

**SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)**

BETWEEN:

CITY OF TORONTO

APPELLANT
(Respondent in the Court of Appeal)

-and-

ATTORNEY GENERAL OF ONTARIO

RESPONDENT
(Appellant in the Court of Appeal)

-and-

TORONTO DISTRICT SCHOOL BOARD

INTERVENER
(Intervener in the Court of Appeal)

-and-

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ATTORNEY GENERAL OF CANADA**

INTERVENERS

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(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*)

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PART I – OVERVIEW AND STATEMENT OF FACTS

1. The Attorney General of Canada (“Canada”) intervenes in this appeal to address the first Constitutional Question only, in particular, the proper scope of the *Charter*’s freedom of expression guarantee, including the importance of not conflating s. 2(b) with other *Charter* rights.
2. Section 2(b) protects against interference by governments in the exercise of freedom of expression. It has been interpreted in extremely broad terms to include any activity or communication that conveys or attempts to convey meaning, short of violence or threats of violence. At its core, s. 2(b) concerns itself with ensuring the absence of constraint or coercion and imposes a negative obligation on the government to ensure expression is not interfered with.
3. The analytical framework set out by this Court in *Baier* is made necessary by the broad scope, purpose, and architecture of the s. 2(b) fundamental freedom as articulated by this Court in *Irwin Toy*. The *Baier* framework usefully distinguishes between claims that seek to impose an obligation on government to provide a particular platform for expression and claims that seek the protection from government interference with expression that the claimant would be free to engage in, regardless of the platform.
4. Contrary to the suggestion of the Appellant and many of the interveners, the *Irwin Toy* analytical framework is inadequate to adjudicate positive rights claims. In fact, the application of this framework in these types of cases would actually invite greater government interference with expression. Section 2(b) would no longer guarantee a free marketplace of ideas. Instead governments and legislatures would be constitutionally required to engage in determining which speakers and viewpoints to support. On the other hand, applying the *Baier* analytical framework to positive rights claims has the effect of better protecting the guarantee of freedom of expression.
5. In the present case, it is necessary to identify the fundamental characteristics of the claim so that the guarantee of freedom of expression does not overshoot the parameters identified by this Court. There is no dispute that municipal elections require legislation to provide the platform for the conduct of elections and that the government of Ontario modified that platform through legislation. The Appellant is unhappy with these legislative changes and seeks to reverse them by asking the courts to re-instate the previous municipal ward structure. The Appellant is not simply seeking to have the government step out of the way. It is asking for the reinstatement of a previous

statutory platform. This type of claim can only be properly assessed through the *Baier* analytical framework. That framework applies to all positive rights claims, regardless of whether the platform is under-inclusive or not. It was correctly found to apply here.

6. Canada adopts the facts set out in the factum of the Attorney General of Ontario.

PART II – QUESTION IN ISSUE

7. Canada addresses the following issue in this appeal:

Does the *Better Local Government Act*, 2018¹ violate the right to freedom of expression guaranteed by s. 2(b) of the *Charter*?

PART III – STATEMENT OF ARGUMENT

A. The Primary Aim of s. 2(b) is to Guarantee Freedom from Government Interference

8. The Appellant’s arguments in favour of using s. 2(b) to overturn legislation that changed the structure of the municipal election in Toronto would overshoot the purpose of the guarantee. This Court has consistently held that there is no requirement under s. 2(b) for government to provide the means, the forum, the platform, or the funding by which claimants may exercise their freedom of expression and this has guided the decisions of lower courts.²

9. The scope of s. 2(b) has been interpreted extremely broadly as including any activity or communication that conveys or attempts to convey meaning, short of violence or threats of violence.³ The large and liberal interpretation of s. 2(b) is reflected in the principle of content

¹ [SO 2018, c 11](#).

² *Re Allman and Northwest Territories (Commissioner)* (1983), [8 DLR \(4th\) 230](#) at [para 20](#) (NWT CA); *Hogan v Newfoundland (Attorney General)*, [2000 NFCA 12](#) [*Hogan*] at [paras 148-149](#); *Criminal Trial Lawyers’ Assn v Alberta (Solicitor General)*, [2004 ABQB 534](#) at [paras 52, 55](#); *Office and Professional Employees’ International Union, Local 378 v British Columbia (Hydro and Power Authority)*, [2004 BCSC 422](#) [*OPEU Local 378*] at [paras 56-62](#); *Vietnamese Assn. of Toronto v Toronto (City)*, [2007 CanLII 13371](#), 85 OR (3d) 656 at [para 17](#) (ON SCDC); *Toronto Coalition to Stop the War v Canada (Minister of Public Safety and Emergency Preparedness)*, [2010 FC 957](#) [*Toronto Coalition to Stop the War*] at [paras 91-92](#); *Proulx c Québec (Procureure générale)*, [2015 QCCS 1042](#) at [paras 132-133](#).

³ *Irwin Toy Ltd. v Quebec (Attorney General)*, [\[1989\] 1 SCR 927](#) [*Irwin Toy*] at [970](#).

neutrality.⁴ All manner of content is protected by s. 2(b) – no matter how offensive, unpopular or disturbing – as are diverse forms of expression. Participation in the democratic political process is one of the most highly valued expressive activities protected by s. 2(b). The jurisprudence has consistently held that the connection between freedom of expression and the political process is “perhaps the linchpin of the s. 2(b) guarantee”.⁵

10. The scope of s. 2(b) is not, however, without limits.⁶ In the words of Fish J., “freedom of expression enjoys broad but not unbounded constitutional protection in Canada.”⁷ Since *Irwin Toy*, the Court has repeatedly noted that not every expressive activity is accorded constitutional protection and governments should not be required to justify “every exclusion or regulation of expression under s. 1” of the *Charter*.⁸ The Court’s jurisprudence on freedom of expression has consistently distinguished between claims involving limits on the content of expression versus claims involving access to a particular means of, or platform for expression.⁹

11. This Court noted in *Haig* that, “[t]he traditional view, in colloquial terms, is that the freedom of expression contained in s. 2(b) prohibits gags, but does not compel the distribution of megaphones.”¹⁰ In *Greater Vancouver Transportation Authority*, Deschamps J. affirmed the principle from *Haig* that s. 2(b) “does not go so far as to place the government under an obligation to facilitate expression by providing individuals with a particular *means* of expression.”¹¹

⁴ *Irwin Toy*, at [969](#).

⁵ *R v Keegstra*, [\[1990\] 3 SCR 697](#) at [763-764](#); *Thomson Newspapers Co v Canada (Attorney General)*, [\[1998\] 1 SCR 877](#) [*Thomson Newspapers*]; *Harper v Canada*, [2004 SCC 33](#) [*Harper*] at [para 84](#).

⁶ *Baier v Alberta*, [2007 SCC 31](#) [*Baier*] at [para 20](#).

⁷ *Greater Vancouver Transportation Authority v Canadian Federation of Students — British Columbia Component*, [2009 SCC 31](#) [GVTA] at [para 95](#).

⁸ *Baier*, at [para 20](#), citing *City of Montreal v 2952-1366 Québec Inc.*, [2005 SCC 62](#) at [para 79](#); *Haig v Canada (Chief Electoral Officer)*, [\[1993\] 2 SCR 995](#) at [1035](#); *Delisle v Canada (Deputy Attorney General)*, [\[1999\] 2 SCR 989](#) [*Delisle*] at [para 26](#).

⁹ *Haig*, at [1033-34](#); *Baier*, at [para 48](#); GVTA, at paras [31-33, 35](#); *Native Women’s Assn. of Canada v Canada*, [\[1994\] 3 SCR 627](#) [NWAC]; *Siemens v Manitoba (Attorney General)*, [2003 SCC 3](#) at [paras 41-44](#).

¹⁰ *Haig*, at [1035](#).

¹¹ GVTA, at [para 29](#); *Haig*, at [1041](#). See also *Ontario (Public Safety and Security) v Criminal Lawyers’ Association*, [2010 SCC 23](#) [*Criminal Lawyers’ Association*].

