Index

ABETTING	ABORIGINAL RIGHTS—Cont'd
See AIDING AND ABETTING	Hunting rights in western Canada,
ABORIGINAL RIGHTS	31:1631 Land claims, 31:1603
Aboriginal and treaty rights	f
evidence re, 31:1622	Land disputes, duty to consult and accommodate, 31:1604. 31:1606
non-title rights, 31:1628	Metis constitutional rights, 31:1612
Aboriginal interest in land, nature of,	Metis land in Manitoba, 31:1613
31:1626	Modern treaties, intention of, 31:1623
"Aboriginal peoples of Canada," mean-	Pleadings in aboriginal cases, 31:1588
ing of, 31:1611	Provincial jurisdiction over, 1:72
Aboriginal title	Provincial laws, general application to
extinguishment of, 31:1607	aboriginal land, 31:1592
meaning of, 31:1625	Provincial superior courts, jurisdiction of
Canadian federal criminal law, application of, 31:1591	31:1586
Charter, non application of, 31:1584	Public provincial land, provincial right to "take up," 31:1624
Charter, under, 31:1595	Quebec, in, 31:1620
Collective rights, as, 31:1610	Reconciliation as grand purpose of,
Common law, at, 31:1593	31:1598
Common law vs. treaty rights, 31:1619	Reserve land, aboriginal rights in,
Constitution Act, 1982, s. 35, rights under	31:1627
generally, 31:1608	Self-government, right to, 31:1629
claim under, stages of, 31:1617	Specific Claims Tribunal, mandate of,
constitutional framework of, 31:1615	31:1603
flexible interpretation of, 31:1614	Time limitations re action, 31:1590
infringement and justification, 31:1618	Treaties and statutes, purposive and lib-
purposive approach to, 31:1597	eral interpretation of, 31:1620
reconciliation as grand purpose of,	subject to regulation, 31:1621
31:1598	treaty clauses, Crown discretion re,
rights existing as of April 17, 1982,	31:1602
31:1609	ABORTION
Declaratory relief, 31:1587 Duty to consult	Generally, 31:468
land disputes, 31:1604, 31:1606	ABUSE OF PROCESS
law-making process, no duty, 31:1605	Appeal, raised only on, 12:125, 23:186
Equality sentencing rights, 31:1348	Availability of
	Charter power, as, 12:110
Existing rights, 31:1608	common law power, as, 12:110
Federal Court, jurisdiction of, 31:1585	Burden of proof, 12:121
Fiduciary duty of Crown to, 31:1599 , 31:1600	Charter violation, 12:123
	see also CHARTER OF RIGHTS —
equitable compensation for breach, 31:1601	Principles of fundamental justice
	Collection of debts, 12:133
Honour of the Crown, principle explained, 31:1596	Criminal conduct by state agent, 12:138
слріаніси, 31.1370	Criminal conduct by state agent, 12.130

ABUSE OF PROCESS—Cont'd Criminal law doctrine of, historical evolution of, **12:110** Crown undertaking, binding nature of, 12:145 Denial of full answer and defence. 12:122 Differing verdicts between offenders, 12:135 Exceptional circumstances vs. mere prejudice, 12:131 Informal agreement with police, breach of, **12:146** Inherent jurisdiction to control process, 12:113 Issue estoppel vs. res judicata vs., 14:134 Multiple proceedings, 12:134 Non-Charter abuse, 12:124 limitation on court, 12:126 Plea negotiations, Crown conduct, 12:147 Police, 12:119 Power to stay for abuse exercise of, 12:116 limitation on, 12:120 no stay after verdict, 12:130 Preferment of indictment after order to stand trial quashed, 12:137 Preliminary inquiry, at, **12:127, 13:95** Prior civil action re same factual transaction, 12:142 Private prosecutions, 12:141 Prosecution after discharge at preliminary inquiry, 12:136 Public statements re accused's guilt, 12:132 Purpose of, **12:112** Reverse drug sting, 12:139 Situations constituting, 12:149 Situations not constituting, 12:150 Stay of proceedings, generally, 12:134 Stay of prosecution where continuing prejudice, 12:115, 12:131 Stay to prevent disclosure of informer, not abuse, 12:144 Subsequent civil proceeding, 12:139 Substantive defence, not, 12:143 Withdrawal of charge, 12:129

ACCESSORY AFTER THE FACT

Joinder of accused, **9:286**Party to offence, as
see PARTIES TO OFFENCE

ACCESSORY AFTER THE FACT

-Cont'd

Pleadings re, 9:37

ACCIDENT

Accidental unlawful act, **21:10**Code references to, **21:9**Constructive murder and (s. 230(d)), **21:11**

Criminal negligence and, 21:12
Defence to second degree murder, 27:62
Liability for, 21:5
Meaning of, 21:4
Particular crime, relation to, 21:6
Self-defence, vs., 21:148
Transferred intent in murder, 27:55
Unintentional act combined with intention omission, 21:7

Unlawful act resulting in manslaughter, **27:130**

ACCOMPLICE

Crown witness, as, 31:586 Guilty plea of, 14:31

ACCUSED

Absent, 13:38
Appearance before justice issuing summons, 1:153
Audience before court, right of, 16:23

