

## Chapter 2 The Canadian Legal System

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### MULTIPLE CHOICE

1. Which of the following best describes the paramount function of Canadian constitutional law?
- It sets a parliamentary code of ethics.
  - It creates structure for ceremonial policy.
  - It establishes Canada's deference to British Parliament.
  - It establishes Canada's structure of legal authority.

ANS: D                      PTS: 1                      DIF: Medium                      REF: 23  
MSC: Evaluate

2. Which of the following is an example of why monitoring government policy is important to business?
- Rules and regulations are periodically revised.
  - It is the machinery that regulates government.
  - It provides rulings that resolve existing disputes.
  - It can be overwhelming and very technical.

ANS: A                      PTS: 1                      DIF: Easy                      REF: 23  
MSC: Understand

3. The government enacted a policy change requiring retailers to include new details in firearm sales reports. Loxy's Rifles Inc., unaware of the new requirements, was fined for noncompliance and immediately paid a \$5,000 fine. Which of the following best describes the reason Loxy received and promptly paid the fine?
- Opposition to the change of law led to the fine; paying the fine saved interest.
  - Loxy's is lobbying the government and must pay the fine to attend meetings.
  - Loxy's is not concerned with compliance; fines are tax-deductible.
  - Ignorance of the law led to the fine; ignoring fines leads to harsher penalties.

ANS: D                      PTS: 1                      DIF: Medium                      REF: 23  
MSC: Analyze

4. Which of the following would a law professor most likely say correctly identifies the legislature allowed to determine laws that involve the illegal use of firearms in Canada?
- The federal legislature has sole jurisdiction to create criminal law.
  - The municipal and provincial legislatures share concurrent jurisdiction.
  - The municipal governments receive delegated jurisdiction.
  - The provincial legislatures have exclusive jurisdiction.

ANS: A                      PTS: 1                      DIF: Easy                      REF: 25|26|27  
MSC: Analyze

5. The Province of Newfoundland enacted new regulations to better control hazardous waste disposal throughout the province. What type of law should specialized waste control businesses operating in Newfoundland refer to in order to ensure their commercial activities are legally compliant?
- civil law
  - statute law
  - private law
  - common law

ANS: B                      PTS: 1                      DIF: Medium                      REF: 25  
MSC: Evaluate

6. The House of Commons and the Senate are defining characteristics of which legislative body in Canada?
- the Parliament of Canada
  - the House of Assembly of Nova Scotia
  - the Supreme Court of Canada
  - the Legislative Assembly of British Columbia

ANS: A                      PTS: 1                      DIF: Easy                      REF: 26  
MSC: Remember

7. The Senate of one of Canada's legislatures has traditionally become known as the chamber of sober second thought. Which of the following legislatures is distinguished by being the lower chamber to this Senate?
- the Legislative Assembly of British Columbia
  - the Parliament of Canada
  - the House of Assembly of Nova Scotia
  - the House of Commons

ANS: D                      PTS: 1                      DIF: Challenging                      REF: 26  
MSC: Understand

8. In circumstances where conflicting federal and provincial laws cannot be reconciled, which of the following outcomes is dictated by the doctrine of paramountcy?
- The federal law prevails, except in Quebec.
  - The superior law prevails.
  - Concurrent provincial law prevails.
  - The provincial law prevails.

ANS: B                      PTS: 1                      DIF: Medium                      REF: 27  
MSC: Evaluate

9. In determining a constitutional challenge, the Supreme Court of Canada upheld the federal government's bilingual language rights legislation. Which of the following exemplifies the reason for the Court's decision?
- The Supreme Court's decision follows the doctrine of paramountcy.
  - The Court's decision does not apply in the province of Quebec.
  - Regulating language law falls within federal government jurisdiction.
  - The Supreme Court's decisions must uphold the public interest.