12. Restricting s. 2(b) to imposing negative obligations on government is a necessary complement to its broad scope and a reflection of the basic architecture of the guarantee. The language, purpose, context, and history of freedom of expression in the *Charter* supports the conception of s. 2(b) as a freedom *from* state interference. This Court has recently reiterated that while *Charter* rights are to be given a purposive interpretation, such interpretation must not overshoot the actual purpose of the right or freedom.¹² As is developed in more detail below, s. 2(b) was never intended to guarantee access to a particular statutory platform for expression, absent exceptional circumstances that do not apply in this appeal.

B. The Importance and Usefulness of the *Baier* Analytical Framework

i. A Modified Framework Protects the Purpose of s. 2(b)

13. This Court has recognized that the broad interpretation given to s. 2(b) in *Irwin Toy* means that s. 2(b) claims asking government to provide a specific means of expression must be treated as exceptional. In his concurring reasons in *Baier*, LeBel J. set out the rationale for employing a distinctive analytical framework in relation to positive rights claims under s. 2(b). He noted that because s. 2(b) has been interpreted as sweeping in almost every human activity with expressive content, strategies are needed to determine whether a claim is really about freedom of expression or whether it is seeking a right to do something else.¹³ Without sorting strategies, s. 2(b) risks overshooting its purpose within the context of the *Charter*.

14. The sorting strategy adopted by this Court in *Baier* to assess s. 2(b) claims for exceptional entitlement to government enablement and support was to adopt the factors set out in *Dunmore* in the context of freedom of association under s. 2(d) of the *Charter*.¹⁴ Claimants asking for this exceptional entitlement under s. 2(b) must establish that they meet three factors:

- (1) that the claim is grounded in a fundamental freedom of expression rather than in access to a particular statutory regime;

¹² *Québec (Attorney General) v 9147-0732 Québec Inc.*, [2020 SCC 32](#) at [paras 7-8](#) and [10](#); *R v Big M Drug Mart Ltd.*, [\[1985\] 1 SCR 295](#) at [344](#).

¹³ *Baier*, at [paras 76-77](#).

¹⁴ *Dunmore v Ontario (Attorney General)*, [2001 SCC 94](#) [*Dunmore*].

- (2) that the exclusion from a particular statutory regime has the effect of a substantial interference with s. 2(b) or has the purpose of infringing expression under s. 2(b); and
- (3) that it is the government that is responsible for the inability to exercise the fundamental freedom.¹⁵

15. While it may be helpful for the Court in this appeal to further elucidate the underlying principles that inform each factor of the *Baier* analytical framework, it should not dispense with the application of this essential framework altogether with respect to claims for positive rights under s. 2(b). The exceptional nature of this obligation necessitates a specifically tailored analytical framework to assess such claims in order to identify those contexts in which government failure to act is tantamount to substantial interference with expression for which government is ultimately responsible. In the words of the majority in *Baier*: “The [*Baier*] platform approach strikes an appropriate balance by maintaining this Court’s traditional broad approach to freedom of expression, without constitutionalizing a positive obligation on governments to provide platforms of expression except in unusual circumstances.”¹⁶

ii. The Irwin Toy Analysis is Inadequate for s. 2(b) Positive Rights Claims

16. The test set out in *Irwin Toy* for determining whether a violation of freedom of expression has occurred is not adequate to deal with the unique nature of positive rights claims because these types of claims require reconciling the fundamentally negative nature of the s. 2(b) guarantee with the breadth of its scope. Unlike the *Baier* analytical framework, the *Irwin Toy* two-part analysis looks only at whether the activity is protected within the sphere of free expression and, if so, whether the impugned legislation or government action infringes that protection.

17. Using the *Irwin Toy* analysis in positive rights claims would fail to recognize the exceptional nature of imposing positive obligations on governments in the context of freedom of expression. Instead of a claimant having to establish exceptional entitlement to government action, the onus would shift to governments to justify exclusions from particular statutory platforms under s. 1 of the *Charter*. Relying on the application of the *Irwin Toy* analysis in positive rights cases

¹⁵ *Baier*, at [para 30](#).

¹⁶ *Baier*, at [para 60](#).

would mean, as Rothstein J. cautioned in *Baier*, that “once a government had created a statutory platform, it could never change or repeal it without infringing s. 2(b) and justifying such changes under s. 1”.¹⁷

18. Extending the application of *Irwin Toy* to positive rights claims would actually invite greater government interference with expression. Section 2(b) would no longer guarantee a free marketplace of ideas, but rather governments and legislatures would be constitutionally required to engage in determining which speakers and viewpoints to support. The more governments are constitutionally required to support people in exercising freedom of expression, the greater the risk of interference with the content of expression and substance of democratic deliberation. Such a result would run counter to the core principle of content neutrality underlying s. 2(b)’s protection.

iii. Under Baier, It is Necessary for a Court to First Determine What the Claimant is Actually Seeking

19. In contrast to *Irwin Toy*, the *Baier* analytical framework starts by requiring a court to first determine if the claimant seeks a positive entitlement to government action, or simply the right to be free from government interference. This initial determination recognizes that claims asking government to provide a particular means of expression are generally not the types of claims that s. 2(b) was meant to protect. As such, these claims ought to receive stricter scrutiny in order to ensure that they fall within the proper ambit of s. 2(b). That scrutiny is achieved through the application of the *Dunmore* factors if, as a threshold issue, the claimant is determined to seek a positive right.

20. In order to answer this threshold question, courts must look realistically at the nature of the claim in its full context – what is the claimant really seeking? Does the claim require that the government “must legislate or otherwise act to support or enable expressive activity”?¹⁸ This threshold question is not aimed at identifying the particular type of statutory platform at issue (ie. is it under-inclusive?), but instead seeks to answer whether or not the government must do something to provide access to a particular statutory platform.

¹⁷ *Baier*, at [para 36](#).

¹⁸ *Baier*, at [paras 4, 35](#).

21. This Court’s assessment of the claim in *Greater Vancouver Transportation Authority* illustrates the importance of first determining the true nature of the s. 2(b) claim. In that case, the responding transportation authorities characterized the claim as a positive rights claim because the claimants sought entitlement to their support and enablement to convey their messages in question.¹⁹ In rejecting this characterization of the claim, Deschamps J. relied on the distinction drawn in *Baier* between imposing an obligation on government to provide individuals with a particular platform for expression and protecting the underlying freedom of expression of those who wish to express themselves on it.²⁰ On the basis of this distinction, Deschamps J. held that “the transit authorities’ interpretation of the notion of a positive rights claim is overly broad and was in fact rejected in *Baier*.”²¹ The true nature of the claim was not about the existing platform itself – the public space on the side of a bus typically open to advertising – it was about undue government interference with the content of their expression on it. It was, therefore, unnecessary in that case for the Court to apply the *Baier* analytical framework.

22. Similarly, the *Criminal Lawyers’ Association* case does not support the proposition that the threshold test for establishing positive right claims under s. 2(b) has been lowered. In that case, the claimants sought access to a police report concerning alleged police misconduct and two related legal opinions under freedom of information legislation. The Court held that s. 2(b) includes a derivative right to access government-held documents only in certain circumstances. Specifically, s. 2(b) requires positive government assistance only where access to information is necessary to permit meaningful discussion on matters of public importance, and where not defeated by countervailing privileges and functional constraints.²² This derivative right was linked conceptually to the open courts principle.²³ In so finding, the Court carved out a unique approach to interpreting and applying s. 2(b) in the context of access to information claims. This approach maintains the distinction between positive and negative rights and imposes a significant threshold for making out a positive right in the access to information context. It reinforces the rationale of the *Baier* analytical framework outside this specialized access to information context.

¹⁹ *GVTA*, at [para 33](#).

²⁰ *GVTA*, at [para 35](#).

²¹ *GVTA*, at [para 35](#).

²² *Criminal Lawyers’ Association*, at paras [31](#), [33](#), [36](#), [39-40](#).