Bail hearing, right to testify at, 31:647 Burden of proof on, 31:675, 31:1536 defects in information, 10:57

entrapment, 21:293

issue estoppel, 14:150

perpetuated evidence, 16:232

Character of

see CHARACTER EVIDENCE

Co-accused

acquittal of, 14:51

cross-examination order, 16:110

issue estoppel, 14:151

joint accused, 19:61

manslaughter, 27:135

sentence disparity, 18:130

special rules re, 17:118

Conspiracy offence

joinder/severance, 9:285, 19:107

Corporate

see CORPORATIONS

ACCUSED—Cont'd	ACCUSED—Cont'd
Cross-examination of, 31:1236	Self-represented, obligations of, 12:19
see also CROSS-EXAMINATION	Sentencing
Entrapment, 21:285	see SENTENCING — Principles of
Expert opinion re disposition of, 16:671	sentencing
Facts peculiarly within knowledge of,	Severance of
31:1060	see INDICTMENTS AND INFORMA
Failure to attend trial, 8:40 , 31:1077 ,	TIONS
31:1079	Supreme Court of Canada appeal by right
Failure to testify at trial, 17:135 , 23:210	23:249
Forcing counsel on, 16:30	Surrogacy principle, application to, 12:20
Hearsay	Trial, at
see HEARSAY EVIDENCE	see TRIALS
Identification of, 10:15	Unrepresented, 12:19, 16:29, 31:654
Identity of, non-publication, 31:304,	Use of term, 9:3
31:337, 31:641	Waiver of right to jury trial, 31:1128
see also PUBLICATION BAN	Witness, as
Joinder of, 9:209, 9:254, 9:266, 9:286,	see TRIALS
11:41	ACOUNTAI
Lineup, refusal to participate in, 16:390	ACQUITTAL
Multiple accused, 16:5	See also VERDICTS
election, 8:65	Automatism, on finding of, 21:36
guilty plea by one, 14:62	Co-accused, of, 14:51
pleadings where, 9:40, 9:42	Crown appeal of as double jeopardy,
Non-compellability of, 31:1029	31:1171
see also CHARTER OF RIGHTS — Offence, person charged with;	Foreign, 14:95
TRIALS — Witnesses	Insanity verdict not, 22:29
Non-criminally responsible, detention of,	New trial, order for
31:574	circumstances allowing, 23:221
Order for new trial of, 23:229, 23:230,	Crown appeal requirement, 23:222
23:235	onus on Crown, 23:243
Out-of-court statement by, 13:56	Quash of, 23:216
Override of election by, 11:43	Reopening technical, 16:159
Payment of costs to, 2:22	Return of seized money following, 3:174
Preliminary inquiry, absence from, 13:24,	Summary conviction offence
13:37	appeal re, 24:5
Proceeding in absence of, 1:28, 1:164	Tainted, retrial for, 14:94
Public statements re guilt of, 12:132	ACTUS REUS
Questioning of	
see CHARTER OF RIGHTS —	Attempts, of
Counsel, right to retain	see ATTEMPTS
Rejection of defence by, 17:126	Autonomy of freewill, 21:320
Reputation of as ground for arrest, 5:45	Concurrence with mens rea, 21:323
Right to be present, limitations on, 1:165	Conduct and result, causal relationship
Right to be present at hearing, 31:579	between, 21:319
Right to be present at trial, 16:74	Defence of lack of, 21:315
Right to call witness, 13:43	Element of crime, as, 21:317
Right to retain counsel	External element of offence, as, 21:318
see CHARTER OF RIGHTS —	Progression of crime, 21:323
Counsel, right to retain	Statement as, 31:855

ADJOURNMENT

See also REMAND

Amendment to indictment, following, **9:218**

At jail, 1:30

Dangerous offender hearing, of, **18:383**Doctrine of seizure of jurisdiction and, **1:132**

Loss of jurisdiction, following see JURISDICTION — Loss of Proving previous convictions, **18:265**

Right to vote while on remand, **31:390** Trial, of

see TRIALS — Preliminary matters

ADMINISTRATIVE LAW

Administrative searches

audit powers, 31:787

privacy, low expectation of re economic activities, **31:785**

regulatory searches, 31:784

tax seizure, 31:788

Charter of Rights and

accused as non-compellable witness, 31:1029

administrative appeal, submission on, 31:537

administrative hearing, 31:535

administrative independence, 31:1092

Charter infringement, 31:180

testimonial self-incrimination, 31:1232

tribunal as court of competent jurisdiction, 22:105, 31:1438

vagueness and, 31:182

Extradition

application of administrative arrangement, **32:131**

Fault and imprisonment for regulatory offences, 31:570

Probation order, 18:301

Regulatory offence as unlawful act, 27:123

Signing indictment as administrative act, 11:29

ADMISSIONS

Admission of evidence ruling right of appeal based on, **31:1499** Formal and informal, **16:161** Fresh evidence on appeal, **23:140** Guilty plea, **14:58**, **14:68**

