

Bill 218 Versus Democratic Process

The Oxford Coalition for Social Justice has long been interested in democratic processes, demonstrating that through its participation in community conversations in group meetings in the pre-COVID world, and more often online since. Similarly, the Coalition has arranged debates during provincial, municipal, and federal election campaigns as well as around significant issues. When the Province established a panel to review the structure of municipalities, the Coalition provided local insight tied to research about effective government. The Coalition believes that democracy is a pre-condition for social justice.

Bill 218 seeks to roll back the right of municipalities to self-determination by limiting their right to choose which electoral form they offer residents. On the national level Canada has contemplated alternatives to first-past-the-post elections. This was withdrawn by the Liberals in their previous term, much to the dismay of many Canadians, earning them distrust in the meantime. Until recently, communities in Ontario had the right to choose ranked ballots as means to decide who would represent them. This form of election offers two advantages for democracy: firstly, it means that electors need to be informed about more of the candidates in order to assign each a priority rank in their ward; secondly, it means that the elected candidate will represent some level of approval of more of the population than in systems where only a plurality leads to election. A highly engaged electorate and respected elected officials are both gains for democracy.

As recently as the last federal Conservative leadership race, ranked ballots were used in the selection of a leader. While there were delays in the actual results, accurate results are worth waiting for. Similarly, good candidates in important posts are also worth the wait. The delay in the recent Conservative Party leadership race was not related to the ranked ballot as such, but to breakdowns in the machinery acquired to tally votes. Shredded ballot required hand counts. At that, hand or mechanical counting of ranked ballots could take more time but the willingness of voters in B.C. to wait until Nov. 13 for the results of an October election day shows that patience is not unknown. There is no persuasive argument for efficiency that would justify mandating first-past-the-post as the exclusive form of voting. Voting is about choice, and electors deserve the right to choose not only who they elect but how they choose them.

The Oxford Coalition for Social Justice invites the government of Ontario to remove ranked ballots from the range of tools available to municipalities to help them effectively engage voters in the selection of leaders. Bill 218's provisions as they stand are anti-democratic. In Ontario's democracy, they have no place.

Bryan Smith,

Bryasmit@oxford.net

www.oxfordsocialjustice.org

A Commentary on
Bill 218
An Act to enact the Supporting Ontario's Recovery Act 2020
Schedule 1, Coronavirus

The Oxford Coalition for Social Justice is a local organization with interests in human and environmental health, with prevention and restoration of both, and with social justice. In this commentary on Bill 218, two of those domains are addressed – human health and social justice. In fact, since March 2020, there has been an assault on human health by a novel coronavirus resulting and pain and suffering among several sectors of the population, accompanied by a failure to provide adequate care by some long-term care homes. This failure needs to be address both in terms of restitution and future prevention. Solutions to both are available, but Bill 118 does not address them adequately.

A failure to provide
adequate care

Severe deficiencies and
shortfalls that
existed/exist [...] at
distressed locations

The Oxford Coalition for Social Justice has been following the news and data on the impact of COVID 19 in Ontario since the outset. The toll in long-term care homes has been a sad characteristic of the first wave. Its worst spread was preventable. Multiple sources in the media, from local health boards, the Ministry of Health, members of the Cabinet, and from the military have complemented the harrowing stories from workers, residents and families. When the outbreaks first hit long-term care homes, personal protective equipment for workers was hard to obtain. Even with improvements in supply, it remains out of reach for many PSWs and nurses. This has caused an infection rate among them and residents that did not need to happen. Lives were lost because equipment was unavailable. In many long-term care facilities, most notably, in private for-profit ones, residents were constantly

exposed to other patients with viral infections either because they were in shared accommodations or because patients wandered in and out of patients' rooms. Infection control measures were insufficient, staffing levels were below those when the Ontario Health Coalition collected and presented data over a year ago announcing that pre-COVID we already had a crisis in care in the province.

The provisions of Bill 218 do not seek to remedy the causes of the failure. They do not increase the numbers of trained staff, specifically PSWs, nurses, and doctors, in long-term care homes. They do not provide for infection control either through improved distance between patients or increased sanitation in the facilities. They do not comfort families who spent long periods separated from their loved ones. They do console those who have seen their loved ones sicken and die. They do not respond to the grief they feel. Worse, they prevent significant legal recourse for families which would have a reparative and preventative function.

Bill 218 removes from families their ability to pursue facilities which show negligence in the care and treatment of residents in long-term care for their negligence. While there is still a right to pursue justice for gross negligence, the barriers to families presented by the higher standard of proof and the level is an injustice to them and the memory of those they have lost. Further, it means that more residents and families will suffer from a level of negligence which has shocked the war-hardened military and the public alerted to the conditions they observed. When for-profit long-term care homes know they can engage in negligence, they will assume that the standard does not require action by them to preserve the duration and quality of life of residents.

The Dictionary of Canadian Law (4th ed.) defines "gross negligence" to be:

Conduct in which if there is not conscious wrongdoing, there is a very marked departure from the standard by which responsible and competent people...habitually govern themselves...a high or serious degree of negligence.

Source: Lawson Lundell LLP

The Oxford Coalition therefore calls on the government of Ontario to withdraw Bill 218's provisions around long-term care homes and negligence. Instead, it urges the government to meet the urgent recommendations of their own inquiry panel, of the Ontario Health Coalition and of families and workers: immediate

The Ontario health Coalition calls for “Immediate action on improving care levels by increasing the supply of PSWs and an appropriate staff mix including nurses to meet the complex care needs of residents.

They also validate the Coalition’s long-standing call for a minimum average care standard of 4-hours, access to full-time work, and immediate implementation of these measures. In addition, they reinforce the calls for family and caregiver access to residents

improvements are necessary. Long-term care facilities need to institute these in face of a second wave in their facilities and of community spread. Further, given the statistical relationship between for-profit private ownership and/or management with the increased death toll, The Oxford Coalition for Social Justice calls on the Province to pass such measures as to bring private ownership in long-term care to an end shortly. Bill 218 does not provide this progress or safety to frail populations. It must be

withdrawn and replaced by legislation and action based on sound principles of health and social justice. Anything short of withdrawal would represent complicity in the failure.

Bryan Smith, Chair

The Oxford Coalition for Social Justice

bryasmit@oxford.net

www.oxfordsocialjustice.org