²³ *Criminal Lawyers’ Association*, at paras [36](#), [40](#).

iv. The Dunmore Factors Ensure an Appropriate Level of Scrutiny

23. The application of the three *Dunmore* factors ensures that claims for government action within the context of s. 2(b) are carefully and rigorously examined. Such examination is called for given the longstanding judicial recognition that s. 2(b) guarantees freedom *from* government interference, rather than entitlement *to* government action. Each of the *Dunmore* factors safeguards against its inappropriate expansion.

24. The first factor requires that a claim be grounded in the fundamental freedom, rather than seeking access to a particular statutory regime. This recognizes both that governments are under no constitutional obligation to extend particular platforms of expression to particular groups of people and that it is up to governments to determine which forms of expression they choose to support, such as government funding for certain activities.²⁴ This calls for a close examination of the claim: “viewed realistically”²⁵ and in its full context, what is the claimant actually seeking?

25. To illustrate, in *Baier*, this Court concluded that the claim sought positive entitlement to a particular statutory regime, the platform for running for election to serve as a school trustee. It was not grounded in the fundamental freedom of expression, notwithstanding that the job of school trustee does have an expressive component.

26. This approach is also supported by lower court jurisprudence. For example, in *Canadian Arab Federation*, which challenged a decision to discontinue funding an organization to provide immigrant settlement services, the Federal Court determined that the funding’s purpose was to support the delivery of services, not the organization’s other activities that included political advocacy. Considered in its full context, the claim was not grounded in a fundamental freedom; it sought a right to deliver a government-funded program aimed at settling newcomers.²⁶

27. Under the second *Dunmore* factor, claimants must demonstrate that the exclusion from a statutory regime has the effect of substantial interference with s. 2(b) or has the purpose of

²⁴ *Haig*, at [1041-1042](#); *NWAC*, at [para 42](#); *Hogan*, at [paras 148-149](#); *Delisle*, at [para 26](#); *Canadian Arab Federation v Canada (Citizenship and Immigration)*, [2013 FC 1283](#) [*Canadian Arab Foundation* (FC)] at [paras 91-92](#).

²⁵ *Baier*, at [para 77](#) (concurring reasons of LeBel J).

²⁶ *Canadian Arab Foundation* (FC), at [paras 86, 93](#).

infringing expression under s. 2(b). Under this factor, consideration is given to whether there are other mechanisms or avenues for claimants to express themselves. This factor reflects the principle that governments are under no obligation to provide a particular means of expression,²⁷ or provide claimants with their preferred platform or means of expression.²⁸ Courts must closely examine the purpose and actual effects of the challenged law or government action on expressive freedom. Diminished effectiveness in the ability to convey a particular message is not sufficient.²⁹ This factor calls for evidence that exclusion from a particular means of expression substantially impedes the claimant's exercise of free expression, or that this is the purpose of the exclusion.³⁰

28. In *Toronto Coalition to Stop the War*, the Federal Court relied on this factor to hold that there was no obligation on the federal government to provide the claimants with their preferred forum for expression because they could exercise this expression through other means.³¹ In *Rodriguez*, the Federal Court reached the same conclusion. Mr. Rodriguez's complaint was that the *Canada Elections Act* prevented him from officially expressing his dissatisfaction with all candidates available to him on a ballot in a federal election. The Court found that Mr. Rodriguez's s. 2(b) claim could not succeed. The government was not obliged to provide him a platform to express his disapproval because the existing platform had been designed for a completely different purpose.³² This factor was also important in *Longley*, where exclusion of the claimant political parties from access to a particular public subsidy had not interfered with their ability to express themselves effectively in any substantial way.³³

29. The third *Dunmore* factor ensures that it is the government that is responsible for the inability of claimants to exercise their freedom of expression. This is consistent with both s. 32(1) of the *Charter*, which makes it clear that the *Charter* was not intended to govern relations between

²⁷ *Haig*, at [1035](#), [1040-1041](#); *NWAC*, at [para 42](#); *OPEU Local 378*, at [para 56](#); *Vietnamese Assn. of Toronto*, at [para 17](#).

²⁸ *Rodriguez v Canada*, 2018 FC 1125 [*Rodriguez*] at [para 48](#); *Baier*, at [para 27](#).

²⁹ *Longley v Canada (Attorney General)*, [2007 ONCA 852](#) [*Longley*] at [para 110](#).

³⁰ *Baier*, at [para 27](#).

³¹ *Toronto Coalition to Stop the War*, at [paras 92, 94](#).

³² *Rodriguez*, at [para 43](#).

³³ *Longley*, at [paras 109-110](#).

private actors, and the Court’s jurisprudence on the limits of the *Charter*’s protection generally.³⁴ This aspect of the framework tests whether the identified impairment of expression is properly attributed to government. The government’s withholding of a particular means of expression is problematic under s. 2(b) only “to the extent it substantially orchestrates, encourages or sustains the violation of fundamental freedoms”.³⁵ In *Dunmore*, this Court held that, under s. 2(d), where restraints on associational activity are attributable to the statutory regime itself – rather than private actors – the government is to be held responsible.³⁶ In *Dunmore*, it was the statutory regime that had the effect of excluding agricultural workers from the only channel available to them for associational activity. Therefore, the third factor was established.³⁷ While the very disadvantaged situation of agricultural workers in issue in *Dunmore* cannot be compared to what was in issue in *Baier*, a hypothetical change in the facts can be used to illustrate the third *Dunmore* factor in a s. 2(b) context. If, in *Baier*, it had not been the statutory regime that restricted teachers from running as candidates to be school trustees, but instead their union that imposed such a restriction as part of its own regulation of its members, the third factor in *Dunmore* would likely not be met.

C. The *Baier* Analytical Framework Applies to the Appellant’s Claim

30. Contrary to the Appellant’s claim, the analytical framework set out in *Baier* does not apply only to the assessment of under-inclusive government platforms for expression. Rather, the *Baier* framework applies more generally to any case in which individuals seek access to a specific government-created platform for expression. While previous cases such as *Haig*, *NWAC*, *Siemens* and *Delisle* involved factual scenarios in which the platforms at issue were, indeed, under-inclusive, the underlying principle guiding this Court’s assessment in each of these cases is that, in general, there is no right to a particular platform for expression.

31. If this Court had intended to restrict *Baier* to under-inclusive contexts, it would have said so. It did not.³⁸ Instead, the threshold question under *Baier* identifies the government action required to fulfil the claim. It is the nature of the required action, not the underlying statutory

³⁴ *RWDSU v Dolphin Delivery*, [1986] 2 SCR 573 at para 33. See also *Eldridge v British Columbia*, [1997] 3 SCR 624

³⁵ *Baier*, at para 27, citing *Dunmore*, at para 26.

³⁶ *Dunmore*, at para 26.

³⁷ *Dunmore*, at para 44.

³⁸ *Baier*, at para 30.

platform, that determines whether the *Baier* analytical framework applies. If a claimant seeks freedom from government legislation or action suppressing an expressive activity in which people would otherwise be free to engage without any need for any government support or enablement, then the *Baier* framework will not apply. The type of statutory platform at issue is not a factor in determining whether the threshold question is met.

32. Indeed, since *Baier*, courts have not restricted the application of its analytical framework to under-inclusive claims. For example, in *Rodriguez*, the Federal Court rejected Mr. Rodriguez’s claim despite the fact that the statutory platform sought by him to express his disapproval of election candidates was not under-inclusive. Rather, it was “intended to serve a completely different purpose” than the one sought by Mr. Rodriguez.³⁹ Despite this factual difference, the Court still applied the *Baier* analytical framework because the claim sought government action to re-design the platform to enable Mr. Rodriguez to use it in the manner he wanted, as opposed to the purpose for which it had been designed.⁴⁰

33. Similarly, the Ontario Court of Appeal’s application of the *Baier* analytical framework in this case was necessary and appropriate. The Appellant’s claim falls squarely within the parameters of the *Baier* framework because, at base, the Appellant’s claim is for a particular statutory platform to be re-instated (i.e., a 47 ward structure). As in *Baier*, the mere fact that the government changed the previous statutory platform cannot transform the Appellant’s claim into a negative rights claim.⁴¹ When the actual nature of the claim is “viewed realistically”,⁴² the Appellant is not asking government to step out of the way. Rather, the Appellant is asking the government of Ontario to re-instate its preferred legislative structure of 47 wards.