ADMISSIONS—Cont'd

Hearsay evidence

see HEARSAY EVIDENCE — Admissions; Voluntary statements

Prior conviction, 18:270, 31:1240

Theft, of, 16:445

Trial, at

see TRIALS

Young person, by

see YOUNG PERSON

AFFIRMATIVE ACTION

See CHARTER OF RIGHTS — Equality rights

AGE

Discrimination re, 31:1297, 31:1317

Mistake of fact re, 31:606

Sexual offences

age differentiation, 31:1337

belief as to complainant's age, 21:226

Time re attainment of, 33:82

Young person

age, proof of, 1:5

AIDING AND ABETTING

See also PARTIES TO OFFENCE

Conspiracy, vs., 19:16

Duress, defence of, 21:132

Murder

first degree, 27:80

ALCOHOL

See also DRUNKENNESS

Blood alcohol reading, 31:1053

Principles of sentencing and, 18:66

ALIBI

Burden of proof, 16:397

Charter application to adverse inference, 16:393

Cross-examination of accused re alibi witnesses, **16:396**

Defence, mischaracterization of defence as, 16:394

Disclosure of, exceptions, 16:405

Evidence, order of, 16:407

False, 16:402, 16:424

False vs. fabricated, 16:400

Friends and relatives of accused, by, 16:408

Identity and, 16:378, 16:399

Jury direction re, 16:398

ALIBI—Cont'd	APPEALS—Cont'd
Late, 16:403	Insanity
Meaning of, 16:391	see INSANITY — Disposition hearings
Notice of, 16:392	Minister of Justice, powers of federal,
Rebuttal of, 16:406	23:291
Rejected, 16:401	described, 23:293
Relationship to identity, 16:395 Third party disclosure of, 16:404	guidelines in exercising (s. 690), 23:294
AMNESIA	ministerial review application, 13:102 , 23:283 , 23:290
Automatism and, 21:33	Minister's reference, authority to
Drunkenness and, 21:80	change scope of, 23:292
Insanity, vs., 22:35	powers of court on reference, 23:284
APPEALS	Nunavut, in, 26:10
	Order for new trial, 23:222
Abatement, 23:169	accused having served sentence,
by death of appellant, 23:168	23:235
by death of informant, 23:169	acquittal of accused, on
contempt by applicant, 23:172	Crown appeal requirement, 23:222
escape of appellant, 23:170	onus on Crown, 23:243
failure of appellant to appear, 23:171	alternative charge, on, 23:231
Abuse of process raised only on appeal,	amended charge, on, 23:233
12:125	costs, no order for, 23:244
Admission of evidence ruling, appeal based on, 31:1499	direct indictment after appeal, on, 23:236
Contempt of court conviction, 29:35 ,	discretion re, 23:242
29:66	greater offence, re, 23:224
Conviction appeal	included offences, on, 23:232
see CONVICTION APPEALS	isolated issue, on, 23:227
Crown appeals	jurisdictional error, 23:223
acquittal, of, 31:1171	multiple accused, 23:229
Attorney General instructions, 23:126	no order for new trial
conviction appeal, 23:188	effect of, 23:239
questions of law, on	re nullity, 23:240
see INDICTABLE APPEALS	nullity, re
reincarceration on, 18:86	no order for new trial, 23:240
trial within reasonable time, 23:126	order for new trial, 23:241
Dangerous offender appeals, 23:192	on all counts, 23:230
Directed verdict, of, 16:267	requirements for order, 23:231
Double jeopardy and, 31:1171	residual power of court (s. 686(8)),
Extradition orders, from, 32:79, 32:151	23:234
Failure of accused to speak to sentence,	trial at same level, 23:225
25:20	verdict of insanity, re, 23:238
Fitness of sentence, 25:19	verdict of unfit, re, 23:237
Fresh evidence see FRESH EVIDENCE ON APPEAL	wrongful dismissal on nonsuit motion,
Habeas corpus, re, 26:50, 31:942	23:228 Parties to original appeal 23:7
Imperial Privy Council, to, 34:3	Parties to criminal appeal, 23:7
Indictable appeals	Prohibition, from, 26:78
see INDICTABLE APPEALS	Provincial superior court jurisdiction re federal boards, 26:11

APPEALS—Cont'd	APPEALS—Cont'd
Representation by agent, 23:47	Sentence, against—Cont'd
Right of appeal, 31:598 , 31:653	remitting sentencing to trial court
Charter remedy, as	where conviction entered, 25:39
see CHARTER OF RIGHTS —	where trial court erred, 25:38
Remedies	return to prison after rehabilitation,
Right to counsel on, 31:1065	25:36
Sentence, against	sentence already served, 25:35
generally, 25:1	sentence at large, 25:21
absence of appeal, 25:6	sentencing courts and appellate courts,
"appeal against sentence," meaning of, 25:4	relationship, 25:13
appropriate range, 25:15	starting points and ranges approach,
class discrimination, 25:31	18:104
Crown	stay of sentence pending appeal, 25:25
agreement re sentence, 25:33	suspension of fine/forfeiture, 25:27
required to expedite application or	third party intervention, 25:8
appeal, 25:2	unfit sentence, 25:18
silence re sentence, 25:34	withholding warrants, 25:37
deferrence to sentencing judge, 25:16	young persons, 25:14
discharge	Substituted verdict, 23:216
by Crown, 25:40	amending indictment, 23:220
by private informant, 25:41	conviction for second degree murder,
disparity of sentences, 25:30	23:218
duty to provide reasons for sentence,	conviction on offence stayed by trial
25:10	judge, 23:217
error in principle, 25:13 , 25:17	included offences on appeal, 23:215
fitness of sentence, 25:13	quash of acquittal, 23:216
fixed sentence, 25:32	Summary conviction
forfeitures, 25:24	see SUMMARY CONVICTION
fresh evidence on, 25:9	APPEALS
illegal sentence, 25:28	Supreme Court of Canada, to
leave to appeal, effect of refusal re, 25:3	see SUPREME COURT OF CANADA APPEALS
leave to appeal indictable offence, 25:4	Unfit appellant, jurisdiction re, 1:167
mandatory sentence, 25:5	Young person, re, 30:47, 30:57
marked departure from tariff, 25:29	APPEARANCE
non-appealable aspects of sentence, 25:29	Agents, by, 1:161 , 1:162
orders included in sentence (s. 673),	Bail hearing, at, 6:32 , 6:34
25:22	Conditional, 1:156
parole ineligibility period, 25:23	Irregularities cured by, 1:170
postponement of sentence pending	Notice, 1:168, 6:19, 6:96
appeal, 25:44	Organizations, 1:162
post-sentence report, ordering of,	Preliminary inquiry, at, 1:115
25:11, 25:26	Speedy trial, non-appearance at, 8:40
power of court	Young person, by, 30:42
antedating sentence, 25:43	Toung person, by, 50.72
included offence, substitution re,	ARBITRATION
25:42	Recusal of arbitrator for bias, 26:91 ,
probation variation, 25:45	27:144

