

Hamilton Tries to Push the Envelope by Regulating Mailbox Placement

This article was written by a law student for the general public.

Canada Post v City of Hamilton, 2015 ONSC 3615

Introduction: Our Constitution splits up powers and responsibilities between the federal and provincial governments.^[1] The federal government is in charge of the postal service.^[2] Provincial governments are in charge of municipalities, and grant them authority to pass bylaws.^[3] This case shows how the two spheres of power - federal and provincial - can run into each other, and how sometimes one has to give. A Hamilton bylaw attempted to regulate how Canada Post places its mailboxes. However, the Ontario Superior Court (the Court) declared the bylaw invalid, since it dealt with a federal government responsibility.

Facts: The federal government has exclusive control over the postal service. Canada Post is a Crown corporation that serves this purpose, and is under federal control.^[4] Canada Post wanted to move away from door-to-door delivery. Instead, it wanted to place community mailboxes in certain locations.^[5] Hamilton is a municipality, created by the Ontario government. The province has delegated powers to Hamilton to make bylaws.^[6] Hamilton passed a bylaw that required Canada Post to get permits to place community mailboxes, and for those permits to be approved by municipal officials.^[7] Canada Post argued the bylaw was not valid because it was beyond Hamilton's authority.^[8] In other words, the power to control mailbox placement, and, in turn, mail delivery, belongs to Canada Post, which is under federal control.

Issue: Our Constitution sets out a division of powers between federal and provincial governments. By passing this bylaw, was Hamilton overstepping its limits, which were set out by this division of powers? ^[9]

Brief Conclusion: The Court stated the bylaw went beyond Hamilton's powers and interfered with the operation of a Crown corporation under federal control.^[10] Therefore, the bylaw was invalid.

Analysis: Canada Post is a federal Crown corporation, a government institution that establishes a postal service.^[11] That means it has the ability to regulate the placement of its mailboxes.^[12] Canada Post wanted to move toward using community mailboxes, which are cheaper and more efficient than door-to-door delivery.^[13] Hamilton's bylaw regulated the locations of community mailboxes, leaving the decision up to a municipal official's discretion. ^[14] The Court said the bylaw gave the power over community mailboxes to Hamilton, and that it interfered with how Canada Post runs itself.^[15]

The Court stated that the bylaw was beyond Hamilton's power and intrudes into Canada Post's ability to decide how it delivers mail.^[16] It determined that the bylaw tried to control the location and installation of community mailboxes by implementing its own permit procedure. It was not a little, incidental intrusion that could be constitutionally tolerated. The bylaw was invalid, since it went against the division of powers outlined in the Constitution.^[17]

Significance: This case shows that constitutional division of powers is important to determine who has power over what. Even in "an era of cooperative, flexible federalism," this case is a reminder that different levels of government may not interfere with other levels and their allocated powers.^[18]

^[1] [Constitution Act 1867](#)(UK), 30 & 31 Vict c 3, ss 91-92, reprinted in RSC 1985, App II, No 5.

^[2] *Ibid* at s 91(5).

^[3] *Ibid* at s 92(8).

^[4] [Canada Post v City of Hamilton](#), 2015 ONSC 3615 at paras 4-5.

^[5] *Ibid* at paras 1, 18-23.

^[6] *Ibid* at paras 26-27.

^[7] *Ibid* at paras 1, 40-50.

^[8] *Ibid* at paras 58-59.

^[9] *Ibid* at para 2.

^[10] *Ibid* at paras 89-104.

^[11] *Ibid* at paras 5-6.

^[12] *Ibid* at paras 8-9.

^[13] *Ibid* at paras 14-23.

^[14] *Ibid* at para 40.

^[15] *Ibid* at para 57.

^[16] *Ibid* at para 89.

^[17] *Ibid* at para 97.

[\[18\]](#) *Ibid* at para 82