CHAPTER 12: The Charter of Rights and Freedoms

**MULTIPLE CHOICE**

1. In 2001, Canada’s Anti-Terrorism Act included penalties for support of terrorist organizations. One other provision of this act was that it allowed \_\_\_\_\_\_\_\_\_.
2. unlawful search and seizure
3. police to arrest suspects without a warrant
4. the use of rubber bullets during demonstrations
5. suspects to raise bail money

*Answer:* b *Difficulty:* moderate *Page:* 337

1. In 1988, the Supreme Court struck down Canada’s law against abortion in which famous case?
2. The Morgentaler case
3. *Harper v. Canada*
4. The Alberta Press case
5. Bill 101

*Answer:* a *Difficulty:* easy *Page:* 336

1. A key problem with defending rights and freedoms is that typically \_\_\_\_\_\_\_\_\_ are the first targets of actions limiting rights and freedoms.
2. popular individuals or groups
3. unpopular individuals or groups
4. foreign nationals
5. minorities

*Answer:* b *Difficulty:* challenging *Page:* 337

1. What principle establishes that Parliament is the supreme law-making body whose ability to legislate has not been restricted by a superior constitutional document?
2. Separation of powers
3. Common law
4. Constitutionalism
5. Parliamentary supremacy

*Answer:* d *Difficulty:* easy *Page:* 338

1. The Charter of Rights and Freedoms \_\_\_\_\_\_\_\_\_ the doctrine of parliamentary supremacy.
2. established
3. undermined
4. strengthened
5. had no effect on

*Answer:* b *Difficulty:* challenging *Page:* 341

1. Which of the following was part of the Constitution Act, 1867?
2. Environmental rights
3. Property and equality rights
4. Gender equality rights
5. Language rights

*Answer:* d *Difficulty:* moderate *Page:* 338

1. The Bill of Rights of 1960 was a \_\_\_\_\_\_\_\_\_, rather than being entrenched as a part of the constitution.
2. reference case
3. Supreme Court decision
4. statute of Parliament
5. provincial law

*Answer:* c *Difficulty:* easy *Page:* 339

1. What important act was explicitly excluded from the provisions of the Canadian Bill of Rights of 1960?
2. The Anti-Terrorism Act
3. The Abortion Act
4. The War Measures Act
5. The Constitution Act, 1867

*Answer:* c *Difficulty:* easy *Page:* 339

1. The Supreme Court’s decision in the Alberta Press case came to be known as the doctrine of \_\_\_\_\_\_\_\_\_.
2. Constitutional Convention
3. Civil Liberties
4. the Division of Powers
5. the Implied Bill of Rights

*Answer:* d *Difficulty:* easy *Page:* 339

1. What was the only case in which the Canadian Bill of Rights of 1960 was used to invalidate legislation?
2. The Lord’s Day case
3. The Indian Act
4. The Drybones case
5. The War Measures Act

*Answer:* c *Difficulty:* easy *Page:* 340

1. Who among the following strongly favoured incorporating the Charter of Rights and Freedoms in the Canadian constitution?
2. Réne Lévesque
3. Pierre Trudeau
4. Robert Bourassa
5. William Aberhart

*Answer:* b *Difficulty:* moderate *Page:* 340

1. In contrast to the Canadian Bill of Rights of 1960, the Charter of Rights and Freedoms \_\_\_\_\_\_\_\_\_.
2. has an important preamble
3. applies only to the federal government
4. clearly empowers the courts to invalidate legislation
5. invalidates provincial human rights codes

*Answer:* c *Difficulty:* challenging *Page:* 341

1. According to the text, the Charter of Rights and Freedoms of 1982 applies to \_\_\_\_\_\_\_\_\_ encroachments on our rights, but does not have the scope to prevent encroachments by private individuals.
2. regional
3. governmental
4. private
5. cultural

*Answer:* b *Difficulty:* moderate *Page:* 341

1. Among the categories of rights and freedoms in the Charter are democratic freedoms. Democratic freedoms include things like the right to vote and the right to \_\_\_\_\_\_\_\_\_.
2. affordable housing
3. equal opportunity
4. strike
5. stand for elected office

*Answer:* d *Difficulty:* moderate *Page:* 343

1. The Charter also includes a category of rights termed equality rights. Equality rights guarantee freedom from discrimination on the basis of, for example, race, religion, ethnicity, age, and \_\_\_\_\_\_\_\_\_.
2. education
3. sex
4. seniority
5. wealth

*Answer:* b *Difficulty:* easy *Pages:* 342-343

1. Which among the following rights does the Charter *not* guarantee?
2. Legal rights
3. Equality rights
4. Mobility rights
5. Social rights

*Answer:* d *Difficulty:* moderate *Page:* 343

1. Section 1 of the Charter of Rights and Freedoms, also known as the \_\_\_\_\_\_\_\_\_ Clause, declares that the rights set down in the Charter are not unlimited.
2. Economic Rights
3. Reasonable Limits
4. Scope of Rights
5. Federalism

*Answer:* b *Difficulty:* easy *Page:* 345

1. In deciding whether a government’s limitation of a right is justified under section 1 of the Charter, the courts have used the \_\_\_\_\_\_\_\_\_.
2. Social Rights Clause
3. Family Law Act
4. Oakes test
5. demonstration test