ANS: A                      PTS: 1                      DIF: Medium                      REF: 27  
MSC: Understand

10. Which of the following denotes a required element in the procedure followed for passing federal legislation through Parliament?
- majority vote by Commons committee and approval by Senate
  - quorum vote in the House of Commons and by the Senate
  - majority vote of the members in the House of Commons and in the Senate.
  - approval of the House of Commons and by the Senate committee

ANS: C                      PTS: 1                      DIF: Easy                      REF: 25  
MSC: Analyze

11. The delegation of authority to make law within Canada assigns jurisdiction to regulate business activities primarily to which of the following governing bodies?
- the federal and municipal governments
  - the Senates of the federal and provincial governments
  - the federal and provincial governments
  - the provincial and municipal governments

ANS: D                      PTS: 1                      DIF: Medium                      REF: 28  
MSC: Understand

12. Which of the following would a politician identify as areas where the federal government is given exclusive jurisdiction to make law by the Canadian Constitution?
- currency, trade, national defence
  - administration of justice, trade, national defence
  - interprovincial trade and commerce, highway regulation, licensing
  - criminal law, administration of justice, hospitals

ANS: A                      PTS: 1                      DIF: Medium                      REF: 26  
MSC: Analyze

13. Groups launching lobbying efforts directed at the federal government to voice opposition to proposed legislation affecting property laws have been advised that the matter lies outside federal jurisdiction. What government possesses the required constitutional jurisdiction to change laws affecting property?
- a. federal; paramount jurisdiction
  - b. provincial; exclusive jurisdiction
  - c. municipal; concurrent jurisdiction
  - d. provincial; delegated jurisdiction

ANS: B                      PTS: 1                      DIF: Challenging    REF: 27  
MSC: Remember

14. Which of the following exemplifies the powers granted to a government with jurisdictional authority to regulate crime?
- a. regulate criminal justice in the provinces
  - b. define crimes, establish precedents, and set penalties
  - c. define crimes, establish laws, and set penalties
  - d. regulate criminal sanctions in the Civil Code of Quebec

ANS: C                      PTS: 1                      DIF: Medium            REF: 27  
MSC: Understand

15. Which of the following correctly describes the required steps involved to pass a bill into final law in the federal Parliament's legislative process?
- a. passage by House of Commons; approval by Senate; royal assent.
  - b. passage by House of Commons; approval by Senate; royal consent
  - c. Senate approval; passage by the House of Commons
  - d. motion to House Committee; motion to Senate for approval

ANS: A                      PTS: 1                      DIF: Challenging    REF: 30  
MSC: Analyze

16. The Canadian legal system operates within a prescribed structure as provided by law. What is the source of the law that governs the Canadian legal system?
- a. parliamentary bills
  - b. constitutional law
  - c. the Civil Code
  - d. constitutional conventions

ANS: B                      PTS: 1                      DIF: Easy                REF: 43  
MSC: Remember

17. The Provincial Office has advised that it does *not* have jurisdiction to deal with an application for a property zoning variance from J Tap Corp. Which of the following correctly identifies where the application must be redirected to and why?
- a. municipal government; direct constitutional jurisdiction
  - b. municipal government; concurrent constitutional jurisdiction
  - c. municipal government; provincial constitutional delegation of authority
  - d. federal government; exclusive jurisdiction to regulate zoning

ANS: C                      PTS: 1                      DIF: Medium                      REF: 44  
MSC: Evaluate

18. Who of the following would immediately be recognized as the constitutional head of the Canadian state?
- a. the governor general of Canada
  - b. the reigning British monarch
  - c. the governor general in council
  - d. the prime minister of Canada

ANS: B                      PTS: 1                      DIF: Easy                      REF: 30  
MSC: Evaluate

19. Of the following, who would be recognized as the members of the legislative body formally known as the governor general in council when it enacts regulations?
- a. the prime minister and the premiers of the provinces and territories
  - b. the prime minister together with the premiers of the provinces
  - c. the ministers of the various federal government departments
  - d. the prime minister and ministers of federal government departments.