34. The majority of the Court of Appeal noted that, while *Baier* dealt with a different factual scenario, the Appellant’s claim raises similar concerns regarding the scope of protections afforded by s. 2(b): “It is, fundamentally, a claim to a particular platform and not a claim that government desist with interference in the conveyance of any message. A claim for the restoration of access to

³⁹ *Rodriguez*, at [para 41](#).

⁴⁰ *Rodriguez*, at [para 43](#).

⁴¹ *Baier*, at [para 36, 37](#).

⁴² *Baier*, at [para 77](#) (concurring reasons of LeBel J).

a specific platform is as much a positive rights claim as a demand for a new platform.”⁴³ The Court of Appeal heeded LeBel J.’s caution in *Baier* that courts must determine what the claim is really about because of the broad interpretation given to expressive activity under s. 2(b).

35. In this case, the Court of Appeal correctly found that the Appellant’s attempt to reverse the Ontario government’s decision to replace the municipal election structure through the *Better Local Government Act*, had the “hallmarks of a positive rights claim” in that it required “government to take some step to facilitate expression.”⁴⁴ Municipal elections require legislation to provide the platform for the conduct of elections and the government of Ontario modified, through legislation, what had been the structure for the Appellant’s municipal election. The Appellant was unhappy with these changes and sought to reverse them by having the previous legislation re-instated by the courts. The Court of Appeal correctly noted that if successful, the Appellant’s claim would require the government of Ontario to take steps to re-instate the previous statutory platform. This type of claim can only be properly assessed through the *Baier* analytical framework.

D. The Importance of Not Conflating s. 2(b) with Other Charter Rights

36. This Court’s jurisprudence recognizes that, while *Charter* rights and guarantees are broad and overlapping, each plays a distinct role within the structure of the *Charter* and should not be conflated.⁴⁵ In the context of freedom of expression, the Court has carefully articulated the different purposes of s. 2(b) and s. 3, and has recognized the need for each of these sections of the *Charter* to be given independent meaning.⁴⁶ Rather than conflate these distinct rights, “in cases where freedom of expression and the right to vote may overlap or come into conflict, it is necessary to find an appropriate balance between both sets of rights. [...] Each right is distinct and must be given effect.”⁴⁷

⁴³ *Toronto (City) v Ontario (Attorney General)*, [2019 ONCA 732](#) [ONCA Decision] at [para 54](#).

⁴⁴ ONCA Decision, at [para 55](#).

⁴⁵ *Thomson Newspapers*, at [paras 79-80](#); *Harper*, at [para 67](#); *Baier*, at [para 77](#) (concurring reasons of LeBel J.).

⁴⁶ *Thomson Newspapers*, at [paras 79-80](#); *Harper*, at [para 67](#).

⁴⁷ *Thomson Newspapers*, at [para 80](#).

37. McLachlin J. (as she then was) identified “effective representation” as a core right protected by s. 3: “It is my conclusion that the purpose of the right to vote enshrined in s. 3 of the *Charter* is not equality of voting power *per se*, but the right to ‘effective representation’. Ours is a representative democracy. Each citizen is entitled to be represented in government.”⁴⁸ Subsequent to this statement, this Court has also held that meaningful participation in the electoral process is also a fundamental purpose of s. 3, complementing the principle of effective representation.⁴⁹ Participation in the electoral process has an intrinsic value independent of its impact upon the actual outcome of that process.⁵⁰

38. The Appellant’s conflation of the right to freedom of expression under s. 2(b) and the right to vote under s. 3 of the *Charter* is at odds with the Court’s treatment of these two rights. A similar argument was rejected in *Harper*: “[t]he respondent effectively equates the right to meaningful participation with the exercise of freedom of expression. Respectfully, this cannot be. The right to free expression and the right to vote are distinct rights”.⁵¹ In cases that raise these two distinct rights, the “more appropriate question is: how are these rights and their underlying values and purposes properly reconciled?”⁵²

39. Here, the Appellant, instead of reconciling the underlying values and purposes of s. 2(b) and s. 3, inappropriately asks this Court to expand s. 2(b) to include within its scope one of the overarching purposes of s. 3, namely, “effective representation”. Section 2(b)’s right to freedom of expression cannot be invoked to claim a s. 3 right to effective representation. There are no cases in which the Court has interpreted the right to effective representation as flowing from any other *Charter* right.

40. Sections 2(b) and 3 are necessarily interconnected as two core rights in a democracy, but they do not guarantee the same set of rights that may be asserted against every level of government:

⁴⁸ *Reference re Provincial Electoral Boundaries (Sask.)*, [1991] 2 SCR 158 at 183.

⁴⁹ *Haig*, at 1031; *Harvey v New Brunswick (Attorney General)*, [1996] 2 SCR 876; *Thomson Newspapers*, *supra*; *Figueroa v Canada (Attorney General)*, 2003 SCC 37 [*Figueroa*] at paras 25-26; *Frank v Canada (Attorney General)*, 2019 SCC 1 at para 26.

⁵⁰ *Figueroa*, at para 29.

⁵¹ *Harper*, at para 67.

⁵² *Harper*, at para 67.

section 3 does not apply to municipalities.⁵³ The Appellant’s importation of the s. 3 right to “effective representation” into the *Charter*’s guarantee of freedom of expression overshoots the actual purpose of s. 2(b) and should be rejected.⁵⁴

41. Similarly, this Court has held that courts should not consider a s. 2(b) claim through a s. 15(1) equality lens. Instead, they should identify such a claim as one of equality rights one and analyze it “within the boundaries of s. 15 without unduly blurring the distinctions between different *Charter* guarantees.”⁵⁵ While *Charter* rights are not insular, neither are they duplicative. As the Court of Appeal noted, “the content of one right cannot be subsumed by another, or used to inflate its content.”⁵⁶

PART IV - SUBMISSIONS ON COSTS

42. The AGC is not seeking costs and no costs should be ordered against him.

PART V - NATURE OF ORDER SOUGHT

43. The AGC makes no submissions respecting the proper disposition of the appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Toronto this 29th day of January, 2021.



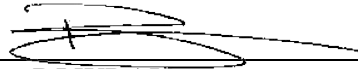
 MICHAEL H. MORRIS

⁵³ *Coombs v Moss*, [2010 NLTD 38](#) at [para 27](#); *Baier*, at [para 39](#).

⁵⁴ *Haig*, at [1033](#). See also *Orr v Peerless Trout First Nation*, [2016 FCA 146](#) at [para 7](#).

⁵⁵ *Haig*, at [1041-1042](#); *NWAC*, at [para 42](#).

⁵⁶ ONCA Decision, at [para 76](#).



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PART VI - TABLE OF AUTHORITIES

Cases	Paragraph cited
<i>Baier v Alberta</i> , 2007 SCC 31	3, 4, 5, 13, 14, 15, 16, 17, 19, 21, 22, 25, 30, 31, 32, 33, 34, 35, 36, 40
<i>Canadian Arab Federation v Canada (Citizenship and Immigration)</i> , 2013 FC 1283	26
<i>Coombs v Moss</i> , 2010 NLTD 38	40
<i>Criminal Trial Lawyers' Assn v Alberta (Solicitor General)</i> , 2004 ABQB 534	8
<i>Delisle v Canada (Deputy Attorney General)</i> , [1999] 2 SCR 989	10, 24, 30
<i>Dunmore v Ontario (Attorney General)</i> , 2001 SCC 94	14, 19, 23, 27, 29
<i>Eldridge v British Columbia</i> , [1997] 3 SCR 624	29
<i>Figueroa v Canada (Attorney General)</i> , 2003 SCC 37	37
<i>Frank v Canada (Attorney General)</i> , 2019 SCC 1	37
<i>Greater Vancouver Transportation Authority v Canadian Federation of Students — British Columbia Component</i> , 2009 SCC 31	10, 11, 21
<i>Haig v Canada (Chief Electoral Officer)</i> , [1993] 2 SCR 995	10, 11, 24, 27, 30, 37, 40, 41
<i>Harper v Canada</i> , 2004 SCC 33	9, 36, 38
<i>Harvey v New Brunswick (Attorney General)</i> , [1996] 2 SCR 876	37
<i>Hogan v Newfoundland (Attorney General)</i> , 2000 NFCA 12	8, 24
<i>Irwin Toy Ltd. v Quebec (Attorney General)</i> , [1989] 1 SCR 927	3, 4, 9, 10, 13, 16, 17, 18, 19,

