

November 4, 2022

SENT VIA EMAIL justin.trudeau@parl.gc.ca

**The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada**

Dear Prime Minister Trudeau,

In the midst of collective bargaining between CUPE education sector workers and the Ontario government, Premier Doug Ford's government this week introduced Bill 28 which enacted the *Keeping Students in Class Act*.

The *Act* expressly curtails CUPE members' *Charter* protected rights of expression, association and equality. It prohibits any strike action by CUPE and its members, and permits staggering fines to be imposed on the Union and individual members if they exercise their constitutionally protected right to strike. The legislation also imposes a new collective agreement on CUPE's members against their wishes. The *Act* therefore deprives CUPE and its members of the ability to continue their collective bargaining. It is of course now impossible to know whether a collective bargaining settlement might have been achieved without this intervention.

The measures implemented by the *Act* are undoubtedly and patently unconstitutional. In response to that obvious fact, the *Act* invokes the notwithstanding clause, and purports to prevent any court from striking down the law for violating sections 2, 7, and 15 of the *Charter*. The *Act* is a direct attempt to intimidate CUPE's members and other workers and to compel them not to use their right to strike.

Never before in the history of Canadian labour relations has a government used the notwithstanding clause to limit the constitutionally protected right to strike and the associated freedom of association. This use of the notwithstanding clause risks a collapse of the constitutional protections that our courts have recognized extend to collective bargaining and the right to strike. Its use in this instance raises critical concerns about its normalization.

These are unprecedented times. Strong and decisive action is required to protect the rights of working people.

Section 90 of the Constitution Act, 1867 authorizes your government to disallow a provincial statute. A disallowed statute is no longer a valid law and cannot be enforced. Although it has not recently been used, the power has been used upwards of 100 times to disallow provincial statutes by previous federal governments. Should there be any doubt that the provision

remains in force, the Supreme Court of Canada has ruled that the power of disallowance continues to exist without limitation or restriction.

To protect the *Charter* rights of working people in Ontario and in other provinces whose governments may wish to follow a similar destructive path, we urge you to seriously examine the use of the federal government's section 90 power to disallow Bill 28. You must act decisively and quickly to protect the freedom of association and equality rights of CUPE's members and other workers, and to stop the further erosion of *Charter* values in Ontario.

Unifor's members have always understood the essential nature of freedom to organize, to bargain collectively against employers, and to strike to achieve dignified and safe working conditions. Unifor is proud to support CUPE and its members and to take a stand for the constitutional rights of workers in Ontario.

I am asking you to send a clear message to Doug Ford that his disregard for working people and for Canada's constitutional rights will not be tolerated. If you do not put a stop to it now, these brazen attacks on workers and our constitutional rights will only become more vicious.

I am urging you to use the federal government's power to disallow the *Keeping Students in Class Act* immediately.

Yours truly,

A handwritten signature in black ink, appearing to read 'Lana Payne', written in a cursive style.

LANA PAYNE
National President

LP/AD/JM/bmkcope343