways, including parking and traffic on highways.
2. Transportation systems, other than highways.
3. Waste management.
4. Public utilities.
5. Culture, parks, recreation and heritage.
6. Drainage and flood control, except storm sewers.
7. Structures, including fences and signs.
8. Parking, except on highways.
9. Animals.

10. Economic Development Services.⁴

The act also gives municipalities “natural person powers,” meaning that they are allowed to carry out duties within these general spheres of jurisdiction without needing the kind of detailed delegation found in the current municipal act. Specifically, this should provide municipalities greater flexibility in the areas of entering into contracts, suing and being sued, hiring and terminating employees, delegating administrative responsibilities to council committees and staff, entering into innovative service delivery arrangements such as public-private partnerships, and purchasing and disposing of property (Garcea, 2002).

In addition to natural person powers, municipalities are also granted some governmental powers such as “the authority to tax, to regulate or prohibit certain activities, to require individuals to do certain things, to expropriate property and to establish a system of licences, permits, approvals and registrations.” (Ontario, Ministry of Municipal Affairs and Housing. 2001:7) Many of these powers were already extant in a number of different pieces of legislation, but the new municipal act brings them together in one place.

There are certain limits on these new powers. Municipalities cannot pass by-laws that would conflict with federal or provincial legislation, they must respect certain procedural requirements in making decisions, and there are some limitations on their financial activities.

⁴ S.O. 2001, c. 25, s. 11. Referred to as *Municipal Act, 2001*.

CONSEQUENCES

The cumulative effect of all these changes could provide municipalities with more autonomy. The previous sentence is worded in a cautionary manner because much depends on how municipalities react to the opportunities presented to them and how the province applies the new Municipal Act.

The remainder of this paper will consider some of the opportunities that municipalities have and provide a preliminary assessment of how municipalities have used these opportunities to this point.

More powerful mayor. Politicians gain a great deal of their authority from the size of the area and the number of people they represent. Currently, the City of Toronto has twenty-eight members of parliament, twenty-eight members of the provincial legislature, and one mayor. It is not difficult to figure out who will speak with the greatest authority on the needs of the people of Toronto. This will also have an impact when mayors speak collectively. Three of the largest cities in Ontario are now of the amalgamated, single-tier type. The mayors of Hamilton, Ottawa, and Toronto represent over 30% of the total population of the province.

Of course, political power has a significant personal component as well. There will be mayors who will be unable or unwilling to wield the amount of power they have available to them, and there will be some time before this pattern develops to its full extent, but there can little doubt that these mega-cities have the potential to produce mega-mayors.

Size matters. The amalgamated cities are quantitatively larger, but there are also qualitative differences that occur as municipalities become larger. Larger municipalities are able to hire more staff and more highly-qualified staff. The larger municipalities have more money and because of their size they will also attract politicians and staff who want the challenge of managing in a larger place. For an aspiring politician, being mayor of a large city looks more attractive than being an MP or an MPP. On the staff side, larger municipalities can hire people with more specialized expertise in such areas as policy analysis and intergovernmental affairs, that are sometimes seen in municipalities in other provinces and in the US, but are not very common in Ontario. This could allow municipalities to develop a level of expertise that could rival that of the province.

This has not happened very much to this point in Ontario. The traditional view of local government held by many councillors and staff is that local government is about service delivery and about minimizing taxes. Policy analysis is something done by other governments. Local governments deliver services; they do not waste time considering broader policy issues—a fact which is all too often true. Intergovernmental relations are handled by the head of council, so there is no need for specialized expertise in this area. This is an area where local governments could improve their position, but have been slow to move.

Single-tiers speak with one voice. Two-tier governments were supposed to be desirable because they would provide for economies of scale in the upper tiers and citizen participation in the lower tiers. However, this has not worked as well as anticipated because there are relatively few economies of scale to be captured, and the goal of citizen

participation has been weakened because of the confusion caused by two tiers of government. In practice, two-tier local governments have become vehicles that allow politicians in one tier to spend a great deal of their time and taxpayers' money fighting politicians at the other level who are also spending a great deal of time and taxpayers' money. Blame-shifting has become a major activity in two-tier governments.

Mayors of larger municipalities speak with greater authority and a mayor of a large, single-tier municipality can speak with greater authority than a chair of an upper-tier county or region.

The downside of this is that the kinds of territorial disputes that used to occur between municipalities now occur within council. This is obviously a problem and the larger the council, the greater this problem. However, there are established mechanisms for resolving these disputes within council that do not involve the same level of visible acrimony as inter-municipal disputes.

More untied money. Table 1 above indicated that municipal revenue has increased significantly in the last few years. As significant as the amount of the increase is the shift from a heavy reliance on tied money in the form of conditional transfers to greater availability of own source revenue in the form of property taxes and users charges.

