

“Vigorously democratic”

Remarks by OPSEU President Warren (Smokey) Thomas to the Standing Committee on Finance and Economic Affairs re: Bill 181, the *Municipal Elections Modernization Act, 2016*

May 12, 2016



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May 12, 2016, 9:00 a.m., Queen’s Park, Toronto

Good morning, I’m Smokey Thomas, President of the Ontario Public Service Employees Union. With me today is Clarke Eaton, Special Assistant to the President.

We’re pleased to be here to comment on Bill 181, the *Municipal Elections Modernization Act*.

OPSEU represents about 130,000 Ontarians of voting age. Our members live in every municipality in this province, and a good number of them work directly for municipalities and school boards.

Based on my experience, our members are more interested in politics and more active in politics at every level than the average Ontarian.

As a union, we are extremely vocal about issues that affect our members, and we make no apologies for that.

People join unions because they want a voice on workplace issues, and for public sector unions like ours, every workplace issue is a public issue as well. Issues related to funding and service levels for our communities are directly linked to the wages and working conditions of our members, and vice versa.

Our legitimacy as a voice speaking out on public issues arises from our democratic structure. Our union, like most unions in this province, is vigorously democratic.

To run our union, we elect thousands of stewards and other leaders from the shop floor; I and my fellow Executive Board Members are elected by delegates who are themselves elected in their locals.

I can state with considerable confidence that I have been elected to more positions, on more occasions, than anyone else in this room.

Why I say this is because I want to give some context to the issue of banning corporate and union donations in municipal election campaigns.

We often hear the phrase “corporate and union donations” as if corporations and unions are somehow equivalent – as if they are equally legitimate players in democratic debates, and as if they both spend about the same amount of money trying to influence the outcomes of elections.

This is not the case.

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Let me say at the outset that we wholeheartedly support eliminating the influence of big money on municipal elections.

If there is any organization in this province that has done and said more than OPSEU on the way big money corrupts government decisions, I haven't heard of it.

But corporations and unions are not the same, for two reasons.

First of all, as I've said, unions are democratic.

Corporations are not. Their structure is authoritarian. The relative loudness of their voice comes from the money they represent. As a union, the loudness of our voice comes from the people we represent.

The second point I want to make about corporate and union donations is that corporations as a group donate far more to political candidates than unions ever do.

At the municipal level, as I think we all know, the big issue is not campaign donations from working people and their unions. It's donations from developers. There is no equivalence between the two.

That is why we support allowing municipalities to ban corporate and union donations to municipal candidates as outlined in Bill 181.

The positive effect of banning corporate donations will, we believe, be much greater than the negative effect of banning donations from democratic organizations like ours. On balance, it will lessen the impact of big money on elections. And that's a deal I'll take any day of the week.

One measure included in Bill 181 needs a lot more work, however, and that is what the bill says about third-party advertising.

Under Bill 181, any municipality can ban third-party advertising by corporations and unions. This is more complicated than it might appear, for a few reasons:

First, neither the old *Municipal Elections Act* nor Bill 181 contain any definition of advertising, maybe because it's thought to be obvious that advertising means political communication that people pay someone else to deliver.

But what about political communication through outlets that the communicator owns?

I don't need to tell you that the most influential corporations in any election are the news media themselves. Yet Bill 181, which is supposed to “modernize” municipal elections, makes no mention of the news media at all.

I don't think anyone here would suggest that any news outlet should be barred from taking an editorial stance on any issue at any time, or advocating for any candidate at any time, whether it is during an election campaign or not.

Yet let's not forget: Corporations like PostMedia and TorStar are corporations just as much as RBC and Imperial Oil are. So why should political messaging by news outlets, which they pay for by selling advertising, be exempt?

If my union wants to talk about more funding for public services during an election campaign, it is entirely possible that there will be candidates who want less funding for public services. But that doesn't mean we're campaigning against them. And even if we are, who is to say?

As far as third-party advertising, the government needs to go back to the drawing board with Bill 181. This bill is a mess on that score.

With respect to contribution limits, a couple of points need to be made.

First of all, allowing people to donate a maximum of \$750 to a candidate is setting the limit too high.

Very few of my members could afford to donate anywhere near that amount. I would advise knocking it down to \$200.

In the United States, Bernie Sanders has demonstrated that it is possible to be competitive in any election if your appeal is broad enough to attract a large number of small donations. I think we want to encourage that kind of broad participation in our municipal elections.

I don't agree with allowing the candidate and his or her spouse to be exempt from contribution limits.

I wouldn't mind if there were a different, higher contribution limit for candidates and their spouses. As I said earlier, I've been a candidate. You are always paying for gas or picking up incidental expenses for the campaign. That being said, I don't think the contribution limit for candidates and spouses should be too high. Around \$5,000 should be adequate.

Without a limit, you get the Donald Trump scenario, where any campaign platform can be put forward – no matter how absurd it is – if the candidate is rich enough to pay for it.

With respect to ranked-ballot elections, we are in favour of allowing municipalities to decide whether they want to go that route. We have a couple of reasons for this.