ANS: D                      PTS: 1                      DIF: Challenging                      REF: 30  
MSC: Remember

20. Which of the following individuals holds the office of chief executive of the federal government?
- a. the appointed governor general
  - b. Elizabeth II, as reigning Queen of England
  - c. the duly elected prime minister of Canada
  - d. the appointed chief senatorial officer

ANS: C                      PTS: 1                      DIF: Easy                      REF: 30  
MSC: Remember

21. Which of the following correctly denotes the composition of the judicial branch of government in Canada?
- a. the system of various levels of courts in Canada
  - b. the judiciary and the system of various levels of courts
  - c. a judiciary appointed by the governor general.
  - d. the judiciary and federal and provincial prosecutors

ANS: B                      PTS: 1                      DIF: Medium                      REF: 31  
MSC: Evaluate

22. Lexie McTaggart's position with the Saskatchewan Court of Queen's Bench often requires her to refer to the judiciary for guidance. Which of the following describes the judiciary Lexie refers to?
- a. collective of appointed judges
  - b. judicial common law
  - c. set of judicial regulations
  - d. collection of judge-made decisions

ANS: A                      PTS: 1                      DIF: Medium                      REF: 31

MSC: Remember

23. An accomplished lawyer accepted an appointment by the Justice Minister to the position of judge in the Provincial Judges Court of Manitoba. Which of the following explains the minister's authority to appoint this court's judges?

- a. Provinces have jurisdiction to appoint judges to superior courts.
- b. The province can use parliamentary prerogative to appoint judges.
- c. Provinces have jurisdiction to appoint judges to inferior courts.
- d. Canada's governments share concurrent jurisdiction to appoint judges.

ANS: C                      PTS: 1                      DIF: Medium                      REF: 31

MSC: Understand

24. Which of the following would a judge most likely identify as the basic levels of courts that make up the Canadian court system?

- a. trial, informal appeal, and final appeal courts
- b. trial, intermediate appeal, and final court of appeal
- c. informal trial, formal trial, and final appeal courts
- d. pre-trial, trial, and appeal courts

ANS: B                      PTS: 1                      DIF: Challenging                      REF: 31|32

MSC: Analyze

25. Canadian environmental activists are often charged with offences for actions taken while expressing their protests, despite the protection of freedom of expression provided by the *Canadian Charter of Rights and Freedoms*. Which of the following would immediately indicate the inability of the *Charter* to protect these individuals?

- a. Freedom of association is excluded.
- b. The *Charter* excludes freedom of action.
- c. The *Charter* excludes freedom to protest.
- d. Freedom of action is restricted..

ANS: B                      PTS: 1                      DIF: Medium                      REF: 32|33

MSC: Evaluate

26. What is the least likely source of law in Canada?

- a. common law
- b. public opinion
- c. Civil Code
- d. royal prerogative

ANS: B                      PTS: 1                      DIF: Easy                      REF: 38|39|40  
MSC: Remember

27. In Canada, royal prerogative signifies the Crown's exclusive right to perform which of the following actions?

- a. to give politicians immunity
- b. to overrule laws enacted by Parliament
- c. to overturn decisions of the Supreme Court
- d. to declare war on enemies of the state

ANS: D                      PTS: 1                      DIF: Medium                      REF: 38  
MSC: Analyze

28. Which of the following is a distinguishing characteristic of the principle of precedent law?

- a. Private law is based on a Civil Code.
- b. It only applies in Quebec courts.
- c. Individual freedoms are valued.
- d. Like cases should be treated alike.

ANS: D                      PTS: 1                      DIF: Easy                      REF: 39  
MSC: Remember

29. A recent decision of the Supreme Court of Canada established a new ground of entitlement to spousal support under the federal *Divorce Act*. Which of the following describes the affect the decision will have on provincial family law courts determining spousal support cases under the federal act?

- a. Provincial courts will seek exemption under the "notwithstanding clause."
- b. The decision only applies to support cases outside of the province of Quebec.
- c. Superior court decisions must be followed and applied by all inferior courts.
- d. Courts apply the new law if it complies with the parties' religious convictions.

