Index

1761 ROYAL INSTRUCTIONS § 3:18

ABORIGINAL LANGUAGES § 7:10

ABORIGINAL RATIFICATION OF 1725 TREATY § 3:11

ABORIGINAL RIGHTS

Constitution Act, 1982 § 4:3 see also CONSTITUTION ACT, 1982

French colonial law § 6:9 sovereignty § 3:1

see also SOVEREIGNTY and CANADIAN SOVEREIGNTY

statutory acts or regulations § 6:10 versus Aboriginal tenure § 9:6

ABORIGINAL TENURE

1761 Royal instructions § 3:18
British land law categories § 6:12
component rights § 9:3
constitutional guidelines § 5:4
constitutional protection of §§ 9:3
to 9:8

see also CONSTITUTIONAL PROTECTION

constitutionalizing § 9:1
developing Aboriginal tenure § 4:9
ecological orders § 7:13
French colonial law § 6:9
Implementation of the Royal
Proclamation § 3:23
languages § 7:10
legal protection of § 4:1
Nova Scotia Acts § 3:20

ABORIGINAL TENURE—Cont'd

Nova Scotia Proclamation of 1762 § 3:19

prerogative legislation §§ 3:17 to 3:24

proprietarian order § 9:5

reserved Aboriginal tenure in treaties § 4:10

rights in civil law or common law § 6:8

see also ABORIGINAL RIGHTS

rights in land § 9:4

see also ABORIGINAL RIGHTS

Royal Proclamation of 1763 § 3:22 statutory acts or regulations § 6:10 sui generis, see SUI GENERIS

ABORIGINAL TENURE

The Treaties at Niagara, 1764 § 3:24

Treaty of Paris (1763) § 3:21 unititular system § 3:3 use and occupation of land § 9:7 versus Aboriginal rights § 9:6

ABORIGINAL TREATY ORDER OF NORTH AMERICA

generally § 3:4 living agreements § 3:4 Nikmanen order § 3:4 Ottawa Confederacy § 3:4

ALLODIAL TENURES

definition § 2:15 transformation of § 2:15

ATTORNEY GENERAL NORTHEY OPINION (1703-1704)

generally § 3:7

ATTORNEY GENERAL NORTHEY OPINION

(1703-1704)—Cont'd

Indian deeds § 3:7 legal principles § 3:7

BENTHAM, JEREMY §§ 2:18, 6:3

BIASES, see COLONIAL BIASES IN CANADIAN LAW and JUDICIAL IMPARTIALITY

BRITISH LAW, see also LAWS OF ENGLAND

incorporation in Canadian colonies § 2:17

BRITISH NORTH AMERICA

British colonial law § 4:3 colonial legislative protection § 4:4 *Constitution Act, 1867* § 4:6 responsible government § 4:5

BRITISH TREATY ORDER (1693-1930)

generally § 3:5 models of prerogative treaties § 3:5 prerogatives of Crown § 3:5

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

purpose § 6:13 section 24(1) §§ 10:1, 10:2, 10:7, 10:9 section 25 §§ 5:1, 5:3, 6:13, 9:11, 10:9 section 27 § 6:13

CANADIAN COLONIES

incorporation of British law § 2:17

CANADIAN SOVEREIGNTY § 11:2

see also **SOVEREIGNTY**

CANADIAN-UNITED STATES BORDER

creation of § 3:25

Jay Treaty (1794) § 3:26

CANADIAN-UNITED STATES BORDER—Cont'd

Treaties of Upper Canada § 3:28 Treaty of 1814 § 3:27

CELTIC OCCUPATION

clan structure § 2:2 generally § 2:2 land tenure § 2:2

CESSION, see TREATY SURRENDER AND CESSION

COLONIAL BIASES IN CANADIAN LAW

ideological conflict § 6:13 generally § 6:13 R v. Van der Peet § 6:13 Sparrow v. The Queen § 6:13

COLONIAL LEGISLATIVE PROTECTION § 4:4

COLONIAL REASONING

Austin, John § 6:3

Beverley, Robert § 6:3 Burke, Edmund § 6:3 diffusionism § 6:3 Dr. Douglass § 6:3 Eurocentrism § 6:3 Hobbes, Thomas § 6:3 Locke, John §§ 6:3, 9:5 Montesquieu § 6:3

COLONIZATION

British law
receipt as matter of cession
§ 2:17
receipt as matter of conquest
§ 2:17

Canadian law

colonial biases § 6:13 generally § 6:1

effect on Aboriginal world-view and justice system § 6:1

history of colonial reasoning § 6:3 judicial orders to decolonize existing law § 6:5

