

Nov 27, 2019

Update and Call to Action to members on New Brunswick Bill 11 - *An Act Respecting Proof of Immunization* and the NS & PEI Call for Mandates



- **New Brunswick Bill 11, which contains the same proposed amendments as Bill 39, is an acknowledgement that vaccination mandates violate the fundamental rights of Canadians**
- **Bill 11 is a reckless attempt to use the “notwithstanding clause,” section 33 of the Charter**
- **Use of section 33 in Bill 11 does not end the constitutional violations nor the challenge to this legislation**
- **Bill 11 should be opposed by every citizen who values a free society, regardless of what they think concerning vaccines, because when some people lose their constitutional rights as a result of government overreach—even people we disagree with—we all lose out in the end**
- **Make a personal appointment with your MLA to insist they vote against Bill 11, or in NS and PEI to ensure your MLAs are informed on the issue**

New Brunswick Education Minister Dominic Cardy’s introduction of Bill 11, *An Act Respecting Proof of Immunization*, clearly demonstrates what Vaccine Choice Canada rightly claimed at the Standing Committee on Law Amendments hearings in August 2019 – that the previous version, Bill 39, was in fact a violation of the constitutional rights of Canadians. In other words, **Bill 11 is an acknowledgement that vaccination mandates violate the fundamental rights of Canadians.**

Clearly, this bill is a reaction to presentations to the Standing Committee and/or our [constitutional challenge](#) in the Ontario Superior Court of Justice filed in October 2019.

Bill 11 proposes to remove all non-medical exemptions to vaccination for children attending daycare and public school in New Brunswick, thereby parents and children must choose whether or not to receive vaccinations and still have access to free public education. It contains all the same proposed amendments as its predecessor, Bill 39.

The effect of Bill 11 is that all children who are unable to obtain a medical exemption must receive all of the required vaccinations, if they are to attend a daycare or public school. Parents who object to their children receiving vaccinations will no longer be permitted to send their children to public school unless they act contrary to their objections.

Bill 11 is a reckless attempt to use the “notwithstanding clause”

Unlike Bill 39, and in an apparent attempt to foreclose a constitutional challenge to the Bill, Bill 11 invokes section 33 of the *Charter*, commonly known as the “notwithstanding clause.”

The *Charter* constitutionalizes the most important personal liberties and civil rights Canadians enjoy. Governments can only limit or violate those rights if it can be demonstrated by the government that doing so is “justified in a free and democratic society” according to section 1 of the *Charter*. Courts have the ability to nullify or “strike down” a law if it is found to unjustifiably violate a *Charter* right.

However, the notwithstanding clause, section 33 of the *Charter*, permits governments to pass a law that the courts are unable to strike down even if the law violates constitutional rights or freedoms.

The use of section 33, the “notwithstanding clause” of the Canadian Charter of Rights and Freedoms, in Bill 11 is an entirely inappropriate use of the clause. Allowing use of section 33 for such illegitimate and frivolous reasons would open the door to using it for removing rights of free speech, assembly, religion and so forth. Section 33 was intended and envisaged to be used only in extreme cases - such as war, insurrection, or other truly disastrous national emergencies.

Section 2,7, and 15 Charter rights over-ride are NOT the end of Constitutional Challenge

The cynical use of section 33 does not end the constitutional violations nor challenge to this legislation. The freedom of conscience, life, liberty and security, as well as equality rights found in sections 2,7, and 15, were established BEFORE the Charter of 1982, and are protected as unwritten constitutional rights not subject to section 33. Furthermore, this bill also violates other Charter rights to which section 33 does NOT apply.

Why Bill 11 Should be Opposed

The circumstances that Bill 11 will create, if enacted, will infringe upon the constitutional rights of children and parents as protected by the *Canadian Charter of Rights and Freedoms*. These rights include freedom of conscience and religion as protected by section 2(a) of the *Charter* and the right to liberty and security of the person as protected by section 7.

It is a serious intrusion by the state to demand that a person inject a set of substances they do not want or need into their body or the body of their child in order to access public education. Citizens ought to be concerned any time a government is willing to blatantly trample upon individual liberties and civil rights to achieve its agenda, especially when no real emergency is present. Bill 11 should be opposed by every citizen who values a free society, regardless of what they think concerning vaccines, because when some people lose their constitutional rights as a result of government overreach—even people we disagree with—we all lose out in the end.

What Concerned Citizens Can Do to Stop Bill 11

Bill 11 was introduced on November 22, 2019 and is currently being considered by MLAs. A vote to either pass the Bill into law or reject the Bill could occur as early as December 2019.

The best, and perhaps only, way to avoid the consequences of Bill 11 is to ensure it is never passed into law.

New Brunswick citizens who disapprove of Bill 11 and want to ensure it does not pass can have a tangible impact by calling or meeting with their MLA and clearly communicating their desire that he or she vote against the Bill and why. Unlike many proposed bills, which are destined to pass because of whipped votes by the party or parties that form government, MLAs will independently vote on Bill 11 according to their own conscience and in accordance with what they believe is in their constituents' best interests or with the expressed desire of a majority of their constituents.

Bill 11 will not pass if a majority of the individual members of the legislature do not, of their own initiative, vote in favour of the Bill.

MLAs ought to be reminded that whatever one may think regarding a particular issue or fact, nobody should be forced to violate their bodily autonomy or conscience to access public education and a government should not be using such a heavy-handed method as the notwithstanding clause to get what it wants except in true emergencies.

Vaccine safety science is far from being "settled", essential placebo-controlled studies have never been done, and new research indicates vaccines can cause both immune system and neurological injuries. However, regardless of one's opinion on vaccines, Bill 11 is an affront to liberty and an attack upon fundamental rights and freedoms.

Regardless of an MLA's opinion on vaccines, they should not support Bill 11 because individuals must always retain the right to voluntarily choose or reject any medical treatment, including vaccines, for themselves or their children, and not have their rights violated by the government choosing for them and withholding the benefit of free public education from those who disagree.

Take Action

- **New Brunswickers** ought to contact their MLA's office *immediately* to express their opposition to Bill 11 and to implore their MLA to vote against it. They can provide their MLA with a legal [opinion](#) provided to the legislative committee that studied Bill 39, which details the constitutional rights violations that will result from such a Bill.
- **Residents of NS and PEI** can do the same, pre-emptively, to ensure their MLAs are informed on the constitutional rights surrounding vaccination mandates as well as the fact that the science is not settled. See the Vaccine Choice Canada [resources page](#) for materials to take along.
- **All other Canadians** should be meeting with their MLAs, MPPs and MPs for the same reasons.

We urge you to make an appointment with your representatives, as the most effective means of communicating with them is with a face to face meeting.