ANS: C                      PTS: 1                      DIF: Challenging                      REF: 32  
MSC: Evaluate

30. Rules of equity focus on what would be fair given the specific circumstances of the case, as opposed to which of the following?

- a. what the strict rules of common law might dictate
- b. law that governs relations between states
- c. the internal set of laws of a given country
- d. law governing agreements between states

ANS: A                      PTS: 1                      DIF: Medium                      REF: 39|40  
MSC: Understand

31. Which of the following is a distinguishing characteristic of a treaty?

- a. A treaty is the sole law governing relations between nations.
- b. A treaty is a set of coded laws to regulate relations.
- c. A treaty governs relationships between Canada's provinces.
- d. A treaty can exist between nations governed by international law.

ANS: D                      PTS: 1                      DIF: Medium                      REF: 30  
MSC: Remember

32. Britain negotiated treaties with many Aboriginal peoples, some of whom sought to have their treaties recognised by the United Nations. Which of the following explains the benefit recognition by the United Nations would confer to Canada's Aboriginal treaty people?

- a. lawyers with international litigation experience
- b. international aid to pay for litigation costs
- c. international legal status for Aboriginal treaties
- d. negotiators for international dispute resolution

ANS: C                      PTS: 1                      DIF: Medium                      REF: 30  
MSC: Analyze

33. Which of the following attributes distinguishes substantive law from other forms of law?

- a. It defines rights, duties, and liabilities.
- b. It defines international legal status.
- c. It defines the relationship between governments.
- d. It defines procedures under the *Charter*.

ANS: A                      PTS: 1                      DIF: Medium                      REF: 40  
MSC: Analyze

34. Which of the following is the defining characteristic of procedural law?

- a. It is a set of law defining individual rights, duties, and liabilities.
- b. It regulates the relationship between persons and governments.
- c. It governs procedure for enforcement of rights, duties, and liabilities.
- d. It governs procedure for enforcement of the Civil Code.

ANS: C                      PTS: 1                      DIF: Easy                      REF: 40  
MSC: Remember

35. Which of the following would a lawyer most likely say describes the defining characteristics of public law?

- a. It regulates relationships between governments and individuals.
- b. It provides rules concerning rights and obligations of business.
- c. It focuses on fairness according to strict rules of common law.
- d. It contains the rules of law in the Civil Code of Quebec.

ANS: A                      PTS: 1                      DIF: Medium                      REF: 40  
MSC: Analyze



36. Quest Electrical Engineers Inc. contractually committed to provide specialized services to a construction project with specified deadlines for completion. Quest has to meet deadlines or face penalties. Which of the following would a court most likely indicate as the type of law governing the relationship and conduct of the parties to this contract?
- a. common law
  - b. corporate law
  - c. public law
  - d. private law

ANS: D                      PTS: 1                      DIF: Challenging      REF: 40|41  
MSC: Analyze

37. Which of the following describes the form of private law that is applied in Quebec courts?
- a. the Civic Code of Quebec
  - b. the Quebec Civil Code
  - c. the Quebec Civil Law Code
  - d. the Civil Law Code

ANS: B                      PTS: 1                      DIF: Easy                      REF: 41  
MSC: Remember

38. Which of the following is the characteristic that distinguishes Quebec's civil law from Canada's common law?
- a. Civil law courts are not bound by earlier interpretations of the code.
  - b. Civil law courts hear only matters of public law disputes.
  - c. Civil law judges are provincially elected for one five-year term.
  - d. Civil law courts do not have to consider legislation.