COLONIZATION—Cont'd CONSTITUTIONAL INTERPRETATIVE limitation by treaties § 2:17 **PRINCIPLES** property law § 6:4 constitutional supremacy § 9:2 purchase of Aboriginal land § 2:17 generally § 9:2 **COMMON LAW** rule of law § 9:2 allodial tenure § 2:15 CONSTITUTIONAL arbitrary nature § 2:11 **PROTECTION** articulation of § 2:11 Aboriginal tenure as proprietarian birthright § 2:17 order § 9:5 construction of § 2:7 Aboriginal tenure as right in land Crown tenure § 2:14 § 9:4 feudal law § 2:9 right to exclusive use and occupaland law, restructuring § 2:12 tion of land § 9:7 see also LAND LAW sustainable rights § 9:8 royal law § 2:10 CONSTITUTIONAL REMEDIES, Teutonic seisin § 2:8 see CONSTITUTIONAL see also **TEUTONIC SEISIN TESTS AND REMEDIES, see** use of legal fictions § 2:14 also DEMOCRATIC REFORMS CONSTITUTION ACT, 1867 § 4:6 CONSTITUTIONAL TESTS AND **CONSTITUTION ACT, 1982** REMEDIES, see also constitutional interpretation § 1:1 **CONSTITUTION ACT, 1982,** see also CONSTITUTIONAL section 35 INTERPRETIVE **PRINCIPLES** CROWN, see also CROWN **TENURE** constitutional supremacy §§ 1:1, 9:2 theory of universal and absolute Delgamuukw v. British Columbia Crown ownership § 6:11

§ 1:1

section 25 § 9:2

interpretation of

11:6

section 52(1) § 9:2

section 35

see also DELGAMUUKW V.

Quebec Secession Reference §§ 1:1,

7:13, 9:2, 9:4, 10:2, 10:7, 10:9, 10:17, 11:2, 11:4, 11:6

BRITISH COLUMBIA

Aboriginal rights §§ 5:4, 6:9,

generally §§ 5:1, 6:13, 9:1,

interpreting treaty rights § 11:2

6:13, 9:2, 9:3

CROWN TENURE

title § 11:3

legal fiction of § 2:14, §§ 2:17, 334 stare decisis § 2:14

DECOLONIZATION

generally §§ 6:1, 6:13
judicial orders to decolonize existing law
British land laws § 6:12
civil law or common law, rights
in § 6:8
Crown ownership, theory of
§ 6:11
French colonial law § 6:9

DECOLONIZATION—Cont'd

judicial orders to decolonize existing law—Cont'd generally § 6:5
"settled colony" in common law § 6:7
statutory acts or regulations § 6:10
Terra Nullius in public international law § 6:6

DELGAMUUKW V. BRITISH

COLUMBIA §§ 1:1, 2:1, 3:3, 6:12, 6:13, 7:1, 7:8, 7:11, 9:2, 9:4, 9:5

DEMOCRATIC REFORMS § 11:6 DOMESDAY BOOK § 2:6

ECOLOGICAL ORDERS § 7:13

ELIKEWAKE COMPACT

"Covenant Chain" § 3:15 generally § 3:16

ENGLAND, LAWS OF

Blackstone's Commentaries on the Laws of England (1765) § 2:13 Things personal § 2:13 Things real § 2:13

ENGLISH MANORIAL SYSTEM § 2:6

ENSLAVED AFRICANS AND PROPERTY OWNERSHIP § 2:17

EXTINGUISHMENT THEORIES § 5:3

FEUDAL LAW

equity principles § 2:9 estate § 2:9 feudal tenure § 2:9 generally § 2:9 grand assize § 2:9 King's Court § 2:9 manorial law § 2:9

FEUDAL LAW-Cont'd

petty assizes § 2:9
possessory actions versus proprietary actions § 2:9
tenants in capite § 2:9
tenant in chief § 2:9
tenants in demesne § 2:9
tenure § 2:9
writ of entry § 2:9
writ of grand assize § 2:9
writ of right § 2:9

FIDUCIARY OBLIGATION §§ 6:13, 9:2

GEORGIAN TREATIES IN THE NORTH ATLANTIC TERRITORY

Aboriginal ratification of 1725

treaty § **3:11**Attorney General Northey Opinion (1703-1704) § **3:7**Elikewake Compact (1726-1779)

