

EXAM 6 – CANADA, FALL 2013

1. (2 points)

a. (1 point)

Describe the ruling in the case of Paul v. Virginia and discuss its implication for the P&C insurance industry in the U.S.

b. (1 point)

Identify and briefly describe two implications for the U.S. P&C insurance industry of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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In summary, candidates are encouraged to think about the importance of each Learning Objective on the syllabus to the work of a P&C actuary in Canada. All Learning Objectives are not equal in importance and students should concentrate their study efforts on the more important topics. Topics of lesser importance remain on the syllabus and will be continue to be tested but the knowledge required of passing candidates, as indicated by the MQC score assigned to each question, is lower. In general, Section D and Section C P&C-1 questions are often “must-know” questions while Section B questions are less important. Candidates are also strongly advised to read the source material to make their own notes and not rely on completing old exam questions as a sole method of study.

Question 1

Answer key:

- a) The United States Supreme Court held that insurance was not commerce and that state insurance regulation did not violate the Privileges and Immunities Clause of the Fourteenth Amendment. The Court concluded, therefore, that state insurance regulation was not significantly constrained by the United States Constitution, and that there was no basis for federal regulation of insurance.

As a result of the judgment, the states kept their emerging primacy in regulating the industry. In other words, the state-based insurance regulatory scheme rose to primacy. The various state insurance regulators sought to bulwark their authority and almost immediately began to coordinate their activities and pool their resources. The National Association of Insurance Commissioners was formed for this very purpose.

- b) Any two of the following implications; for each implication need to identify and briefly describe
 - a. Establishes the Federal Insurance Office (“FIO”) under the U.S. Department of Treasury, charged with studying and collecting information on the insurance industry and the state insurance regulatory system, and drafting a proposed federal insurance regulatory framework;
 - b. Establishes the Financial Stability Oversight Council (“FSOC”), which is charged with monitoring the financial services markets, including the insurance industry, to identify potential risks to the financial stability of the United States;
 - c. The FSOC is authorized to require a state insurance regulator to either apply new or heightened financial standards on insurance companies, or explain to the FSOC in writing why the regulator chose not to apply such standards;
 - d. The FSOC may declare that a “nonbank financial company” – including an insurance company under certain circumstances – poses a systematic risk such that it is subject to supervision by the United States Federal Reserve System;
 - e. Requires single-state regulation of surplus lines insurance placements and requires all states to apply uniform eligibility criteria for surplus lines insurers; and
 - f. Mandates certain requirements for reinsurance credits and generally preempts non-domiciliary state laws to insurers with respect to certain reinsurance issues

Actual candidate answer for full marks:

- (a) In Paul v. Virginia, insurance was ruled as not inter-state commerce, and as a result, is subject to individual state regulation, not federal regulation.

States have set up their own insurance commissions which are members of NAIC to try to bring uniformity to insurance regulation.

- (b) Federal Insurance Office was formed with the goal of collecting information about the insurance industry and developing a federal regulatory framework.

Federal Stability Oversight Committee was founded to oversee, identify and threats to the financial stability of the US economy.

Examiner's report:

- (a) This question asks to describe the ruling and discuss the implication of the case. However, some candidates spent a lot of effort on describing the case itself with little explanation on the implication. Candidates that focused on the ruling and implication generally performed well on this part.
- (b) Candidates did not do well on this part in general. It may be due to the fact that material is U.S. related and requires some memorization.

Question 2

Answer key:

Any 2 of the following:

Sansalone v Wawanesa

- Insurer denies a duty to defend because sexual conduct involved came under the exclusion involving sexual or criminal acts
- no duty to defend in cases involving intentional sexual acts as coverage is excluded

Nichols v American Home

- Insured solicitor sues insurer for the unreimbursed settlement costs in a case where he is unsuccessfully sued for fraud
- no duty to defend in cases involving fraudulent acts or omissions if they are out of the scope of the policy.

Broadhurst & Ball v American Home

- Both have a duty to defend and costs should be split equally
- if the potential judgment puts an insurer at risk then all insurers with a duty to defend

Alie v Bertrand

- defective concrete requires replacement of basements of houses
- insurers who issue excess and/or umbrella policies that follow the form of the underlying policy are seen as having a duty to defend