ANS: A                      PTS: 1                      DIF: Medium                      REF: 41  
MSC: Remember

39. A hospital board of directors granted absolute authority to physicians to arbitrarily withdraw life support from patients. The board's authority to grant such power was quickly challenged and overturned in the courts. Which of the following types of law had to be applied to constrain the hospital board's authority?
- a. criminal law
  - b. constitutional law
  - c. administrative law
  - d. equity law

ANS: C                      PTS: 1                      DIF: Challenging      REF: 43|44  
MSC: Understand

40. Which of the following is an example of a federal administrative body that plays a role in regulating activity?
- a. the Securities Commission
  - b. the Board of Health
  - c. the Wheat Board
  - d. the Liquor Control Board

ANS: C                      PTS: 1                      DIF: Medium                      REF: 44  
MSC: Understand

41. Which of the following is an example of a provincially appointed administrative body?
- a. the Radio, Television and Telecommunications Commission
  - b. the Securities Commission
  - c. the Food and Drug Agency
  - d. the Atomic Energy Commission

ANS: B                      PTS: 1                      DIF: Medium                      REF: 44  
MSC: Understand

42. Which of the following best reflects the high value Canadians place on the political philosophy of liberalism?
- a. Canada regulates privacy with laws restricting government access to persons and property.
  - b. Canadians have elected more majority Liberal governments than NDP or Conservative.
  - c. Public outcry forced the Green Party leader's acceptance in federal election debates.
  - d. Governments willingly and promptly comply with access to information requests.

ANS: A                      PTS: 1                      DIF: Medium                      REF: 23  
MSC: Analyze

43. Which of the following correctly identifies the government Nantucket Sleigh Rides Inc. would lobby for regulated roadway access to sell horse-drawn sleigh rides to patrons of downtown business establishments from December through February?
- a. provincial government
  - b. federal government
  - c. municipal government
  - d. federal and provincial governments

ANS: A                      PTS: 1                      DIF: Medium                      REF: 26  
MSC: Analyze

44. A province wants to challenge an appeal court's decision regarding prevention of continued ground water contamination now posing significant health risk to people, wildlife, and plants living in the ecosystem to the Supreme Court. Which of the following would immediately signify the Supreme Court's agreement to hear the challenge and why it would consider this appeal?
- a. leave to appeal; significant or national concern
  - b. consent to appeal; provincial challenges
  - c. consent to appeal; jurisdiction
  - d. permission to appeal; national public concern

ANS: A                      PTS: 1                      DIF: Challenging      REF: 32  
MSC: Evaluate

45. Which of the following is the name given to the document used in Canada's common law court system to set out the basis of a legal dispute?
- a. statement of code infraction
  - b. statement of complaint
  - c. statement of claim
  - d. statement of dispute

ANS: C                      PTS: 1                      DIF: Medium              REF: 23  
MSC: Remember

46. Which of the following would a law professor indicate as being the three branches of government provided for by the Canadian Constitution?
- a. legislative, executive, judicial
  - b. federal, provincial, municipal
  - c. legislative, executive, representative
  - d. legislative, representative, judicial

ANS: A                      PTS: 1                      DIF: Medium              REF: 25  
MSC: Analyze

### TRUE/FALSE

1. The rights and authority of municipal governments are protected by the *Constitution Act*.

ANS: F                      PTS: 1                      DIF: Easy                      REF: 25|26|27  
MSC: Remember

2. The *Constitution Act* makes the provincial governments subordinate to the federal government.

ANS: T                      PTS: 1                      DIF: Medium              REF: 23|24|25  
MSC: Evaluate

3. The legislative branch of government is the source of statute law.

ANS: T                      PTS: 1                      DIF: Medium              REF: 30  
MSC: Evaluate

4. Canada's federal Parliament is composed of the House of Commons and the Senate.

ANS: T                      PTS: 1                      DIF: Medium                      REF: 26  
MSC: Remember

5. All municipalities in Canada are created by provincial legislation.

ANS: T                      PTS: 1                      DIF: Medium                      REF: 26  
MSC: Remember

6. The judicial branch of government includes the courts and the legislatures.

ANS: F                      PTS: 1                      DIF: Medium                      REF: 31|32  
MSC: Remember

7. The judges in Canada's higher courts are appointed and those in the lower courts are elected.

ANS: F                      PTS: 1                      DIF: Medium                      REF: 31  
MSC: Remember

8. There are no limits on the guarantees of rights and freedoms established by the *Charter of Rights and Freedoms*.

ANS: F                      PTS: 1                      DIF: Easy                      REF: 32|33|34|35  
MSC: Remember

9. Public law deals with the regulation of relationships between individuals and government.

ANS: T                      PTS: 1                      DIF: Medium                      REF: 40|41  
MSC: Remember

10. Federal and provincial legislatures are constitutionally provided with authority to appoint judges within specified judicial jurisdictions.