§ 3:16

Mohegan Indians v. Connecticut (1743) Royal Court of Commissioners § 3:12

Peace and Friendship Treaties § 3:6 Penn v. Lord Baltimore, 1750 § 3:14

Renewing the Haudenosaunee covenant chain § 3:15

Royal Commission on Mohegan Indians § 3:8

Treaty of Aix-la-Chappelle (1748) § 3:13

Treaty of Utrecht (1713) § 3:9 Wabanaki Compact (1693-1781) § 3:10

HAUDENOSAUNEE

renewing covenant chain § 3:15 rights to reserved lands § 6:6

IN PERSONAM §§ 2:3, 2:18

IN REM §§ 2:3, 2:18

IUS § 2:3

JAY TREATY (1794) § 3:26

JUDICIAL IMPARTIALITY § 6:2

Canadian Charter of Rights and Freedoms, see also CANA-DIAN CHARTER OF RIGHTS AND FREEDOMS

section 7 § 6:2 section 11(d) § 6:2 generally § 6:2 versus bias §§ 4:8, 6:2

JUDICIAL INTERPRETATION

Canadian interpretation §§ 4:7 to 4:10

constitutional guidelines for Aboriginal tenure § 5:4 developing Aboriginal tenure § 4:8 reserved Aboriginal tenure in treaties § 4:10

St. Catharine's Milling and Lumber Company v. The Queen § 4:8

JUDICIAL ORDERS

Aboriginal tenure and rights in civil law or common law § 6:8 decolonize existing law § 6:5 French colonial law and Aboriginal tenure and rights § 6:9 "settled colony" in common law § 6:7 statutory acts or regulations and

statutory acts or regulations and
Aboriginal tenure and rights
§ 6:10

Terra Nullius in public international law § 6:6

theory of universal and absolute Crown ownership § 6:11

LAKE HURON AND LAKE SUPERIOR, TREATIES OF 1850 § 3:30

LAND

Aboriginal visions of § 7:11

LAND CLAIM AGREEMENTS § 3:33

LAND LAW

Judeo-Christian Scriptures § 2:12

LAND LAW—Cont'd

Locke, John §§ 2:12, 2:17 see also COLONIAL REASON-ING

Statute of Uses, 1535 § 2:12
Tenures Abolition Act, 1660 § 2:12

MANITOULIN AND SAUGEEN TREATIES, 1836 § 3:29

MARRIED WOMEN AND PROPERTY OWNERSHIP § 2:17

MÍKMÁKI § 7:12

MÍKMAQ

generally § 3:6 *Míkmáki* § 7:12

MODERNITY § 2:18

MOHEGAN INDIANS V. CONNECTICUT (1743) ROYAL COURT OF COMMISSIONERS § 3:12

NORMAN OCCUPATION

battle of Hastings § 2:6
Crown title § 2:6
Domesday Book § 2:6
fee § 2:6
feudal law § 2:6
feudalism § 2:6
King Edward the Confessor § 2:6
manorial system § 2:6

NORSE OCCUPATION

seisin § 2:5

NOVA SCOTIA ACTS § 3:20

NOVA SCOTIA PROCLAMATION OF 1762 § 3:19

NUMBERED TREATIES

generally § 3:32 Treaty No. 1 § 3:32 Treaty No. 2 § 3:32 Treaty No. 3 § 3:32

NUMBERED TREATIES—Cont'd

Treaty No. 4 § 3:32

Treaty No. 5 § **3:32**

Treaty No. 6 § 3:32

Treaty No. 7 § 3:32

Treaty No. 8 § 3:32

Treaty No. 9 § 3:32

Treaty No. 10 § 3:32

Treaty No. 11 § 3:32

OCCUPATIONS

Celtic occupation § 2:2

Norman occupation § 2:6

Norse occupation § 2:5

Roman occupation § 2:3

Teutonic occupation § 2:4

PENN V. LORD BALTIMORE, 1750 § 3:14

POSITIVE LAW § 6:3

PREROGATIVE LEGISLATION PROTECTING ABORIGINAL TENURE §§ 3:17 to 3:24, 9:2

PRETANI § 2:2

PROPERTY

political representation § 2:17 as commodity § 2:18

PROPERTY LAW

as colonial category § 6:4

PUBLIC INTERNATIONAL LAW

generally §§ 3:3 to 3:5

historical stages § 3:3

modes of acquisition § 3:3

Treaty of Westphalia § **3:1**

unititular system § 3:3

QUEBEC SECESSION REFERENCE § 1:1

see also CONSTITUTION ACT, 1982

R. V. SPARROW §§ 4:8, 7:13, 9:2, 9:4, 9:11, 10:1, 10:4, 10:5, 10:6, 10:7, 10:8, 10:10, 10:11, 10:12, 10:14, 10:15, 10:16, 11:4