Cases	Paragraph cited
<i>Longley v Canada (Attorney General)</i> , 2007 ONCA 852	27, 28
<i>Montréal (City) v 2952-1366 Québec Inc.</i> , 2005 SCC 62	10
<i>Native Women’s Assn. of Canada v Canada</i> , [1994] 3 SCR 627	10
<i>Office and Professional Employees’ International Union, Local 378 v British Columbia (Hydro and Power Authority)</i> , 2004 BCSC 422	8, 27
<i>Ontario (Public Safety and Security) v Criminal Lawyers’ Association</i> , 2010 SCC 23	11, 22
<i>Orr v Peerless Trout First Nation</i> , 2016 FCA 146	41
<i>Proulx c Québec (Procureure générale)</i> , 2015 QCCS 1042	8
<i>Quebec (Attorney General) v 9147-0732 Quebec Inc.</i> , 2020 SCC 32	12
<i>R v Big M Drug Mart Ltd.</i> , [1985] 1 SCR 295	12
<i>R v Keegstra</i> , [1990] 3 SCR 697	9
<i>Re Allman and Northwest Territories (Commissioner)</i> (1983), 8 DLR (4th) 230	8
<i>Reference re Provincial Electoral Boundaries (Sask.)</i> , [1991] 2 SCR 158	38
<i>Rodriguez v Canada</i> , 2018 FC 1125	27, 28, 32
<i>RWDSU v Dolphin Delivery</i> , [1986] 2 SCR 573	29
<i>Siemens v Manitoba (Attorney General)</i> , 2003 SCC 3	10, 30
<i>Thomson Newspapers Co v Canada (Attorney General)</i> , [1998] 1 SCR 877	9, 36, 37
<i>Toronto (City) v Ontario (Attorney General)</i> 2019 ONCA 732	34, 35, 41
<i>Toronto Coalition to Stop the War v Canada (Minister of Public Safety and Emergency Preparedness)</i> , 2010 FC 957	8, 28

Cases	Paragraph cited
<i>Vietnamese Assn of Toronto v Toronto (City)</i> , 2007 CanLII 13371 , 85 OR (3d) 656	8, 27

APPENDIX “A” – STATUTES RELIED ON

1. *Better Local Government Act*, [2018, SO 2018, c. 11](#)

CHAPTER 11	CHAPITRE 11
<p>An Act to amend the City of Toronto Act, 2006, the Municipal Act, 2001 and the Municipal Elections Act, 1996</p> <p><i>Assented to August 14, 2018</i></p>	<p>Loi modifiant la Loi de 2006 sur la cité de Toronto, la Loi de 2001 sur les municipalités et la Loi de 1996 sur les élections municipales</p> <p><i>Sanctionnée le 14 août 2018</i></p>
<p>CONTENTS</p>	<p><i>Sanctionnée le 14 août 2018</i></p>
<p>Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:</p>	<p>Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :</p>
<p>Contents of this Act</p>	<p>Contenu de la présente loi</p>
<p>1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.</p>	<p>1 La présente loi est constituée du présent article, des articles 2 et 3 et de ses annexes.</p>
<p>Commencement</p>	<p>Entrée en vigueur</p>
<p>2 (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.</p>	<p>2 (1) Sous réserve du paragraphe (2), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.</p>
<p>(2) The Schedules to this Act come into force as provided in each Schedule.</p>	<p>(2) Les annexes de la présente loi entrent en vigueur comme le prévoit chacune d’elles.</p>
<p>Short title</p>	<p>Titre abrégé</p>
<p>3 The short title of this Act is the <i>Better Local Government Act, 2018</i>.</p>	<p>3 Le titre abrégé de la présente loi est <i>Loi de 2018 sur l’amélioration des administrations locales</i>.</p>
<p>SCHEDULE 1</p>	<p>ANNEXE 1</p>
<p>CITY OF TORONTO ACT, 2006</p>	<p>LOI DE 2006 SUR LA CITÉ DE TORONTO</p>
<p>1 Paragraph 3 of section 2 of the <i>City of Toronto Act, 2006</i> is repealed and the following substituted:</p>	<p>1 La disposition 3 de l’article 2 de la <i>Loi de 2006 sur la cité de Toronto</i> est abrogée et remplacée par ce qui suit :</p>
<p>3. Determine the appropriate structure for governing the City other than with respect to the composition of city</p>	<p>3. Déterminer la structure appropriée pour gouverner la Cité autre qu’en ce qui concerne la composition de la Cité</p>