ARRAIGNMENT	ARREST—Cont'd
Conviction without, 14:6	Search—Cont'd
Manner of, 14:1	prior to arrest, 5:72
Objection to information, 14:9	Search incidental to, 3:241 , 3:249
Personal attendance, 14:4	Seizure of evidentiary items, 5:74
Purpose, 14:3	Silence on, 16:85
Rearraignment, 14:2	Subjective and objective grounds, 5:8
Variance between charge and arraign-	Without warrant
ment, 14:5	"about to commit" stage, 5:43
Waiver of	arrested person
generally, 14:7	explanation of, 5:56
summary conviction trial, at, 14:8	right to resist unlawful arrest, 5:54
ARREST	assault of peace officer, 5:23
See also SEARCH AND SEIZURE	breach of release order, etc., for, 5:11
Arrest vs. charge vs. proceedings, 10:5	common law, at
Charter and	"King's peace," 5:1
see CHARTER OF RIGHTS — Arrest	powers, 5:12 , 5:13
or detention	conviction for underlying offence, 5:36
Civil consequences of	"criminal offence," meaning of, 5:48
authorization by law, 5:59	detention after arrest, 5:35
false imprisonment	duties of arresting person
holding person incommunicado, 5:56	giving reasons for arrest, 5:52, 5:53
procedure, 5:64	particulars of unavailable warrant,
malicious prosecution, 5:64	relating, 5:51
onus on arresting party, 5:63	production of warrant, 5:50
protection of persons administering/	facially valid warrant, 5:26 "Feeney warrant," 5:16
enforcing laws, 5:61	"finds committing"
use of force, 5:65	general (ss. 494, 495), 5:37
use of force on aircraft, 5:66	second-hand information, 5:38
Continued investigation after arrest, 5:76	for identification, 5:49
Delay before charge, 5:77	for wrong offence, 5:57
Delivery of arrested person to court, 5:47	"fresh (hot) pursuit," 5:39
Duties after arrest, 5:75 , 31:862	"indictable offence," meaning of, 5:42
Extended jurisdiction and, 1:112	likelihood of guilt test, 5:8
Extradition proceedings, 32:39	no arrest unless necessary, 5:34
Illegal arrest as provocation, 27:162	other purpose for arrest, 5:9
"In custody," 5:68	outside Canada, 5:17
Investigative detention short of arrest, 5:6	peace officer
Not authorized by law, 5:60	de facto, 5:29
Release of accused but detention of item	·
seized, 3:244 Right to counsel on	enforcement of provincial/municipal laws, 5:25
see CHARTER OF RIGHTS —	execution of duty, 5:22
Counsel, right to retain	extent of powers to arrest (s. 495),
Search	5:10
see also CHARTER OF RIGHTS —	failure to give reasons for arrest,
Search and seizure, unreasonable	5:53
after arrest, 5:69	game wardens as, 5:31
after s. 10(b) warning, 5:73	general powers and duties, 5:21
incident of arrest, 31:743	military police as, 5:32
	J I

ARREST—Cont'd	ARREST—Cont'd
Without warrant—Cont'd	With warrant—Cont'd
peace officer—Cont'd	warrant—Cont'd
private premises	regular on face, 5:84
exigent circumstances, 5:18	territorial extent of, 5:79
Feeney warrant, 5:16 , 5:80	Young person, of
forcible entry on, 5:19	see YOUNG PERSON, Detention of
proper announcement, 5:20	ASSAULT
without judicial authorization,	Aggravated (s. 268), 21:76
5:16	Causing bodily harm
private property, powers re, 5:14	consent as defence, 21:312
subsequent unlawful conduct of,	drunkenness (s. 267), 21:77
5:55	Mistake of fact, 21:227
territorial jurisdiction of, 5:33	Peace officer, of, 5:23
when on duty, 5:28	Pregnant woman causing child's death,
repealed laws, 5:30	on, 27:5
police powers, generally, 5:5	Sexual
preventing breach of peace, 5:4	see SEXUAL ASSAULT
private citizen, by	Unprovoked
Charter application, 31:134	see SELF-DEFENCE, DEFENCE OF
Crown option offence, re, 5:3	·
delivery of arrested person to peace officer, 5:46	ASSOCIATION
power of (s. 494), 5:2	Conspiracy and, 19:40
reasonable grounds to believe	ASSOCIATION, FREEDOM OF
basis of, 5:40	See CHARTER OF RIGHTS
from informer and accused's reputa-	
tion, 5:45	ASSOCIATION WITH PROSTITUTES
refusal to comply with lawful order,	Generally, 31:1017
5:24	ATTEMPTS
telegraphic information re warrant,	Abandonment of attempt, 20:24
5:41	Actus reus of
third party (hearsay) information, 5:44	British statutory test, 20:17
trespasser, 5:27	Canadian test, 20:20
With warrant	equivocality test, 20:22
ancillary powers of peace officer, 5:89	first step after mere preparation, 20:20
Feeney warrant, 5:16 , 5:80	last step test, 20:21
fingerprinting	proximity test, 20:18
power re, 5:90	requirement, 20:10
young person, of, 5:91	res ipsa loquitur, 20:22
warrant	tests to indicate required, 20:16
authorizing trespass, 5:87	Common law, at, 20:5
endorsement of, 5:82	Completed offence
execution of, 5:81	merger of attempt with, 20:37
facsimile signature on, 5:86	where not proved, 20:34
incidental powers of, 5:88	
invalid warrant, 5:26	where proved and one attempt charged 20:38
justification of issuance of, 5:83	Complete vs. incomplete, 20:2
nature and contents of, 5:78	Conditional intent, 20:8
nature and contents of, 5:78	Conspiracy and 19.8 19.14 20.13

