

1982, Quebec repealed all pre-Charter legislation and re-enacted it with the addition of a standard clause that declared the legislation to operate notwithstanding section 2 and sections 7 to 15 of the Charter.

The legislation also inserted the standard clause into all post-Charter enactments.

2019, the Ford government passed the Better Local Government act which changed the electoral ward boundaries in Toronto. The act was struck down by the Superior Court citing its infringement of Ontarians electoral rights and freedom of expression.

The Court of Appeal stayed the Superior Courts decision halting Ford's first attempt at using the notwithstanding clause.

The Ontario Conservative Government is currently using the Notwithstanding Clause to alter the Election Finances Act, which places greater restrictions on third party organizations funding that is used on campaign related activities.

These restrictions would last for a full 12 months prior to the election and have a spending limit of just over 600k. Currently there is a restriction on third party funding in the 6 months leading to an election of 600k.

The Conservative majority government is attempting the double the length of time while keeping the amount the same. The limit an individual can donate to a party each year is around \$1,600 and unions are expressly forbidden from donating to a party. The allowance of third party donations allows unions and individuals to donate more.

SECTION 33

NOTWITHSTANDING CLAUSE

What is it?

A clause within the Charter (Section 33)

What does it do?

Allows parliament or provincial legislatures to temporarily override certain portions of the Charter.

Why does it matter?

Allows for the overriding of rights in sections 2 and 7-15 of the Charter.

33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.

(2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.

(3) A declaration made under section (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.

(4) Parliament or the legislature of a province may re-enact a declaration made under section (1).

(5) Section (3) applies in respect of a re-enactment made under section (4).
A clause within the Charter (Section 33).