<p>council and the division of the City into wards.</p> <p>2 Paragraphs 2 and 3 of subsection 4 (3) of the Act are repealed.</p> <p>3 Paragraph 1 of subsection 8 (2) of the Act is repealed and the following substituted:</p> <p>1. Governance structure of the City and its local boards (restricted definition) other than with respect to the composition of city council and the division of the City into wards.</p> <p>4 Section 127 of the Act is amended by adding the following subsection:</p> <p>Application (2) This section does not apply after city council is organized following the 2018 regular election.</p> <p>5 Sections 128 and 129 of the Act are repealed and the following substituted:</p> <p>Division of wards after 2018 regular election 128 (1) On the day city council is organized following the 2018 regular election, the City is divided into wards whose boundaries are identical to those of the electoral districts for Ontario that are within the boundaries of the City.</p> <p>Same (2) For the purposes of subsection (1), the electoral districts for Ontario are those determined under the <i>Representation Act, 2015</i> as it read on the day the <i>Better Local Government Act, 2018</i> received Royal Assent.</p> <p>Conduct of 2018 regular election (3) The 2018 regular election shall be conducted as if the division of the City into</p>	<p>3. Déterminer la structure appropriée pour gouverner la cité, sauf en ce qui concerne la composition du conseil municipal et la division de la cité en quartiers électoraux.</p> <p>2 Les dispositions 2 et 3 du paragraphe 4 (3) de la Loi sont abrogées.</p> <p>3 La disposition 1 du paragraphe 8 (2) de la Loi est abrogée et remplacée par ce qui suit :</p> <p>1. L'organisation de la gouvernance de la cité et de ses conseils locaux (définition restreinte), sauf en ce qui concerne la composition du conseil municipal et la division de la cité en quartiers électoraux.</p> <p>4 L'article 127 de la Loi est modifié par adjonction du paragraphe suivant :</p> <p>Champ d'application (2) Le présent article ne s'applique pas après la constitution du conseil municipal à la suite des élections ordinaires de 2018.</p> <p>5 Les articles 128 et 129 de la Loi sont abrogés et remplacés par ce qui suit :</p> <p>Division en quartiers électoraux après les élections ordinaires de 2018 128 (1) Le jour où le conseil municipal est constitué à la suite des élections ordinaires de 2018, la cité est divisée en quartiers électoraux dont les limites sont identiques à celles des circonscriptions électorales de l'Ontario situées dans les limites de la cité.</p> <p>Idem (2) Pour l'application du paragraphe (1), les circonscriptions électorales de l'Ontario sont celles qui sont établies en application de la <i>Loi de 2015 sur la représentation électorale</i>, telle qu'elle existe le jour où la <i>Loi de 2018 sur l'amélioration des</i></p>
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<p>wards, as determined under subsections (1) and (2), was already in effect.</p> <p>Regulations (4) The Minister may make regulations for implementing the purposes, provisions and intention of this section and, without restricting the generality of the foregoing, the Minister may make regulations governing transitional matters that arise out of the implementation of this section.</p> <p>Retroactivity (5) A regulation made under subsection (4) is, if it so provides, effective with reference to a period before it was filed.</p> <p>Conflicts (6) In the event of a conflict between a regulation under subsection (4) and a provision of this Act or any other Act or regulation, the regulation made under subsection (4) prevails.</p> <p>Same (7) In the event of a conflict between this section and a provision of any other Act or a regulation made under any other Act, this section prevails.</p> <p>By-law not passed 129 A by-law passed under section 128, as that section read immediately before the <i>Better Local Government Act, 2018</i> received Royal Assent, is deemed not to have been passed.</p> <p>6 Section 130 of the Act is amended by adding the following subsection:</p> <p>Application (2) This section does not apply after city council is organized following the 2018 regular election.</p>	<p><i>administrations locales</i> reçoit la sanction royale.</p> <p>Déroulement des élections ordinaires de 2018 (3) Les élections ordinaires de 2018 se déroulent comme si la division de la cité en quartiers électoraux, tels qu'ils sont établis en application des paragraphes (1) et (2), était déjà en vigueur.</p> <p>Règlements (4) Le ministre peut, par règlement, prendre des mesures pour réaliser l'objet et l'intention du présent article, notamment régir les questions transitoires découlant de sa mise en oeuvre.</p> <p>Effet rétroactif (5) Les règlements pris en vertu du paragraphe (4) qui comportent une disposition en ce sens ont un effet rétroactif.</p> <p>Incompatibilité (6) Les règlements pris en vertu du paragraphe (4) l'emportent sur les dispositions incompatibles de la présente loi, de toute autre loi ou de tout autre règlement.</p> <p>Idem (7) Le présent article l'emporte sur les dispositions incompatibles de toute autre loi ou des règlements pris en vertu de toute autre loi.</p> <p>Règlements municipaux non adoptés 129 Les règlements municipaux adoptés en vertu de l'article 128, tel qu'il existait immédiatement avant que la <i>Loi de 2018 sur l'amélioration des administrations locales</i> reçoive la sanction royale, sont réputés ne pas avoir été adoptés.</p>
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<p>7 Section 135 of the Act is repealed and the following substituted:</p> <p>City council following 2018 regular election 135 (1) Commencing with the city council that is organized following the 2018 regular election, city council shall be composed of,</p> <p>(a) the head of council; and</p> <p>(b) other members, the number of which equals the number of wards as determined under section 128.</p> <p>Rules re composition of city council (2) The following rules apply to the composition of city council:</p> <ol style="list-style-type: none"> 1. The members of city council shall be elected in accordance with the <i>Municipal Elections Act, 1996</i>. 2. The head of council shall be elected by general vote. 3. One member of council shall be elected for each of the wards determined under section 128. <p>Conduct of 2018 regular election (3) The 2018 regular election shall be conducted as if the composition of city council, as determined under subsections (1) and (2), was already in effect.</p> <p>Regulations (4) The Minister may make regulations for implementing the purposes, provisions and intention of this section and, without restricting the generality of the foregoing, the Minister may make regulations governing transitional matters that arise out of the implementation of this section.</p> <p>Retroactivity</p>	<p>6 L'article 130 de la Loi est modifié par adjonction du paragraphe suivant :</p> <p>Champ d'application (2) Le présent article ne s'applique pas après la constitution du conseil municipal à la suite des élections ordinaires de 2018.</p> <p>7 L'article 135 de la Loi est abrogé et remplacé par ce qui suit :</p> <p>Conseil municipal à la suite des élections ordinaires de 2018 135 (1) À partir de sa constitution à la suite des élections ordinaires de 2018, le conseil municipal se compose des personnes suivantes :</p> <ol style="list-style-type: none"> a) le président du conseil; b) les autres membres, dont le nombre correspond au nombre de quartiers électoraux établis en application de l'article 128. <p>Règles : composition du conseil municipal (2) Les règles suivantes s'appliquent à la composition du conseil municipal :</p> <ol style="list-style-type: none"> 1. Ses membres sont élus conformément à la <i>Loi de 1996 sur les élections municipales</i>. 2. Son président est élu au scrutin général. 3. Un de ses membres est élu pour chacun des quartiers électoraux établis en application de l'article 128. <p>Déroulement des élections ordinaires de 2018 (3) Les élections ordinaires de 2018 se déroulent comme si la composition du conseil municipal, telle qu'elle est établie en application des paragraphes (1) et (2), était déjà en vigueur.</p> <p>Règlements</p>
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<p>(5) A regulation made under subsection (4) is, if it so provides, effective with reference to a period before it was filed.</p> <p>Conflicts (6) In the event of a conflict between a regulation under subsection (4) and a provision of this Act or any other Act or regulation, the regulation made under subsection (4) prevails.</p> <p>Same (7) In the event of a conflict between this section and a provision of any other Act or a regulation made under any other Act, this section prevails.</p> <p>Rules re previously passed by-law changing city council 135.1 (1) A by-law passed under section 135, as that section read immediately before the <i>Better Local Government Act, 2018</i> received Royal Assent, is deemed not to have been passed.</p> <p>Exception re s. 83 (1) of the <i>Municipal Elections Act, 1996</i> (2) An order shall not be made under subsection 83 (1) of the <i>Municipal Elections Act, 1996</i> by reason only of the clerk of the City doing anything, before a by-law passed under section 135 of this Act, as it read immediately before the <i>Better Local Government Act, 2018</i> received Royal Assent, in relation to the conduct of the 2018 regular election,</p> <p style="padding-left: 40px;">(a) as if the by-law were not already in effect; or</p> <p style="padding-left: 40px;">(b) as if the by-law were already in effect.</p> <p>8 Paragraphs 3 and 4 of subsection 151 (2) of the Act are repealed.</p> <p>Commencement</p>	<p>(4) Le ministre peut, par règlement, prendre des mesures pour réaliser l'objet et l'intention du présent article, notamment régir les questions transitoires découlant de sa mise en oeuvre.</p> <p>Effet rétroactif (5) Les règlements pris en vertu du paragraphe (4) qui comportent une disposition en ce sens ont un effet rétroactif.</p> <p>Incompatibilité (6) Les règlements pris en vertu du paragraphe (4) l'emportent sur les dispositions incompatibles de la présente loi, de toute autre loi ou de tout autre règlement.</p> <p>Idem (7) Le présent article l'emporte sur les dispositions incompatibles de toute autre loi ou des règlements pris en vertu de toute autre loi.</p> <p>Règles : règlements municipaux modifiant le conseil municipal adoptés antérieurement 135.1 (1) Les règlements municipaux adoptés en vertu de l'article 135, tel qu'il existait immédiatement avant que la <i>Loi de 2018 sur l'amélioration des administrations locales</i> reçoive la sanction royale, sont réputés ne pas avoir été adoptés.</p> <p>Exception : par. 83 (1) de la <i>Loi de 1996 sur les élections municipales</i> (2) Il ne peut être rendu d'ordonnance en application du paragraphe 83 (1) de la <i>Loi de 1996 sur les élections municipales</i> du seul fait que le secrétaire de la cité a, relativement à la tenue des élections ordinaires de 2018 et avant l'adoption d'un règlement municipal en vertu de l'article 135 de la présente loi, tel qu'il existait immédiatement avant que la <i>Loi de 2018 sur l'amélioration des</i></p>
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9 This Schedule comes into force on the day the *Better Local Government Act, 2018* receives Royal Assent.

**SCHEDULE 2
MUNICIPAL ACT, 2001**

1 (1) Paragraph 2 of subsection 218 (1) of the *Municipal Act, 2001* is amended by striking out “Subject to paragraph 2.1” at the beginning.

(2) Paragraph 2.1 of subsection 218 (1) of the Act is repealed.

2 Section 218.1 of the Act is repealed and the following substituted:

Head of regional council

Appointment

218.1 (1) On the day the new council is organized following the regular election in 2018, the head of council of the following regional municipalities shall be appointed by the members of council:

1. The District Municipality of Muskoka.
2. The Regional Municipality of Niagara.
3. The Regional Municipality of Peel.
4. The Regional Municipality of York.

General vote

(2) On the day the new council is organized following the regular election in 2018, the head of council of the following regional municipalities shall be elected by general vote in accordance with the *Municipal Elections Act, 1996*:

1. The Regional Municipality of Durham.
2. The Regional Municipality of Halton.
3. The Regional Municipality of Waterloo.

