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**PubliC** Certificate issued on April 25, 2024 to English Account NG C3 for personal and temporary display.  
news-20221009-TTA-20221009-65824952

<b>Source name</b>	Sunday, October 9, 2022
Toronto Star (ON)	
<b>Source type</b>	Toronto Star (ON)
Press • Newspapers	• p. A6
<b>Periodicity</b>	• 925 words
Daily	
<b>Geographical coverage</b>	
Provincial	
<b>Origin</b>	
Toronto, Ontario, Canada	



## Ottawa quiet amid constitutional crisis

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Quebec Premier François Legault and soon-to-be Alberta Premier Danielle Smith share little in common. He led Canada's most nanny-state response to the COVID-19 pandemic - imposing province-wide curfews and vaccine passports to shop in big-box stores. She campaigned for the United Conservative leadership on "vaccine choice" and a pledge to never lock Alberta up again.

And yet, both are united in their quest for more provincial autonomy - and both are chipping away at the foundation of our federation to do so. And Ottawa is staying surprisingly quiet.

Smith's flagship policy proposal is the sovereignty act, a bill she said would allow the province to ignore federal laws it dislikes. Instead of heading to the courts, as Alberta often does, Smith would flout the rule of law.

"Albertans - not Ottawa - will chart our own destiny, on our own terms," she said, in her victory speech Thursday.

Experts panned the sovereignty act as "unconstitutional," but in an age of populism that rejects science and intellectualism, it may just have helped fuel its

popularity.

"This is a crash course for conflict," University of Calgary political scientist Lisa Young recently said on the Star's "It's Political" podcast. It's about Alberta "opting itself out of Canada, the parts of Canada it doesn't want," she said.

It's also a crash course in weakening the federation. Already, we see its influence on domestic politics. This week, Saskatchewan Premier Scott Moe is set to release his own version with a policy paper to fight federal "intrusion." Over the past two weeks, governments across the prairies have told provincial police forces to ignore a federal law regarding the buyback of assault-style weapons.

Although Public Safety Minister Marco Mendicino said Ottawa "would expect that any law on the books will be enforced by law enforcement," who knows where this is headed?

Canada is built on respect for the rule of law. The federation is based on a division of powers, with each level respecting the competencies of the other, and negotiating jurisdictional overlap when necessary (with Ottawa, for example, handing over money in return for guar-

Quebec Premier François Legault, left, and soon-to-be Alberta Premier Danielle Smith are both united in their quest for more provincial autonomy - and both are chipping away at the foundation of our federation to do so. Ottawa is staying surprisingly quiet, writes Althia Raj. ALEXIS AUBIN/AFP via GETTY IMAGES Jeff McIntosh/THE CANADIAN PRESS file photo

antees of universal and portable health services).

But an alarming number of Conservative politicians - from Smith, to Alberta Justice Minister Tyler Shandro, to federal leader Pierre Poilievre and his support for the freedom convoy - are showing themselves to be willing to burn pillars of our constitutional foundation for short-term political gain. Not only does it illustrate how conservatism in Canada is continuing to shift from pro-institution to more radical populist approaches, it's short-sighted and dangerous. If politicians refuse to obey the law, why should citizens?

In Quebec, Legault chases a populism of a different kind, one focused on French-language nationalism, and uses a different approach to circumventing the constraints of the law.

Twice, with Bill 21 and Bill 96, he preemptively invoked the notwithstanding clause to sidestep the protection of minority rights in the Charter of Rights and Freedoms. These laws - one that bans the wearing of religious symbols for those in certain public-sector positions, the other that seeks to stamp out English by overhauling the province's Charter of the French Language - will certainly land at the Supreme Court. But in the meantime, Canadians are getting used to the idea that invoking the notwithstanding clause is a routine occurrence that doesn't merit outrage or scrutiny - and that it is politicians, not judges, who should decide who has rights and what those rights are.

This is a radical shift, noted constitutional lawyer Marion Sandilands.

She described what's happening in Canada as a volcano eruption happening underwater.

"Constitutions are the bulwark against radical movements, against populism, against instability. And if our Constitution is shifting under us and we don't even see it, one day we're going to look for that ocean floor. And it's not going to be where we thought it was," she said on "It's Political."

With Bill 96, Legault also unilaterally amended the Constitution, inserting new lines: that "Quebecers form a nation" and that "French shall be the only official language of Quebec. It is also the common language of the Quebec nation."

While inside Quebec, nationalists argued the province had the right to amend its own section of the Constitution, most constitutional experts outside Quebec, such as University of Ottawa's

Errol Mendes, argued this was unconstitutional without Parliament's approval.

Yet, Prime Minister Justin Trudeau, who at the time was heading towards the 2021 election with three dozen Quebec seats in play, shockingly said it was "perfectly legitimate" for a province to do this.

Now, Legault wants more. This time, power over immigration and he's floating the idea of a provincial referendum to get it.

It's time Ottawa draws the line.

As former independent senator André Pratte suggested, the absence of the federal government in provincial conversations defending Ottawa's jurisdiction and defending the Charter has a cost: a weakening of the federation.

The provinces will always ask for more power.

As Trudeau's father, Prime Minister Pierre Elliott Trudeau, told the CBC's Barbara Frum in 1987 during the Meech Lake Accord discussions, that's natural, "because they are in the power game."

But "when you give it all, you're a weakling."

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