

# Quebec and Section 33



Why the  
Notwithstanding Clause  
Must Not Stand

Michael B. Davie

# Quebec And Section 33 Why The Notwithstanding Clause Should Not Stand

**Lucia Ferretti, François Rocher**



## **Quebec And Section 33 Why The Notwithstanding Clause Should Not Stand:**

The Notwithstanding Clause of the Charter David Johansen, 2012 The constitutional notwithstanding clause set out in section 33 of the Canadian Charter of Rights and Freedoms hereinafter referred to as the Charter of Rights or the Charter has been controversial since its emergence from a November 1981 Federal Provincial Conference of First Ministers The controversy became more pronounced at the time of the 15 December 1988 Supreme Court of Canada decisions in the Ford and Devine cases dealing with the signage provisions of Quebec's Bill 101 Charter of the French Language and the subsequent adoption by the Quebec National Assembly of Bill 178 An Act to Amend the Charter of the French Language This legislation contained a section 33 override clause in this case affecting Charter of Rights guarantees of freedom of expression section 2 b and equality rights section 15 After setting out the content of the section 33 notwithstanding clause this paper will trace its development in 1981 and describe the potential use then ascribed to it by its drafters parliamentarians and others The paper will then go on to point out actual instances when the notwithstanding clause has been invoked Finally it will present a number of arguments for and against the use of the clause

**The Oxford Handbook of the Canadian Constitution** Peter Oliver, Patrick Macklem, Nathalie Des Rosiers, 2017-08-10 The Oxford Handbook of the Canadian Constitution provides an ideal first stop for Canadians and non Canadians seeking a clear concise and authoritative account of Canadian constitutional law The Handbook is divided into six parts Constitutional History Institutions and Constitutional Change Aboriginal Peoples and the Canadian Constitution Federalism Rights and Freedoms and Constitutional Theory Readers of this Handbook will discover some of the distinctive features of the Canadian constitution for example the importance of Indigenous peoples and legal systems the long standing presence of a French speaking population French civil law and Quebec the British constitutional heritage the choice of federalism as well as the newer features most notably the Canadian Charter of Rights and Freedoms Section Thirty Five regarding Aboriginal rights and treaties and the procedures for constitutional amendment The Handbook provides a remarkable resource for comparativists at a time when the Canadian constitution is a frequent topic of constitutional commentary The Handbook offers a vital account of constitutional challenges and opportunities at the time of the 150th anniversary of Confederation

**Constitutional Dialogue** Geoffrey Sigalet, Grégoire Webber, Rosalind Dixon, 2020-11-26 The metaphor of dialogue has been put to different descriptive and evaluative uses by constitutional and political theorists studying interactions between institutions concerning rights It has also featured prominently in the opinions of courts and the rhetoric and deliberations of legislators This volume brings together many of the world's leading constitutional and political theorists to debate the nature and merits of constitutional dialogues between the judicial legislative and executive branches Constitutional Dialogue explores dialogue's democratic significance examines its relevance to the functioning and design of constitutional institutions and covers constitutional dialogues from an international and transnational perspective

**The Notwithstanding Clause and the Canadian**

**Charter** Peter L. Biro, 2024-04-02 Section 33 what is commonly referred to as the notwithstanding clause NWC was written into the Canadian Charter of Rights and Freedoms to allow Parliament and the provinces to provisionally override certain Charter rights The Notwithstanding Clause and the Canadian Charter examines the NWC from all angles and perspectives considering who should have the last word on matters of rights and justice the legislatures or the unelected judiciary and what balance liberal democracy requires In the case of Quebec the use of the clause has been justified as necessary to preserve the province's culture and promote its identity as a nation Yet Quebec's pre-emptive and sweeping invocation of the clause also challenges the scope of judicial review and citizens recourse to it and it tests the assumption that a dialogue between the judiciary and the legislature is always preferable in instances in which the legislative branch decides to suspend the operation of certain Charter rights and freedoms By virtue of its contested purposes interpretations operation and applications the NWC represents and to an extent defines both the character and the very real vulnerabilities of liberal constitutionalism in Canada The significance effects and legitimacy of the NWC have been vigorously debated within scholarship and among politicians and activists since the patriation of the Canadian Constitution in 1982 In The Notwithstanding Clause and the Canadian Charter leading scholars jurists and policy experts elucidate and prescribe reforms to the application of this consequential clause about which so much is written and around which there is relatively little consensus *Canada in the World* Richard Albert, David R. Cameron, 2018 Marking the Sesquicentennial of Confederation in Canada this book examines the growing global influence of Canada's Constitution and Supreme Court on courts confronting issues involving human rights **And No One Cheered** Keith G. Banting, Richard Simeon, 1983 [A Consolidation of the Constitution Acts 1867 to 1982](#) Canada, Canada. Department of Justice, 1983 Consolidated as of April 17 1982 **Charter Conflicts** Janet Hiebert, 2002 The first comprehensive examination of how the Charter influences political choices on social policy **The Charter Revolution and the Court Party** F.L. Morton, Rainer Knopff, 2000-04 Here finally is a book that unveils the politics that infuse Canadian courts and their decisions and warns us of the effects of a judicialized politics on our democratic traditions Leslie A. Pal Carleton University [Loi Constitutionnelle de 1982](#) Canada, 1992 **The Challenges of a Secular Quebec** Lucia Ferretti, François Rocher, 2023-09-15 In 2019 the Quebec National Assembly passed Bill 21 It prohibits among other things certain state employees in positions of authority including teachers prison guards police officers and justices of the peace from wearing religious symbols when providing public services Many political commentators denounced the move as running counter to Canadian multiculturalism and human rights Why did the government adopt this form of state secularism And why did it garner public support The Challenges of a Secular Quebec provides illuminating answers to these questions and explores why many Quebecers consider the law legitimate Contributors analyze the statute from different angles to provide a nuanced respectful discussion of its intentions and principles Given the province's singular history in North America the merits of the initiative to separate church and state must be considered