Municipal politicians would be quick to point out that these were not exactly windfalls in that the increase in revenues has been accompanied by the downloading of major responsibilities for service provision. Municipal politicians would also point to the political cost and practical constraints on increasing property taxes and user charges.

However, the increase in the amount of untied money does give municipalities more levers in making policy. Downloaded responsibilities cannot be ignored, but the lack of conditional transfers that virtually forced municipalities in certain areas means that municipalities have autonomy to decide how much attention (and funding) to focus on these downloaded responsibilities. Municipalities will be able to make policy decisions to move funds around if they choose to do so.

More legislative authority. The establishment of spheres of power and the provision of natural person powers can amount to a significant increase in the powers that municipalities have available to them. These changes constitute a change from the rigid principle of Dillon's rule to greater flexibility and autonomy in decision-making.

However, Garcea has argued that the real impact of these changes will be determined by how the municipal governments use them, how the provincial government responds to what municipalities do, and how courts interpret the legislation.⁵

A few months after the legislation has come into force, the rhetoric at municipal council meetings has not changed very much. Many councillors would still rather complain about the intrusiveness of provincial rules than actually make policy themselves. New-found power can be both intoxicating and frightening. Municipal councillors are so comfortable with possessing limited powers and being able to blame the province or the other level of municipal government for problems or missed opportunities that these patterns of behaviour will be slow to change.

⁵ Joseph Garcea, "Modern Municipal Statutory Frameworks in Canada," *Journal of Governance* (forthcoming, 2002).

From the provincial perspective, it might be difficult to loosen the reins on municipal government that have been in place so long. One reading of the new legislation gives municipalities more autonomy, but there are enough restraints in the legislation and in other powers held by the province that it would be easy for the province to revert to its paternalistic role. The constraints preventing that are based more on goodwill than on legislative enactment.

CONCLUSION

Local government reform in Ontario has come in fits and starts over the years. However, the recent reforms discussed in this paper are the most significant set of reforms made in Ontario's municipal system since the current system was created by the Baldwin Act in 1849. There were financial reforms that significantly reduced the reliance of municipalities on provincial transfers and gave them greater access to own source revenue. There were functional reforms that gave municipalities significantly more scope for service provision. There were structural reforms that reduced the number of municipalities by half, frequently through the replacement of two-tier municipalities with very large single-tier municipalities. There were also major legislative reforms that gave municipalities more autonomy from provincial control.

The importance of behaviour persistence needs to be considered in assessing the real impact of these changes. For a long time, municipalities have viewed themselves as creatures of the province. And for an equally long time, the province has taken a paternalistic view of municipalities. These roles will not change quickly, even with all sorts of structural changes.

Municipalities have been conditioned to see themselves as service delivery vehicles, trying to squeeze as much money as possible from the province so that they can keep property taxes low. Municipal councillors see their role almost entirely in terms of minimizing property taxes and delivering mandated services. Ten years ago, Frances Frisken wrote: “most Canadian municipalities tend to use their powers primarily to protect themselves from the impacts of change, not to accommodate or manage it.”⁶ Changing that perspective to a more proactive, policy-oriented role will be very difficult. Since councillors generally see their entire role in financial terms, the additional powers available to them in the new Municipal Act have not attracted a great deal of attention.

There are important caveats on the provincial side as well. There are mechanisms in place to allow more municipal autonomy, but there are also mechanisms that would allow that autonomy to be withdrawn. There is a great deal of good will in the Ministry of Municipal Affairs and Housing right now because the architects of the new legislation are still resident there. However, provincial people move around. Will the next group inherit the same spirit of cooperation or will they over-react to the first problems that develop in a municipality?

A further complication is that the Ministry of Municipal Affairs and Housing is only one ministry in the provincial government. Many other ministries also deal with municipality, and it seems doubtful that all these other ministries have heard the autonomy message being preached by the Ministry of Municipal Affairs. Some of these

⁶ Frances Frisken, “Metropolitan Change and the Challenge to Public Policy,” in Frances Frisken (ed.) *The Changing Canadian Metropolis: A Public Policy Perspective* (Berkeley, Calif.: Institute of Governmental Studies Press, University of California, 1994), p. 30.

other ministries are still imposing the kind of detailed control on municipal activity that the Ministry of Municipal Affairs and Housing would like to leave behind.

We seem to be at a significant juncture in the history of provincial-municipal relations, and even of municipal government generally, in Ontario. There have been major structural changes in the last few years that pave the way for what could be the greatest change in municipal government since the creation of municipalities in 1849. However, we are at a time when it would be very easy to backslide to the old ways of doing things. The next few years will determine what happens.