*Answer:* c *Difficulty:* moderate *Page:* 345

1. The notwithstanding clause applies to three types of rights: legal rights, equality rights, and \_\_\_\_\_\_\_\_\_.
2. discrimination rights
3. democratic rights
4. social rights
5. fundamental freedoms

*Answer:* d *Difficulty:* moderate *Page:* 345

1. The Quebec government included the notwithstanding clause in all legislation between 1982 and 1985 as a protest against the passage of the \_\_\_\_\_\_\_\_\_.
2. Charlottetown Accord
3. Oakes Test
4. Meech Lake Accord
5. Constitution Act, 1982

*Answer:* d *Difficulty:* moderate *Page:* 345

1. To “read down” a law means that the courts can use a \_\_\_\_\_\_\_\_\_ interpretation of a law to make it conform to the Charter.
2. wider
3. narrower
4. inconsistent
5. equivalent

*Answer:* b *Difficulty:* moderate *Page:* 349

1. Some criticize “judicial supremacy” in Canada since the advent of the Charter. In other words, they argue that \_\_\_\_\_\_\_\_\_.
2. politicians cannot be trusted to draft laws in accordance with the Charter
3. human rights are not legally entrenched in the Constitution
4. judges have been given too much power over public policy
5. parliament has too much power to affect human rights protections

*Answer:* c *Difficulty:* challenging *Page:* 351

1. In 2004, the Government of Newfoundland claimed \_\_\_\_\_\_\_\_\_ prevented it from compensating people for gender discrimination.
2. a lack of funds
3. religious freedom
4. minority language rights
5. globalization

*Answer:* a *Difficulty:* easy *Page:* 351

1. A problem with using the courts to advance political interests is that it is\_\_\_\_\_\_\_\_\_.
2. unable to hear non-Charter cases
3. very expensive
4. very biased
5. rarely willing to hear cases

*Answer:* b *Difficulty:* easy *Page:* 352

1. Some critics of the judicialization of politics in Canada argue that the power of the courts has contributed to the weakening or impoverishment of \_\_\_\_\_\_\_\_\_.
2. partisan politics
3. the media
4. the Charter of Rights and Freedoms
5. Canadian democracy

*Answer:* d *Difficulty:* challenging *Page:* 352

**TRUE/FALSE**

1. In Canada, the Anti-Terrorism Act was criticized for restricting hate speech.

*Answer:* False *Difficulty:* challenging *Pages:* 337, 346

1. The Constitution Act, 1867, places some limits on parliamentary supremacy by dividing legislative authority between the federal and provincial governments.

*Answer:* True *Difficulty:* challenging *Page:* 338

1. The Canadian Bill of Rights of 1960 applied to both provincial and federal governments.

*Answer:* False *Difficulty:* moderate *Page:* 339

1. The Charter does not apply to businesses, private organizations, or the relations among individuals.

*Answer:* True *Difficulty:* moderate *Page:* 341

1. Same-sex marriage is presently illegal in Canada.

*Answer:* False *Difficulty:* easy *Page:* 343

1. In the David Oakes case, the courts had to decide if the government had to presume the accused person was innocent until proven guilty.

*Answer:* True *Difficulty:* moderate *Page:* 346

1. The notwithstanding clause has only been used by the Government of Quebec.

*Answer:* False *Difficulty:* challenging *Page:* 348

1. In 2011, the Supreme Court of Canada ruled that the Harper Government’s decision not to extend Insite’s (Vancouver’s Safe Injection Site) exemption under the Controlled Drugs and Substances Act contravened principles of fundamental justice, and could not be justified as a “reasonable limit” of rights and freedoms.

*Answer:* True *Difficulty:* easy *Page:* 342

1. The courts in Canada rarely oversee the implementation of the rulings they hand down.

*Answer:* True *Difficulty:* moderate *Page:* 352

1. The Canadian Supreme Court generally has been more activist in overturning controversial legislation than its American counterpart.

*Answer:* False *Difficulty:* challenging *Page:* 351

**SHORT ANSWER**

1. What is the notwithstanding clause?

*Answer:* The notwithstanding clause is a provision in the Charter that allows a Parliament or a provincial legislature to explicitly declare that a particular law shall operate notwithstanding the Charter.

*Difficulty:* easy *Page*: 345

1. What are three types of rights that can be overridden by the notwithstanding clause?

*Answer:* Fundamental freedoms, legal rights, and equality rights are the three types of rights that can be overridden by the notwithstanding clause.

*Difficulty:* easy *Page*: 345

1. In 1982, some groups were disappointed that two categories of rights were not listed in the Charter. What were these two categories?

*Answer:* The two categories of rights that were not explicitly protected in the Charter were social rights (right to education, housing, or employment) and property rights. Collective bargaining rights have also not been found by the courts to be protected by the Charter’s freedom of association provisions.

*Difficulty:* moderate *Page*: 343

1. Provide three arguments from the text that the Charter helps to foster national unity.

*Answer:* Some argue the Charter helps to foster national unity by defining a set of national values; creating a common sense of being Canadian; and focusing attention on the rights of national groups like women, ethnic minorities, and people with disabilities and on national issues (such as abortion and same-sex marriage) rather than on the concerns and grievances of particular provinces or regions. As well, some argue that a national institution (the Supreme Court of Canada) has gained in power and visibility as a result of the Charter.

*Difficulty:* challenging *Pages*: 352-353