Conduct of 2018 regular election

administrations locales reçoive la sanction royale, fait quoi que ce soit :

- a) comme si le règlement municipal n’était pas déjà en vigueur;
- b) comme si le règlement municipal était déjà en vigueur.

8 Les dispositions 3 et 4 du paragraphe 151 (2) de la Loi sont abrogées.

Entrée en vigueur

9 La présente annexe entre en vigueur le jour où la *Loi de 2018 sur l’amélioration des administrations locales* reçoit la sanction royale.

ANNEXE 2

LOI DE 2001 SUR LES MUNICIPALITÉS

1 (1) La disposition 2 du paragraphe 218 (1) de la *Loi de 2001 sur les municipalités* est modifiée par suppression de «Sous réserve de la disposition 2.1» au début de la disposition.

(2) La disposition 2.1 du paragraphe 218 (1) de la Loi est abrogée.

2 L’article 218.1 de la Loi est abrogé et remplacé par ce qui suit :

Président du conseil d’une municipalité régionale

Nomination

218.1 (1) Le jour où le nouveau conseil est constitué à la suite des élections ordinaires de 2018, le président du conseil des municipalités régionales suivantes est nommé par les membres du conseil :

1. La municipalité de district de Muskoka.
2. La municipalité régionale de Niagara.
3. La municipalité régionale de Peel.
4. La municipalité régionale de York.

(3) The regular election in 2018 shall be conducted as if the method of selecting the head of council described in subsection (1) or (2), as applicable, was already in effect.

Regulations

(4) The Minister may make regulations that, in the opinion of the Minister, are advisable or necessary for implementing the purposes of this section and, without restricting the generality of the foregoing, the Minister may make regulations,

- (a) varying the operation of any provision of this Act for those purposes;
- (b) governing transitional matters that arise out of the implementation of this section.

Retroactivity

(5) A regulation made under subsection (4) is, if it so provides, effective with reference to a period before it was filed.

Conflict

(6) In the event of a conflict between a regulation made under subsection (4) and a provision of this Act or of any other Act or regulation, the regulation made under subsection (4) prevails.

Power to change method for selecting head of council

218.2 Nothing in section 218.1 limits the power of a municipality referred to in subsection 218.1 (1) or (2) to change the method of selecting its head of council under section 218 for any regular election after 2018.

Commencement

3 This Schedule comes into force on the day the *Better Local Government Act, 2018* receives Royal Assent.

Scrutin général

(2) Le jour où le nouveau conseil est constitué à la suite des élections ordinaires de 2018, le président du conseil des municipalités régionales suivantes est élu au scrutin général conformément à la *Loi de 1996 sur les élections municipales* :

1. La municipalité régionale de Durham.
2. La municipalité régionale de Halton.
3. La municipalité régionale de Waterloo.

Déroulement des élections ordinaires de 2018

(3) Les élections ordinaires de 2018 se déroulent comme si le mode de sélection du président du conseil visé au paragraphe (1) ou (2), selon le cas, était déjà en vigueur.

Règlements

(4) Le ministre peut, par règlement, prendre les mesures qu'il estime souhaitables ou nécessaires pour réaliser les objets du présent article, notamment :

- a) modifier l'application de toute disposition de la présente loi à ces fins;
- b) régir les questions transitoires découlant de la mise en oeuvre du présent article.

Effet rétroactif

(5) Les règlements pris en vertu du paragraphe (4) qui comportent une disposition en ce sens ont un effet rétroactif.

Incompatibilité

(6) Les règlements pris en vertu du paragraphe (4) l'emportent sur les dispositions incompatibles de la présente loi, de toute autre loi ou de tout autre règlement.

