

THE HONOURABLE JUSTICE IAN BINNIE
CANADIAN CHARTER v NZBORA: ANALYSIS AND DISCUSSION

VIDEO QUESTIONNAIRE

1. Canada has a supreme law constitution (including a Charter of Rights and Freedoms) but allows legislatures to expressly indicate that a law should stand notwithstanding that it breaches the constitution, including fundamental rights. What is the position in New Zealand? Which arrangement do you prefer?

2. Section 24 of the Canadian Charter allows courts to grant an “appropriate and just” remedy, and requires evidence obtained in breach of a Charter right to be excluded if its admission “would bring the administration of justice into disrepute”. What happens in the New Zealand system in this more general situation and the more specific instance of it?

3. Identify the reasons why it may be relevant to examine case law from Canada when considering a point arising under the New Zealand Bill of Rights. Identify the limitations on using such case law.