ATTEMPTS—Cont'd	ATTORNEY GENERAL—Cont'd
Contradiction in Code provision re (s.	Extraordinary remedies—Cont'd
24(1) and (2)), 20:9	discretion re, 26:22
Conviction for	No immunity from civil suit for malicious
bar on charge for completed offence,	prosecution, 12:3
20:39	Obligations of re prosecutions, 12:14
Counselling, vs, 15:104	British Attorney General, 12:13
Defined as full offence, 20:33	Overriding election
Drunkenness and, 21:60	see ELECTION
Impossible attempts	Prosecuting offences and
British statutory provisions re, 20:32	see PROSECUTING OFFENCES
examples, 20:28	Requiring jury trial, 31:1082
factual impossibility in Canada, 20:29	Summary conviction appeals, rights of re,
legal impossibility in Canada, 20:31	24:52
Intention to commit offence	AUTHORIZED INTERCEPTED
conditional, 20:8	COMMUNICATIONS
mere intention not attempt, 20:6	Application documents
murder, re, 20:12	access to, 4:91
requirement described, 20:11	sealed packet
Security of Information Act offence,	access to, 4:93
20:7	· ·
Manslaughter, 20:14	application to open, 4:92
Mens rea of, 20:10	Crown access to, 4:96
Mere intention insufficient, 20:6	editing contents of, 4:95
Murder, 20:35, 27:149, 31:549	retention in, 4:91
Obstruct justice, to, 20:26	Application procedure
Overt act outside Canada, 20:25	conclusory statement of applicant,
Possession, 16:477, 20:15	insufficiency of, 4:117
Possession of drug for purpose of traffick-	concurrent applications, 4:23
ing, 20:36	consent to interception, 4:26
Preparation	proof of by hearsay evidence, 4:27
intent, difference between, 20:19	Crown agent, role of, 4:28
step beyond mere, 20:23	general authorization application (s.
Preparatory offence, as, 20:1	185)
Procuring, 15:117	generally, 4:29
Property offences	affidavit in support, 4:32, 4:36
over 5,000 dollars, 7:52	deferral of notice to object of
under 5,000 dollars, 7:23	interception, 4:39
Punishment for, 20:4	full disclosure, 4:35
Question of law, 20:27	intra vires of provision, 4:30
Rationale for criminalizing of, 20:3	investigative necessity, 4:34
Suicide, 16:421	judge made to (s.185(1), 4:31
Verdicts and	probable cause requirement, 4:33
see VERDICTS	questioning of affiant by judge, 4:37
ATTORNEY GENERAL	reliability of informer, 4:38
See also CROWN	restricted authorization on consent (s.
Consent of re jurisdiction, 1:47	184.2), 4:25
Crown appeal, instructions re, 23:126	granting of, 4:40
Extraordinary remedies	rolled-up applications, 4:24
amending charge, 26:23	types of interceptions, 4:22
amending charge, 20.23	types of interceptions, 4.22

AUTHORIZED INTERCEPTED AUTHORIZED INTERCEPTED COMMUNICATIONS—Cont'd COMMUNICATIONS—Cont'd Designation of persons who may General authorization, granting requireintercept, 4:89 ments-Cont'd "resort to" clause (unknown place) Device automobile interception, 4:74 covert removal of, authorization for, live monitoring, 4:73 installation, maintenance and removal pay telephone interceptions, 4:71 of. 4:49 use of, 4:70 Emergency authorization restrictions on terms of authorization. application procedure, 4:78 designation of peace officer, 4:79 separate authorizations, 4:59 evidence from subsequent emergency specification of offence, 4:52 authorization, 4:80 types of communication interceptible, General authorization, granting require-4:51 ments Manner of interception, 4:147 basket clause (unknown persons) Motion to quash authorization/renewal absence of, 4:62 access to logs on, 4:86 duty re persons becoming known, judge not persona designata, 4:87 4:63 no appeal from, 4:85 invalid, 4:66 onus on applicant, 4:82 known and unknown persons, 4:68 procedure, 4:81 offences revealed during authorizarolled-up Charter motion at trial, 4:83 tion, 4:65 section 8 Charter motion, 4:81 reliance on. 4:67 standing, 4:88 scope of, **4:64** Trial issues best interests of administration of access of played recordings by public justice, 4:43 in court, 4:125 contents of authorization, 4:47 admissibility of evidence access by accused to tapes, 4:103 criteria for, 4:41 co-conspirators, 4:104 disclosure of prior interceptions, 4:50 cross-examination of non-accused exhaustion of other investigative witness, 4:98 procedures, 4:45 Crown's prerogative re communicafresh authorization tion to lead, **4:102** contents of affidavit for, 4:58 failure to notify object of intercepinherent power to review, 4:77 tion, 4:106 investigative necessity, absence of, foreign language intercepts, 4:124 4:56 judge bound by authorization, 4:99 lawyer's office, re. 4:46 "logs" of interceptions, evidence of, length of authorization, 4:48 4:110 "likelihood of success" criterion, 4:44 non-compliance with terms of authominimization clause, 4:72 rization, **4:115** "named" place, 4:69 offences not named in authorization, overlapping authorizations, 4:60 4:101 place of communication vs. interceppre-authorization entry, 4:109 tion, 4:76 surreptitious entry, **4:107** renewal of authorization surreptitiously recorded statement, 4:114 application for, 4:53 nature of renewal, 4:54 third parties, 4:105 number and length of, 4:55 unreasonable interception, 4:97

