



November 3, 2022

Hon. Doug Ford
Premier of Ontario
Room 281
Legislative Building
Queen's Park
Toronto ON M7A 1A1

(Sent electronically to: <https://correspondence.premier.gov.on.ca/EN/feedback/default.aspx>)

Dear Premier Ford:

RE: USE OF THE NOTWITHSTANDING CLAUSE IN A LABOUR DISPUTE

I am the President of the Association of Justice Counsel (AJC), the union representing 3,100 federal public sector lawyers employed by the Department of Justice Canada; Public Prosecution Service of Canada; and in-house counsel employed by independent federal agencies, courts and tribunals.

We object in the strongest possible terms to the unprecedented step your government took on October 31, 2022, to discard the collective bargaining process and impose a contract on education workers by way of legislation. Not only will this legislation violate the constitutional right of education workers to engage in collective bargaining, your government has invoked the notwithstanding clause to insulate the legislation from a *Charter* challenge.

We call on your government to withdraw the legislation immediately; to respect collective bargaining rights protected by section 2 (d) of the *Charter*; and to resolve the labour dispute with Ontario education workers by negotiating a fair contract that works for education workers, students, and parents across Ontario.

As a union of lawyers, we are extremely troubled and concerned – alarmed really - by this matter. The legislation proposed by your government is just wrong – frankly dangerous – in a country built on respect for rights and freedoms.

The notwithstanding clause in the Constitution was intended to be used in only the most dire and exceptional circumstances. Let's again be frank. The use of the notwithstanding clause sends this message on behalf of your government:

- We know we are trampling on your rights.
- We know that the violation is not a reasonable limit on your rights and that we cannot successfully defend it in court under section 1 of the *Charter* (or we just don't want to be bothered doing so).
- We don't care. Political expediency trumps respect for fundamental rights and freedoms.

What's even more troubling is that this is the second time your government has invoked the notwithstanding clause. However, your government now has the shameful distinction of being the first government in Canadian history to attempt to use legislation to pre-emptively end a labour action in violation of section 2 (d) of the *Charter* **and** to concurrently insulate such action from the scrutiny of the courts by invoking the notwithstanding clause.

Your government's actions are contributing to the normalization of the callous violation of the rights and freedoms of Canadians through the use of the notwithstanding clause. I doubt that you would wish the Progressive Conservative Party of Ontario to be remembered as the political party of rights violators. Let's make Ontario a leader in the protection of rights and freedoms, not a leader in their violation.

The AJC adds its voice to the growing chorus of Canadians, Ontarians, unions, and community organizations expressing their outrage about the improper use of the notwithstanding clause in a labour dispute. We stand in solidarity with the CUPE educators and with all workers, everywhere.

Yours truly,



David McNairn
President /Président