

THIS EXAMINATION CONSISTS OF 3 PAGES (INCLUDING THIS PAGE)
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER

THE UNIVERSITY OF BRITISH COLUMBIA
FACULTY OF LAW

FINAL EXAMINATION – APRIL 2022

271
INTRODUCTION TO PUBLIC LAW AND THE CHARTER

Section 4
Professor Kong

TOTAL MARKS: 100

TIME ALLOWED: 3 HOURS

- NOTE:
1. This is an open book examination, meaning that you may refer to printed class notes, the casebook, a printed version of the online supplemental materials, and a copy of the *Constitution Acts, 1867 to 1982*. The use of any other materials, including library books, is not permitted.
 2. You can refer to cases using short forms (i.e., *Oakes*)
 3. ANSWER ALL QUESTIONS.

THIS EXAMINATION CONSISTS OF 2 QUESTIONS

Question 1 (Worth 70 Marks)

In January 2022, the legislative assembly of Alberta enacted a law entitled “The Protecting Our Resource Economy Law” (hereinafter, “the Law”). Section 4 of the Law provides that no organization in the province shall spend more than a total of \$10,000 on advertising that criticizes the resource policies of the Province of Alberta. In the legislative debates, the Premier of Alberta stated: “This spending limit aims to ensure that a minority of elite, wealthy organizations cannot drown out the voices of the majority of this province, who work hard, pay their bills and make this province the envy of all of North America. This law aims to protect our economy from the relentless attacks that make it impossible to have honest political debate about resource policy in this province.”

Independent research by Professor Sheppard of the University of Calgary’s Media Studies department has shown that it would cost a minimum of \$25,000 to launch an effective digital and traditional media advertising campaign in Alberta. An advertising campaign that spent \$10,000 would be able to purchase either some limited online advertising or one advertisement in one of the province’s major newspapers. However, Professor Fletcher of the University of Alberta—an expert on online advertising campaigns—has published a study showing that a well-produced online clip, produced for less than \$10,000, can be viewed by millions if it goes viral. All experts agree that under the Law, any organization supporting the government’s resource policies will have an unlimited ability to spend on advertising.

Winnifred Delaney is an ordained minister of the Gaian Church of Alberta. The Gaians are a religious group that has two main precepts. First, the group restricts its membership to those who self-identify as women. Second, the group’s sacred text (“The Book of Gaia”) requires its members to spread the truth about climate change and thereby protect Mother Earth against all those who threaten her.

In February 2022, Winnifred Delaney decided to launch the Gaian Church’s first-ever advertising campaign against the resource policies of the government of Alberta. For decades, the Church has focussed its efforts on door-to-door campaigns, in which Church members speak to individuals about the effects of climate change.

In preparing the advertising campaign, Winnifred Delaney consulted a recently published report by researchers at the University of Lethbridge’s Environmental Studies department. That report demonstrated that in jurisdictions where debate about environmental policy is limited by advertising spending limits, legislatures do not enact effective policies to limit climate change. According to the report, the effects of governmental inaction are catastrophic. Individuals in the relevant jurisdictions suffer disproportionately from illnesses linked with the effects of climate change and their risk of premature death is significantly increased. The report further demonstrates that the economic benefits of government policies limiting debate on environmental policy are drastically outweighed by the short and long-term economic and public health costs of governmental inaction. The report concludes by noting that the effects of climate change are felt most acutely by women around the world, as they are most exposed to economic and social displacements caused by changes to the environment.

In preparing the Gaian Church’s advertising campaign, Winnifred Delaney also read the Law. She noted that because the Law has the effect of silencing the Gaian Church, it places a disproportionate burden on those who self-identify as women and want to criticize the government of Alberta’s resource policies. In a recently published editorial, Delaney wrote: “The effects of the Law are gendered. By silencing the Gaian Church, the Law targets an organization whose membership is entirely comprised of women, while giving free rein to corporations that advocate for the government’s environmental policies. The

(Question 1: Continued)

boards of those corporations are majority-male and those corporations profit from the misery of the women of the world, who bear the burdens of climate change.”

Question: You must analyze all issues arising from the above facts that are related to the Charter provisions covered in this course. Do not address any issues relating to constitutional remedies. You must limit your analysis to materials on the Charter covered in this course.

You will be evaluated on the following dimensions:

Accuracy: In your answer, do you present the facts accurately? Do you refer to relevant legal materials accurately?

Precision: Do you address only those facts that are relevant to addressing the constitutional issues? Have you left out any significant facts in your analysis? Have you appealed to the legal authorities (and only those authorities) that are relevant to addressing the constitutional issues?

Coherence: If there is a relevant line of cases, have you presented it plausibly?

Logic: Do your conclusions follow from your premises? Have you avoided asserting conclusions that are unsupported by arguments?

Organization and Clarity: Have you made it easy for the reader to follow your arguments? Have you divided the question into manageable and logical parts? Do you express yourself in clear and precise prose?

Question 2 (Worth 30 Marks)

Please write an essay agreeing or disagreeing with the following statement: “In its constitutional law jurisprudence, the Supreme Court of Canada has exceeded its proper institutional role and unduly interfered with the other branches of government.”

In answering this question, you must refer to at least **two** of the following cases: *Ontario v. G*; *Reference Re Secession of Quebec*; *Trial Lawyers Association of BC v. British Columbia (Attorney General)*; *Reference Re Remuneration of Provincial Judges of the Prov Court of PEI*; *Reference Re: Residential Tenancies Act (1981)*; *Ford v. Quebec (Attorney General)*; and *Roncarelli v Duplessis*

You will be evaluated on the following dimensions:

Substance: Do you engage thoughtfully with the course materials? Do you make specific references to the materials and offer compelling interpretations of them? Do you build on insights from the class discussions and avoid merely summarizing them?

Logic: Do you make well-supported arguments? Do your conclusions follow from your premises? Do you avoid merely asserting conclusions?

Organization and Clarity: Have you made it easy for the reader to follow your arguments? Have you divided the question into manageable parts? Do you express yourself in clear and precise prose?

END OF EXAMINATION