The first is that ranked-ballot elections are suitable for elections where people are voting for individuals, not parties. In OPSEU we use ranked-ballot voting all the time, and it works fine.

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The second reason to support ranked-ballot voting is that we need to shake up our electoral systems at the provincial and federal levels, and I believe that if people have more experience with a different system at the local level then they are likely to be more open to change.

Having said that, I think it is blatantly obvious that ranked-ballot voting is not appropriate in a system based on political parties.

In a party system, what we really need is proportional representation, and ranked balloting does nothing to ensure proportionality. In some cases it may even distort voter intentions worse than our current first-past-the-post system does.

One problem I see with Bill 181 is that there are too many grey areas with respect to how ranked-ballot elections would work. Bill 181 proposes that the details of how ranked balloting will work will be set out in regulation. I don't see why those regulations, which will receive no public attention or scrutiny, cannot be included in the bill, and I would encourage this committee to recommend that.

Given the vagueness in the current bill, I would definitely recommend a change to require that any municipality that opts to change its voting system must hold a referendum of citizens prior to making the change.

As my final point today, I would like to acknowledge the government's effort, in this bill, to make it easier for Ontarians with disabilities to participate in municipal elections, whether as voters or as candidates. I think that's a really important move, and I congratulate the government on including it.

We would be pleased to take your questions now.

Supplementary submission

to the Standing Committee on Finance and Economic Affairs re: Bill 181, the
Municipal Elections Modernization Act, 2016

Ontario Public Service Employees Union
May 12, 2016

At the request of the committee, OPSEU submits the following comments on Bill 181. These comments are in addition to those presented in person by OPSEU President Warren (Smokey) Thomas before the committee at 9:00 a.m. on May 12, 2016.

Third party advertising

OPSEU supports allowing municipalities to ban financial contributions to candidates from corporations and unions, which is fairly straightforward and treats all corporations and unions equally. However, as noted in the President’s remarks, the issue of third-party advertising is much more complex.

First of all, it is impossible to ban third-party advertising without being unfair to certain third parties or, alternatively, interfering with freedom of the press.

There is no definition of “advertising” in Bill 181, so it is fair to assume that advertising in this context means something akin to “political communication relating to candidates or issues where the distribution of said communication is made possible through payments to companies selling space on television, on radio, on the Internet and social media, on billboards, or in newspapers.”

There is no fair way to ban this type of communication by some corporations without banning it for all corporations. Yet to do so would constitute an unacceptable infringement on the freedom of the press – for the simple reason that media corporations are corporations, too.

Media outlets engage in all manner of commentary related to municipal elections, both with respect to candidates and with respect to issues. This can include “genuine news reporting,” to borrow a term from the provincial *Election Finances Act* [Section 37(4)1], or it may involve editorial comment, up to and including endorsement of specific candidates at crucial moments in an election campaign.

Neither of these kinds of political communication is inherently more valid than that put forward by any other corporation, union, or individual.

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Notwithstanding traditions of journalistic ethics around fair and balanced reporting, every form of “genuine news reporting” involves choices by reporters, editors and publishers with respect to what facts are germane, what issues are of public concern, and what candidates are “serious” and therefore worthy of attention. And editorial endorsements of particular candidates, no matter how well argued, are political communication that is invariably in line with the political stance of the publisher.

The notion that political communication by media corporations is somehow qualitatively different than political communication by other corporations, unions, or individuals is a notion built on myth, not reality. A corporation is a corporation.

The point here is not that freedom of the press should be limited, but rather that it must not be limited only to those who happen to own the presses.

Any attempt to limit the ability of some corporations, but not others, to engage in political communication may be subject to legal challenge under the Canadian Charter of Rights and Freedoms, which guarantees freedom of “expression, including freedom of the press.”

Ranked-ballot voting

OPSEU supports giving municipalities the option of using ranked-ballot voting in municipal elections, as this method can be appropriate in elections that do not involve political parties. But the discussion of what kind of voting system municipalities should use lends itself to an even larger question: what should election campaigns accomplish?

It is OPSEU’s view that a well-run election can accomplish much more than merely choosing elected representatives. By allowing the use of ranked-ballot voting, Bill 181 increases the likelihood that voters will cast their ballots for candidates they actually support, rather than candidates they think can win or candidates they think can defeat a candidate they oppose. Too often, mainstream media coverage reduces elections to horse races, where public opinion polls are reported as factual representations of voter intentions and “Who’s winning?” becomes the most important question. This coverage of elections as horse races does significant harm to discussion of issues. OPSEU believes that all reporting of public opinion polls, through any media, should be banned in the later stages of all municipal election campaigns. We believe that, with no horse races to report on, media coverage – and kitchen-table conversations – will be much more likely to turn toward discussion of the kind of communities we want to build.

OPSEU supports amending Bill 181 to ban reporting of public opinion polls related to election candidates for two weeks prior to Election Day.

Authorized for distribution by Warren (Smokey) Thomas, President.