AUTHORIZED INTERCEPTED	AUTHORIZED INTERCEPTED
COMMUNICATIONS—Cont'd	COMMUNICATIONS—Cont'd
Trial issues—Cont'd	Trial issues—Cont'd
admissibility of evidence—Cont'd	procedure at trial re admissibility
use of power source within invaded	authorization not exhibit, 4:123
premises, 4:108	composite tapes, 4:131
voice identification, 4:100	copy tapes, 4:130
authorizations and renewals	cross-examination of affiant or sub-
basket clause, 4:135	affiant, 4:118
defects in	Garafoli application (s. 8 Charter)
see defects in authorizations	facial attack of affidavit, 4:126
lawfulness of interception, 4:132	procedure re, 4:112
offences not named in authorization, 4:133	unlawful vs. unreasonable, 4:113
	name references on transcripts,
persons not named in authorization, 4:134	4:129
cross-examination of applicant	resorting to places where intercepts
prosecutor, 4:119	made, 4:111
defects in authorizations	tapes to jury, 4:126
deletion of tainted parts of affidavit,	transcript of intercepts to jury, 4:128 standing of accused, 4:122
4:139	,
failure to comply with terms and	transcript of evidence accuracy of, 4:159
conditions, 4:142	editing of, 4:160
failure to name known persons,	form of, 4:158
4:141	language of, 4:157
failure to name known places, 4:145	
fraud, 4:136	AUTOMATISM
Garofoli hearing	Acquittals for (examples), 21:36
test at, 4:137	American Law Institute Code re, 21:34
invalid renewal, 4:140	Amnesia, 21:33
manner of interception, 4:146	Automatic driving, 21:17
place specified, 4:148	Causes of, 21:19
quashed authorization, 4:144	Conscious vs. unconscious involuntary
reliability of informer, 4:138	act, 21:16
disclosure of communications between	Defined, 21:14
Crown and police, 4:120	Druken insanity vs. drunken automatism,
notice of intention to adduce evidence	21:61
contents of notice, 4:150	Drunken, 21:26, 21:62
defects in notice, 4:154	Earlier approach to, 21:15
further particulars, 4:155	External physical cause, 21:20
notice and transcript served	External psychological cause, 21:22
separately, 4:152	Forms of, 21:19
notice to all accused, 4:151	Foundation for defence of, 21:31
reasonable notice, 4:149	Insane, 21:21
service of notice, 4:153	Insanity and
waiver by defence counsel, 4:156	drunken insanity vs. drunken automa-
privileged communications	tism, 22:32
cross-examination on intercepts,	insane vs. non-insane, 22:31
4:162	Intermittent explosive disorder, 21:25
marriage after intercepts, 4:163	Internal psychological cause, 21:21
rule re, 4:161	Manslaughter and, 27:131

AUTOMATISM—Cont'd	AUTREFOIS ACQUIT AND CONVICT
Negligence/fault as bar to, 21:28	—Cont'd
Non-insane, 21:20	Previous trial "on the merits," concept of
Onus on accused to establish, 21:30	14:86
Psychological blow	Quashing of charge after plea, 14:101
automatism, 21:23	Same charge relaid by different evidence,
extraordinary, 21:24	14:109
transient effects of, 21:23	Same offence
Self-inducted, former defence of, 21:26	requirement, 14:81
Sleepwalking/driving while asleep, as,	test to determine (s. 609(1)), 14:83
21:15, 21:27	Same transaction requirement, 14:82 Similar fact evidence charge, 14:89
Strict/absolute liability offences, 21:18	Stay of charge (Kienapple), 14:91 , 14:103
Voir dire to determine, 21:32	Summary conviction offences
Voluntary act	availability on, 14:113
presumption of, 21:29	certificate of dismissal
requirement for culpability, 21:13	drawing up of, 14:117
AUTREFOIS ACQUIT AND CONVICT	no evidence as basis for, 14:118
See also MULTIPLE CONVICTIONS,	not bar to appeal, 14:119
RULE AGAINST	order of dismissal, 14:114
Availability of, 14:85	prior nullity, 14:115
Death of victim after guilty plea, 14:110	review of order of dismissal, 14:116
Dismissal	Withdrawal of charge, 14:102
for want of prosecution, 14:90	
on jurisdictional grounds, 14:100	BAIL
Double jeopardy	See RELEASE FROM CUSTODY
described, 14:77	BILINGUALISM
rationale against, 14:78 Duplicity and Multiplicity, 9:84, 9:99	See also LANGUAGE
Extradition hearing, discharge at, 14:98	Charter, nature of, 31:47
Final acquittal requirement, 14:88	Statutes, 31:1375, 33:45
Finality of prior litigation, 14:87	
Foreign acquittal or conviction, 14:95	BILL OF RIGHTS
Fraud, acquittal obtained by, 14:153	Interpretation of, 31:9
Greater offence subsequently charged	Overlap with Charter, 31:10
example of, 14:108	BLOOD SAMPLES
substantially same offence, 14:106	Conclusive proof, as, 16:693
Homicide charge, subsequent, 14:107	Demand, 31:709, 31:884
Hung jury, 14:104	Search warrant re, 3:64 , 31:738
Indictment quashed prior to plea, 14:99	Seizure of, 31:469 , 31:724
"In jeopardy twice," meaning of, 14:84	Taken by hospital, 31:708
Insanity verdict, 14:96	Transfusion re child under age 16, 31:470
Issues on hearing re, 14:79	Transfusion to child under age 10, 31.470
Judgment obtained by fraud, reversal of,	BREATHALYZER
14:93	Demand, 31:895
Judgment valid until reversed, 14:92	Refusal, 31:646
Offence not included, unavailable if,	BREATH SAMPLES
14:105	Demand, 31:885
Onus re, 14:80	
Preliminary inquiry, on, 13:31, 14:97	Reasonable suspicion for, 31:472
Premature plea, 14:111	Seizure of, 31:726