ANS: T                      PTS: 1                      DIF: Medium                      REF: 31  
MSC: Remember

11. A federal bill must be approved by a vote in the House of Commons in order to pass first reading.

ANS: T                      PTS: 1                      DIF: Easy                      REF: 25  
MSC: Remember

12. The new Criminal Code of Newfoundland would be enforced by the courts because it would not be contrary to the Canadian Constitution to do so.

ANS: F                      PTS: 1                      DIF: Easy                      REF: 27  
MSC: Remember

13. A provincial government cannot enact environmental legislation that would conflict with federal environmental legislation because it is an area of exclusive federal jurisdiction.

ANS: F                      PTS: 1                      DIF: Medium                      REF: 27  
MSC: Remember

14. Public health and the environment are constitutionally undefined as areas of concurrent jurisdiction shared between the federal and provincial governments.

ANS: F                      PTS: 1                      DIF: Medium                      REF: 27  
MSC: Remember

15. In circumstances of alleged conflict between federal and provincial legislation, the doctrine of paramountcy generally would not be applicable where an individual or business is able to simply obey the stricter law and thereby comply with both pieces of legislation.

ANS: T                      PTS: 1                      DIF: Challenging                      REF: 27  
MSC: Remember

16. Municipal legislation compelling the annual payment of a fee pertaining to the licensing of dog ownership requires the enactment of a by-law.

ANS: T                      PTS: 1                      DIF: Easy                      REF: 28  
MSC: Remember

17. A bill put before a legislative body represents a proposed piece of legislation that a political party wants to make into law.

ANS: T                      PTS: 1                      DIF: Easy                      REF: 37  
MSC: Remember

18. The principle of precedent holds that all precedents are not of equal value, meaning the higher the level of court that created the precedent, the less weight it brings to bear on the common law system.

ANS: F                      PTS: 1                      DIF: Medium                      REF: 39  
MSC: Remember

19. The early English court of equity established rules that focus on what would be fair given the specific circumstances of a case, as opposed to what the a strict application of the common law might dictate.

ANS: T                      PTS: 1                      DIF: Medium                      REF: 39  
MSC: Remember

20. Substantive law is the internal law of a given country, which includes both statute and case law.

ANS: F                      PTS: 1                      DIF: Easy                      REF: 40  
MSC: Remember

## SHORT ANSWER

1. Briefly describe the circumstances under which the guarantee of Canadian's rights and freedoms provided under the *Canadian Charter of Rights and Freedoms* is permitted to be limited.

ANS:

Limitation of the guarantee of Canada's *Charter* rights and freedoms is allowed when the limitation is demonstrated to be justified and by the use of the notwithstanding clause contained in section 33 of the *Charter*.

PTS: 1                    DIF: Easy                    REF: 35                    MSC: Remember

2. Briefly describe the benefits to be derived by businesses being aware of government policy and the status of regulations affecting their operations, as well as the consequences of being unaware of the same.

ANS:

Businesses need to actively monitor government policy and regulations that affect how businesses are permitted to operate because either may be changed periodically. Awareness allows business to comply with laws and to attempt to influence development of policies and regulations to favour and further business interests. Being unaware of changes would result in noncompliance with regulations, levy of fines, or even closure of a business. Lack of awareness of government policy may also result in a missed opportunity to lobby government to change law or to take advantage of favourable change in law.

PTS: 1                    DIF: Medium                    REF: 23                    MSC: Remember

3. Briefly describe what is meant by the statement "Canada has a federal form of government."

ANS:

It means that governmental power is split between the central, national authority and regional authorities. In Canada, the national authority is the federal government and the regional authorities are the provinces. Territories are provided with a form of limited self-government. Each authority is empowered to legislate within constitutionally defined jurisdictions and matters.