within the Quebec context The Challenges of a Secular Quebec calls for a legal interpretation of Bill 21 that is sensitive to this difference      **Charter Litigation** Robert J. Sharpe,1987      *Democracy and Constitutions* Allan C. Hutchinson,2021-07-26 Bold and unconventional this book advocates for an institutional turn about in the relationship between democracy and constitutionalism      **Seeking the Court's Advice** Kate Puddister,2019-05-01 Can Parliament legalize same sex marriage Can Quebec unilaterally secede from Canada Can the federal government create a national firearms registry Each of these questions is contentious and deeply political and each was addressed by a court in a reference case not by elected policy makers Reference cases allow governments to obtain an advisory opinion from a court without a live dispute and opposing litigants and governments often wield this power strategically Through a reference case elected officials can insert the courts and the judiciary into political debates that can be both contentious and normative Seeking the Court's Advice is the first in depth study of the reference power drawing on over two hundred reference cases from 1875 to 2017 With novel insight and analysis Kate Puddister demonstrates that the actual outcome of a reference case win or lose is often secondary to the political benefits that can be attained from relying on courts through the reference power      Civil Code of Lower Canada Québec (Province),1889      *The Courts and Social Policy* Donald L. Horowitz,1977

*Canada 2014* Wayne C. Thompson,2014-07-17 This is an annually updated presentation of Canada past and present The contents in this volume are organized into sections dealing with Canada's culture Geography people history from New France to the constitutional debates in the late 20th century political system including the constitution monarchy parliament legal and court system federalism and the provinces provincial governments parties and elections defense economy the future and a comprehensive bibliography The combination of factual accuracy and up to date detail along with its informed projections make this an outstanding resource for researchers practitioners in international development media professionals government officials potential investors and students Now in its 30th edition the content is thorough yet perfect for a one semester introductory course or general library reference Available in both print and e book formats and priced low to fit student and library budgets      Constitutional Politics in Canada after the Charter Patrick James,2011-01-01 Since the Charter of Rights and Freedoms was introduced Canada has experienced more than twenty five years of constitutional politics and countless debates about the future of Canada There has however been no systematic attempt to identify general theories about Canada's constitutional evolution Patrick James corrects this oversight By adding clarity to familiar debates this succinct assessment of major writings on constitutional politics sharpens our vision of the past and the future of the Canadian federation      **Leading for Equity and Social Justice** Andréanne Gélinas-Proulx,Carolyn M. Shields,2022-04-27 Educational institutions and in particular educational leaders play critical roles in identifying and rectifying the many inequities that oppress marginalize and exclude individual students educational actors and some minoritized groups in Canadian education Leading for Equity and Social Justice provides a deep look at some of these inequities and injustices and

offers transformative leadership as one way for leaders to stimulate support and foster equitable and socially just practices in educational institutions This collection emphasizes the systemic nature of inequality and supports the necessity of systemic change to target not only individuals but also structures policies and far reaching practices Focusing on various marginalized groups including the Indigenous community LGBTQ2S peoples refugees newcomers and specific groups of teachers chapters explore transformative leadership in practice and how to achieve inclusion respect and excellence in schools Arguing that leadership involves much more than simply putting policy into practice *Leading for Equity and Social Justice* promotes the need for leaders to recognize their role as advocates and activists *Weak Courts, Strong Rights* Mark Tushnet, 2009-08-09 Mark Tushnet uses a comparative legal perspective to show how creating weaker forms of judicial review may actually allow for stronger social welfare rights under American constitutional law

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