BURDEN OF PROOF	CERTIORARI—Cont'd
Generally, 16:77	Recognizance prior to application, 26:76
Abuse of process and, 12:121	Right to be present, 26:55
Alibi, 16:397	Third party standing, 26:8
Charter and, 31:20	Use of to quash search warrant, 3:115
Insanity, 22:39 , 22:75	•
Mistake of fact, 21:233	CHARACTER EVIDENCE
Provocation defence to manslaughter,	Generally, 16:623
27:142	Accused's bad character, 16:134
Self-defence, defence of, 21:186	exceptions, 16:627 exclusionary rule, 16:517 , 16:623
CASE MANAGEMENT JUDGE	relevant to fact in issue, as, 16:675
Appointment of, 16:16	substantive purpose, admitted for,
Court record, content of, 16:19	16:646
Joint hearing for related trials, 16:20	Accused's good character, 16:135 , 16:141
Powers of, 16:18	general reputation, 16:624 , 16:642
Role of, 16:17	rebuttal evidence re, 16:167
	reply to evidence re, 16:644
CERTIORARI	Co-accused, re, 16:626 , 16:647
Application, amendment on, 26:74	Cross-examination of accused on, 16:134 ,
Application by Crown (s. 776), 26:73	16:643
Availability of	Non-similar fact evidence, jury instruc-
circumstances where not available,	tion, 16:640
26:59	Prior conduct against victim, 16:630
error on face of record, 26:63	Sentencing and, 18:60
information, to attack, 26:61	Similar fact evidence
other remedies more appropriate,	admissible evidence, examples, 16:646
where, 26:60	civil cases, in, 16:641
preliminary inquiry, to quash, 26:64	collusion, evidence of, 16:630
refusal to issue search warrant, 26:62	
Civil judicial review, 26:54	group (gang) similar act evidence, use of, 16:644
Committal for trial	identity, proof through, 16:643
availability to quash, 26:64	inadmissible evidence, examples,
inadmissible evidence re, 26:68	16:647
revising committal order, 26:67	jury instruction re, 16:639
Consent to prefer direct indictment, 26:70	limited use of, 16:637
Denial of natural justice as ground for,	l ·
26:58	presumption of inadmissibility, 16:631
Detention after hearing, 26:72	probative value outweighing prejudice, 16:631
Discretionary nature of, 26:57	procedure re, 16:638
Habeas corpus, in aid of, 26:53 , 31:938	
	Third party, re, 16:626, 16:647 Victim
Nature of remedy, 26:52	
Preferment, after, 26:71	bad character, 16:139
Preliminary inquiry	character of, 16:648
availability to quash discharge at, 26:65	sexual character of, 16:649 , 16:650
remedy on quashing discharge, 26:66	sexual conduct of
re-opening of, 26:69	generally, 16:651
Prerogative writ hearing	notice re evidence, 16:652
remedying technical defects, 26:75	procedure re, 16:653
Protection order for provincial court	Witness's, re, 16:137, 16:140, 16:645,
judge, 26:77	16:646