R. V. VAN DER PEET §§ 5:3, 5:4, 6:5, 6:6, 6:11, 6:13, 7:8, 7:17, 8:2, 8:3, 8:6, 8:9, 9:2, 9:4, 9:9, 9:11, 10:6, 10:8, 10:11, 11:4

REFORMS, see DEMOCRATIC REFORMS

REMEDIES, see CONSTITUTIONAL TESTS AND REMEDIES

RESPONSIBLE GOVERNMENT § 4:5

ROMAN OCCUPATION

dominium § 2:3
imperium § 2:3
ius § 2:3
law of agreements of men § 2:3
law of nature § 2:3
title to property § 2:3

ROYAL COMMISSION ON MOHEGAN INDIANS § 3:8

ROYAL LAW

Inns of Court § 2:10 Magna Carta § 2:10 precedent § 2:10

ROYAL PROCLAMATION OF 1763

Aboriginal authority § 3:22 generally §§ 3:22, 3:23, 3:24, 3:25, 3:28, 4:2, 9:2

Hunting Grounds § 3:22 implementation of § 3:23

"Indian Country" § 3:22

purchase of reserve land § 3:22 status of Indian nations § 3:22

trade § 3:22

treaty and aboriginal rights § 3:22

RULE OF LAW § 9:2

SALMOND, JOHN § 2:18

SAUGEEN TREATIES, see MANITOULIN AND SAUGEEN TREATIES, 1836

SEISIN § 2:8

see also TEUTONIC SEISIN

SEEING PROPERTY

generally § 2:16 land as commodity § 2:18 modernity § 2:18 positive law § 2:18 property as propriety § 2:17 propriété § 2:17 trustee § 2:17

SOVEREIGNTY § 3:3

see also CANADIAN SOVEREIGNTY

SPARROW, see R. V. SPARROW

SOUATTERS § 2:3

ST. CATHARINE'S MILLING AND LUMBER COMPANY V. THE QUEEN §§ 4:7, 4:8, 6:13, 9:9, 9:11

SUI GENERIS ABORIGINAL TENURE, see also ABORIGINAL TENURE

Aboriginal knowledge and heritage §§ 7:9 to 7:12 generally § 7:8 *Míkmáki* § 7:12 unifying principle § 7:8 visions of land § 7:11

SURRENDER, see TREATY SURRENDER AND CESSION

TERRA NULLIUS, see DECOLONIZATION

TERRITORIAL SOVEREIGNTY §§ 2:1, 2:6, 3:3, 8:12, 9:9, 9:11,

TEUTONIC CODES

transformation to common law § 2:7

TEUTONIC OCCUPATION

Angles § 2:4
Anglo-Saxon law § 2:4
book-land § 2:4
Celtic language § 2:4
dooms § 2:4
folk-land § 2:4
Indo-European language § 2:4
lease-land § 2:4

TEUTONIC SEISIN

escheats § 2:8
feoffee § 2:8
feoffor § 2:8
disseisin § 2:8
livery of seisin § 2:8
possession § 2:8

THE INSTITUTES OF GAIUS § 2:3

TREATIES AT NIAGARA, 1764 § 3:24

TREATIES OF UPPER CANADA § 3:28

TREATY OF 1814 § 3:27

TREATY OF AIX-LA-CHAPPELLE (1748) § 3:13

TREATY OF PARIS (1763) § 3:21

TREATY OF WESTPHALIA § 3:1

TREATY OF UTRECHT (1713)

confirmation of terms § 3:9 generally § 3:9 purpose § 3:9 ratification § 3:9

TREATY SURRENDER AND CESSION § 3:32

TRUSTEE § 2:17

UNITED NATIONS

Charter § 3:3

UNITED STATES

CONSTITUTION (1789)

§§ 2:17, 2:18

see also UNITED STATES OF AMERICA

UNITED STATES OF AMERICA, see also CANADIAN-UNITED

STATES BORDER and UNITED STATES

CONSITUTUTION (1789)

case law § 4:2

legislative reform § 4:2

Louisiana Purchase § 4:2

VAN DER PEET, see R. V. VAN DER PEET

VANCOUVER ISLAND TREATIES 1850-1854 § 3:31

VICTORIAN TREATIES

Manitoulin and Saugeen Treaties, 1836 § 3:29

Numbered treaties § 3:32

The Lake Huron and Lake Superior Treaties of 1850 § 3:30

Vancouver Island Treaties 1850-1854 § **3:31**

WABANAKI COMPACT (1693-1781)

generally §§ 3:10, 3:16

land reservation clause § 3:10

WAMPUM §§ 3:4, 3:24