Pouvoir de modifier le mode de sélection du président du conseil

<p style="text-align: center;">SCHEDULE 3</p> <p style="text-align: center;">MUNICIPAL ELECTIONS ACT, 1996</p> <p>1 The <i>Municipal Elections Act, 1996</i> is amended by adding the following sections before the heading “Election Officials”:</p> <p>2018 regular election, City of Toronto 10.1 (1) Except as otherwise provided, this section applies with respect to the 2018 regular election within the City of Toronto.</p> <p>Exception, head of council (2) Subsections (3) to (9) do not apply to a nomination for the office of head of council.</p> <p>New nomination day (3) Despite section 31, nomination day is September 14, 2018 and the following rules apply:</p> <ol style="list-style-type: none"> 1. Nomination day as set out in section 31 is deemed not to have occurred. 2. The period for filing a nomination is deemed to have run continuously from May 1, 2018 until September 14, 2018. <p>Notifying the clerk re office on the council (4) If a person has filed a nomination under section 33 for an office on the council and wishes to continue to be a candidate in the election, the person shall notify the clerk in writing before 2 p.m. on September 14, 2018 of the office on the council, other than the office of head of council, for which the person wishes to be nominated.</p> <p>Notifying clerk re office on a school board (5) If a person has filed a nomination under section 33 for an office on a school board and wishes to continue to be a candidate in the 2018 regular election, the person shall notify the clerk in writing before 2 p.m. on September 14, 2018 of the office on the same</p>	<p>218.2 L’article 218.1 n’a pas pour effet de limiter le pouvoir qu’a une municipalité visée au paragraphe 218.1 (1) ou (2) de modifier le mode de sélection du président de son conseil en application de l’article 218 pour des élections ordinaires tenues après 2018.</p> <p>Entrée en vigueur 3 La présente annexe entre en vigueur le jour où la <i>Loi de 2018 sur l’amélioration des administrations locales</i> reçoit la sanction royale.</p> <p style="text-align: center;">ANNEXE 3</p> <p style="text-align: center;">LOI DE 1996 SUR LES ÉLECTIONS MUNICIPALES</p> <p>1 La <i>Loi de 1996 sur les élections municipales</i> est modifiée par adjonction des articles suivants avant l’intertitre «Personnel électoral» :</p> <p>Élections ordinaires de 2018 : cité de Toronto 10.1 (1) Sauf disposition contraire, le présent article s’applique à l’égard des élections ordinaires de 2018 dans la cité de Toronto.</p> <p>Exception : président du conseil (2) Les paragraphes (3) à (9) ne s’appliquent pas aux déclarations de candidature au poste de président du conseil.</p> <p>Nouveau jour de la déclaration de candidature (3) Malgré l’article 31, le jour de la déclaration de candidature est le 14 septembre 2018 et les règles suivantes s’appliquent :</p> <ol style="list-style-type: none"> 1. Le jour de la déclaration de candidature indiqué à l’article 31 est réputé ne pas avoir eu lieu. 2. La période de dépôt des déclarations de candidature est réputée s’être
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<p>school board for which the person wishes to be nominated.</p> <p>Same, not a new nomination (6) The giving of notice to the clerk under subsection (4) or (5) does not constitute a new nomination.</p> <p>Same, not multiple campaigns (7) For the purposes of subsection 88.24 (3), a person who has notified the clerk under subsection (4) or (5) shall not be considered to be a candidate for more than one office on the same council or school board, as the case may be.</p> <p>Deemed withdrawal of nomination (8) A person who has filed a nomination is deemed to have withdrawn his or her nomination if he or she has not notified the clerk under subsection (4) or (5).</p> <p>Notice by clerk (9) As soon as possible after the day the <i>Better Local Government Act, 2018</i> receives Royal Assent, the clerk shall notify in writing each person who filed a nomination under section 33 for an office on the council, other than the office of head of council, or for an office on a school board and the notice shall include the following:</p> <ol style="list-style-type: none"> 1. A statement that if the person wishes to continue to be a candidate in the 2018 regular election, the person must notify the clerk under subsection (4) or (5), as applicable. 2. A statement that if the person does not notify the clerk under subsection (4) or (5), the person will be deemed to have withdrawn his or her nomination. 3. Any other information as may be prescribed. <p>Regulations</p>	<p>poursuivie sans interruption du 1^{er} mai 2018 au 14 septembre 2018.</p> <p>Avis au secrétaire : poste au sein du conseil municipal (4) La personne qui, conformément à l'article 33, a déposé une déclaration de candidature à un poste au sein du conseil municipal et qui désire continuer à être candidate aux élections avise le secrétaire, par écrit, avant 14 h le 14 septembre 2018, du poste au sein du conseil, autre que celui de président du conseil, auquel elle désire être déclarée candidate.</p> <p>Avis au secrétaire : poste au sein d'un conseil scolaire (5) La personne qui, conformément à l'article 33, a déposé une déclaration de candidature à un poste au sein d'un conseil scolaire et qui désire continuer à être candidate aux élections ordinaires de 2018 avise le secrétaire par écrit avant 14 h le 14 septembre 2018 du poste au sein du même conseil scolaire auquel elle désire être déclarée candidate.</p> <p>Idem : non une nouvelle déclaration (6) Le fait d'aviser le secrétaire en application du paragraphe (4) ou (5) ne constitue pas une nouvelle déclaration de candidature.</p> <p>Idem : non des campagnes multiples (7) Pour l'application du paragraphe 88.24 (3), la personne qui avise le secrétaire en application du paragraphe (4) ou (5) n'est pas considérée comme étant candidate à plus d'un poste au sein du même conseil municipal ou conseil scolaire, selon le cas.</p> <p>Déclaration de candidature réputée retirée (8) La personne qui a déposé une déclaration de candidature est réputée l'avoir retirée si elle n'a pas avisé le secrétaire en application du paragraphe (4) ou (5).</p> <p>Avis du secrétaire</p>
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<p>(10) The Minister may make regulations for implementing the purposes, provisions and intention of this section and, without restricting the generality of the foregoing, the Minister may make regulations,</p> <ul style="list-style-type: none"> (a) prescribing anything that is referred to, in this section, as prescribed; (b) varying the operation of any of the provisions of this Act for the purposes of the 2018 regular election; and (c) with respect to this Act, governing transitional matters that arise out of the implementation of this section, including any such transitional matters that may arise for the 2022 regular election or any by-election that takes place before the 2022 regular election. <p>Same (11) A regulation made under subsection (10) may limit the circumstances in which an order under subsection 83 (1) may be made in relation to the conduct of the 2018 regular election.</p> <p>Retroactivity (12) A regulation made under subsection (10) is, if it so provides, effective with reference to a period before it was filed.</p> <p>Conflict (13) In the event of a conflict between a regulation made under subsection (10) and a provision of this Act or of any other Act or regulation, the regulation made under subsection (10) prevails.</p> <p>2018 regular election, certain regional municipalities Deemed withdrawal of nominations 10.2 (1) A person who has filed a nomination for the office of head of council of a municipality referred to in subsection 218.1 (1) of the <i>Municipal Act, 2001</i> in the 2018</p>	<p>(9) Aussitôt que possible après le jour où la <i>Loi de 2018 sur l'amélioration des administrations locales</i> reçoit la sanction royale, le secrétaire avise par écrit chaque personne qui, conformément à l'article 33, a déposé une déclaration de candidature à un poste au sein du conseil, autre que le poste de président du conseil, ou à un poste au sein d'un conseil scolaire. L'avis comprend ce qui suit :</p> <ol style="list-style-type: none"> 1. Une mention indiquant que, si elle désire continuer à être candidate aux élections ordinaires de 2018, la personne doit aviser le secrétaire en application du paragraphe (4) ou (5), selon le cas. 2. Une mention indiquant que, si elle n'avise pas le secrétaire en application du paragraphe (4) ou (5), la personne sera réputée avoir retiré sa déclaration de candidature. 3. Les autres renseignements prescrits. <p>Règlements (10) Le ministre peut, par règlement, prendre des mesures pour réaliser l'objet et l'intention du présent article, notamment :</p> <ul style="list-style-type: none"> a) prescrire tout ce que le présent article mentionne comme étant prescrit; b) modifier l'application de toute disposition de la présente loi aux fins des élections ordinaires de 2018; c) régir, à l'égard de la présente loi, les questions transitoires découlant de la mise en oeuvre du présent article, y compris celles que peuvent soulever les élections ordinaires de 2022 ou toute élection partielle tenue avant celles-ci. <p>Idem (11) Tout règlement pris en vertu du paragraphe (10) peut limiter les circonstances</p>
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<p>regular election is deemed to have withdrawn his or her nomination under section 36 of this Act immediately before the applicable deadline set out in that section.</p> <p>Regulations (2) The Minister may make regulations that, in the opinion of the Minister, are advisable or necessary for the purposes of carrying out the 2018 regular election for the municipalities referred to in subsection 218.1 (1) of the <i>Municipal Act, 2001</i> and, without restricting the generality of the foregoing, the Minister may make regulations,</p> <ul style="list-style-type: none"> (a) varying the operation of any of the provisions of this Act for those purposes; (b) governing transitional matters that arise out of the implementation of section 218.1 of the <i>Municipal Act, 2001</i>. <p>Same (3) A regulation made under subsection (2) may limit the circumstances in which an order under subsection 83 (1) may be made in relation to the conduct of the 2018 regular election for the municipalities referred to in subsection 218.1 (1) of the <i>Municipal Act, 2001</i>.</p> <p>Retroactivity (4) A regulation made under subsection (2) is, if it so provides, effective with reference to a period before it was filed.</p> <p>Conflict (5) In the event of a conflict between a regulation made under subsection (2) and a provision of this Act or of any other Act or regulation, the regulation made under subsection (2) prevails.</p> <p>Commencement</p>	<p>dans lesquelles une ordonnance prévue au paragraphe 83 (1) peut être rendue relativement au déroulement des élections ordinaires de 2018.</p> <p>Effet rétroactif (12) Les règlements pris en vertu du paragraphe (10) qui comportent une disposition en ce sens ont un effet rétroactif.</p> <p>Incompatibilité (13) Les règlements pris en vertu du paragraphe (10) l'emportent sur les dispositions incompatibles de la présente loi, de toute autre loi ou de tout autre règlement.</p> <p>Élections ordinaires de 2018 : certaines municipalités régionales Déclarations de candidature réputées retirées 10.2 (1) Toute personne qui a déposé une déclaration de candidature au poste de président du conseil d'une municipalité visée au paragraphe 218.1 (1) de la <i>Loi de 2001 sur les municipalités</i> pour les élections ordinaires de 2018 est réputée l'avoir retirée en vertu de l'article 36 de la présente loi immédiatement avant le délai applicable énoncé à cet article.</p> <p>Règlements (2) Le ministre peut, par règlement, prendre les mesures qu'il estime souhaitables ou nécessaires pour tenir les élections ordinaires de 2018 dans les municipalités visées au paragraphe 218.1 (1) de la <i>Loi de 2001 sur les municipalités</i>, notamment :</p> <ul style="list-style-type: none"> a) modifier l'application de toute disposition de la présente loi à ces fins; b) régir les questions transitoires découlant de la mise en oeuvre de l'article 218.1 de la <i>Loi de 2001 sur les municipalités</i>.
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<p>2 This Schedule comes into force on the day the <i>Better Local Government Act, 2018</i> receives Royal Assent.</p>	<p>Idem (3) Tout règlement pris en vertu du paragraphe (2) peut limiter les circonstances dans lesquelles une ordonnance prévue au paragraphe 83 (1) peut être rendue relativement à la tenue des élections ordinaires de 2018 pour les municipalités visées au paragraphe 218.1 (1) de la <i>Loi de 2001 sur les municipalités</i>.</p> <p>Effet rétroactif (4) Les règlements pris en vertu du paragraphe (2) qui comportent une disposition en ce sens ont un effet rétroactif.</p> <p>Incompatibilité (5) Les règlements pris en vertu du paragraphe (2) l'emportent sur les dispositions incompatibles de la présente loi, de toute autre loi ou de tout autre règlement.</p> <p>Entrée en vigueur 2 La présente annexe entre en vigueur le jour où la <i>Loi de 2018 sur l'amélioration des administrations locales</i> reçoit la sanction royale.</p>
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