PTS: 1                    DIF: Easy                    REF: 25|26                    MSC: Remember

4. Name the branches that make up the Canadian government, describe their function, and specifically identify the body that represents each branch and carries out its function.

ANS:

The Canadian government consists of three branches, legislative, executive, and judicial. The executive branch formulates and implements government policy, the legislative branch creates law in the form of statutes and regulations, and the judicial branch provides rulings to resolve existing legal conflicts. The legislative branch of the Canadian government is the Canadian Parliament, the executive branch is the federal cabinet, and the Supreme Court heads the judicial branch.

PTS: 1                    DIF: Medium                    REF: 23|25|30|32                    MSC: Remember

5. Briefly describe the origins of the *common law system* and the *civil law system* as they exist in Canada and the comparable and contrasting characteristics of each system of law.

ANS:

The Quebec civil law system originated from the French legal system and was brought to Quebec by the French when they colonized the region. The Canadian common law system is rooted in England's legal system, which was established in all provinces excluding Quebec by the British when they conquered and colonized the Canadian regions of North America.

The key principle of common law is that laws are interpreted and applied in decisions of the court known as judgments. Judgments become precedents, which form the body of case law that must be referred to and applied by every judge hearing a similar matter when making a legal determination in a similar dispute involving the same laws.

The key principle of the civil law system is that the Quebec legislature makes civil law, and those laws are *codified* or compiled in one source known as a Civil Code. The judges' task in the civil code system is to find the specific provision in the code that applies to the case at hand, and to apply it to resolve the dispute. Civil code judges do not refer to past decisions at all.

Both systems are designed to deliver constant, consistent justice.

PTS: 1                    DIF: Medium                    REF: 39|40|41|42                    MSC: Remember

6. Identify the nature of the question that Rothmans would use to challenge Saskatchewan's power wall ban under its *Tobacco Control Act*. Briefly explain how the government of Saskatchewan would be required to respond to such a challenge. Identify and briefly explain what actions the Supreme Court of Canada would take and the source of its authority to do so in the event that a Rothmans challenge was able to demonstrate that Saskatchewan's *Tobacco Control Act* violated a *Charter* provision and the provincial government failed to prove its legislation met the standard set by s. 1 of the *Charter*.

ANS:

A challenge of the Saskatchewan legislation banning use of the power wall to advertise cigarette brands by Rothmans would involve the question of whether the provincial legislation violated the *Charter's* guarantee of freedom of expression. The Saskatchewan government would respond by arguing that such a violation is justified under s. 1 of the *Charter* due to both the provincial and federal governments pressing and substantial purpose, which is to prevent young people from becoming addicted to the drugs contained in cigarettes.

If Rothmans were able to demonstrate that Saskatchewan's *Tobacco Control Act* violated a *Charter* provision and the government failed to prove that its legislation met the standard set by s. 1, the court would be entitled to strike down the province's legislation by declaring it to be of no force and effect because it is unconstitutional. The court's authority to order such a powerful remedy is set out s. 24 and s. 52 of the *Charter*.

PTS: 1                    DIF: Challenging                    REF: 34                    MSC: Remember

7. Identify and briefly describe the statement made by Madam Justice Wilson with respect to the Supreme Court of Canada's view that in Canadian society, a liberal and democratic system of government is not just about majority rule

ANS:

Madam Justice Wilson of the Supreme Court of Canada stated that the *Charter* recognizes that an individual is not totally independent from society, nor just a body in an impersonal system where individual values, goals, and aspirations are subordinate to the collectivity. In Canada, the *Charter* leaves a wide range of activities and decisions open to legitimate government control while placing limits on the proper scope of that control. Thus, the rights guaranteed in the *Charter* erect around each individual an invisible fence over which the state will not be allowed to trespass. The role of the courts is to map out, piece by piece, the parameters of the fence.

PTS: 1

DIF: Challenging REF: 35

MSC: Remember