

EXAM 6 – CANADA, FALL 2012

2. (1.5 points)

In the case of *Citizens Insurance Co. v. Parsons*, an insurance company challenged the validity of The Fire Insurance Policy Act.

a. (1 point)

Identify two reasons why the insurance company argued that the Fire Insurance Policy Act was *ultra vires*.

b. (0.25 point)

Briefly describe how the Privy Council interpreted “trade and commerce” when ruling on this case.

c. (0.25 point)

Briefly describe the Privy Council’s ruling on this case.

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b)

1. it requires periodic reporting of the financial conditions of the company
2. control of investment, calculation of assets and claim liabilities

Examiner's report:

- a. Candidates generally performed "okay" for this question when in reality they should have probably done much better. The answers are quite easy, and it is question of knowing this or not. A number of candidates confused being regulated by the Federal Government with being incorporated federally.
- b. Candidates exhibited a variety of answers, some of which recurrent, and deemed acceptable by the graders. Just as was the case for a), the graders' feeling is that candidates could have performed better on this question: The first two items in the grading key are fairly obvious answers.

Question 2

Answer key:

- a) Both of:
 - Subject matter related to regulation of trade and commerce which is a federal jurisdiction
 - Province cannot legislate so as to deprive a federal incorporated company of its status and capacity
- b) Privy Council interpreted "Trade and Commerce" as inter-provincial trade and commerce rather than regulation of a particular business carried in a single province
- c) Privy Council found the Act to be intra vires.

Actual candidate answer for full marks:

- a) i) insurance related to "trade & commerce" which is federally regulated, so province cannot pass such an Act
ii) province cannot act to diminish status & capacity of a British or foreign insurer
- b) meant "interprovincial" trade & commerce, not "intraprovincial"
- c) Ontario's act was intra vires

Examiner's report:

Candidates performed generally well for this question, especially given the fact that this material is not as key as other material. Common mistakes/omissions were related to the second point of part A (province cannot legislate...): a large number of candidates simply did not mention this, while quite a few others tried to articulate this point but failed to do so in a complete manner, making the grading exercise more complex. Most candidates did fairly well on the notion of trade and commerce being interpreted at inter-provincial trade and commerce, and also with respect to the intra vires verdict. Overall, candidates seemed to have a pretty good grasp/understanding of what this court case is about as well as its associated ramifications.