CHARGE	CHARTER OF RIGHTS—Cont'd
Accessory after fact, 15:129	Application of, 31:106—Cont'd
Additions by judge, 11:39	foreign states, 31:121
Amendment of, 9:222 , 13:30	Canadian government action in,
Arraignment, variance with, 14:5	31:120
Arrest vs. charge vs. proceedings, 10:5	funds obtained through statutory
"Charged," meaning of, 31:943	authority, 31:125 government action/conduct, 31:111
Civil action not suspended by, 9:51	government action/conduct, 31.111 government entities and activities,
Conspiracy	31:107
see CONSPIRACY	government matters, 31:108
Defective, 9:227	judicial
Delay after, 31:977	action, 31:126
Delay before, 5:77 , 31:595 , 31:980	immunity from suit, 31:128
Disclosed by evidence, 8:39	interpretation of common law,
Joinder of, 9:209	31:127
Jury charge	law enforcement guidelines, 31:131
see JURY CHARGE	legislation, unconstitutional applica-
Manslaughter, re, 27:117	tion, 31:110
New, 9:223	legislative assembly, 31:112
Pleadings re	legislative omission/underinclusion,
see CRIMINAL PLEADINGS —	31:123
Rules and principles	medical actions, 31:133
Preliminary inquiry, at, 13:30, 13:64,	Parliament, 31:112
13:66, 13:69	permissive legislation, 31:124
Quashing, 9:188, 14:101	police agent vs. confidential informant, 31:116
Re-election, 8:62	police/state agent, 31:117
Relaying, 9:188, 12:92, 12:136	private
Resworn, 9:239	actors, 31:115, 31:132
Separate, 31:1028	individuals, 31:135
Stay of, 12:106, 14:91, 14:103	litigation, 31:122
Variance between evidence and, 9:216	public statutory bodies, 31:129
Violation, nexus between, 31:1425	statutory adjudicator, 31:118
Withdrawal of, 14:102, 31:1140	statutory powers, persons discharging,
see also PROSECUTING OFFENCES	31:136
CHARTER OF RIGHTS	statutory regulatory bodies, 31:119
Aboriginal rights unaffected by, 31:1584	subordinate legislation, 31:109
Alibi and, 16:393	Arrest or detention
Application of, 31:106	arbitrary, 31:796
arrest/search by private citizen, 31:134	"arbitrary," meaning of, 31:804,
* *	31:819
cabinet decisions, 31:130	arrest warrant, use of, 31:812
common law	bail reverse-onus, 31:813
judicial interpretation of, 31:127	contempt of court, 31:822
rulings, 31:109	dangerous offender, 31:810
Crown agencies, 31:114	detaining order re inmate, 31:821
discussed, 31:108	detention
exercise of constitutional power,	alleged terrorist, 31:816
31:113	beyond 24 hours, 31:814

CT. DDDD CT. DT. DT. DT. DT. DT. DT. DT. DT. DT. D	
CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Arrest or detention—Cont'd	Association, freedom of—Cont'd
arbitrary, 31:796—Cont'd	arbitration, compulsory, 31:375
detention—Cont'd	banishment from local, 31:369
civil detention of the insane, 31:818	civil servant engaging in politics, 31:365
criminally insane, of the, 31:817	collective bargaining rights
drinking driver, for, 31:827	relation with, 31:377
foreign nationals without review,	removal of, 31:374
of, 31:815	union's informational access, 31:379
for further investigation, 31:805	collective rights, 31:362
hybrid offence, for, 31:826	commercial association, 31:366
lawful vs. arbitrary, 31:800	compulsory dues, 31:355
meaning of, 31:829	corporate merger, denial of, 31:372
requirement for, 31:799	criminal association, 31:367
direct indictment, 31:825	deportation order, 31:358
fingerprints, taking of, 31:820	discussed, 31:364
imprisonment	earning livelihood and, 31:359
mandatory minimum, 31:755	expression, relation to, 31:356
investigative detention, 31:801 , 31:803 , 31:807	family unit, within, 31:371
parole	freedom not to associate, 31:357
ineligibility, 31:819	freedom to organize, 31:360
under Parole Act, 31:823	individuals vs. groups, 31:362
purpose of provision, 31:797	known criminals, association with,
random stops, 31:824	31:367
roadblocks, 31:824	other freedoms, relation to, 31:361
unlawful arrest, 31:806	purpose of, 31:354
detention during execution of search	sex by professional with patient,
warrant, 31:806	31:368
failure to inform accused that under	statutory wage restrictions, 31:378
arrest, 31:837	strike, right to, 31:376
informed of reasons for	union accreditation, denial of, 31:373
generally, 31:828	Authorized intercepted communications
counsel, repetition to, 31:836	Charter motion to quash, 4:83
no presumption of violation, 31:838	Children, use of corrective force re,
promptly vs. without delay, 31:830	31:610
purpose of, 31:831	Compulsion defence, 21:104
reasons	Conscience and religion, freedom of
jeopardy requirement, 31:834	access to children by parents of differ-
writing requirement, 31:835	ent faiths, 31:211
right varying according to circum-	access to ministers, 31:209, 31:211
stances, 31:833	administrative tribunal, consideration
substance governs, 31:832	of "Charter values" by, 31:223
informed of rights to counsel, 31:803 non-criminally responsible accused,	burden on claimant, 31:188
detention of (s. 672.54), 31:574 ,	compulsion to adhere to religious
31:1347	beliefs, 31:189
racial profiling, 31:808	compulsory education, 31:213
Association, freedom of	confession to counsellor, 31:201
access to natural parent, 31:370	conformity, freedom from, 31:191

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Conscience and religion, freedom of Constitution of Canada, primacy of, 31:75 —Cont'd conscience, fundamental freedom of, common law rules and principles, 31:90 31:185 disciplining children, freedom re, constitutional amendments subject to 31:212 Charter, 31:79 disturbance of worshippers, 31:208 constitutional exemptions, 31:97 door-to-door solicitation, 31:206 constitutional extensions, 31:98 driver's licence, photograph requireconviction constituting estoppel, 31:100 ment, 31:224 hatred, civil prohibition against, 31:226 declaration of contravention, standing income tax for, **31:84** for military expenditures, 31:229 declaration of invalidity to fund abortion, 31:230 effect of suspension, 31:96 legal consequences, 31:90 jurisdiction over religious matters, 31:194, 31:195 temporary suspension of, 31:95 majority beliefs, freedom from, 31:190 violation of Charter, 31:85 marijuana use as religious tenet, 31:220 extension, 31:98 medical referral requirement, 31:203 jurisdiction re constitutionality, 31:83 law not in force, indirect implementaoath or affirmation, need for, 31:199 tion of, 31:99 prayer at council meetings, 31:210. 31:217 legislative amendments to invalid laws, 31:91 private schools notice to Attorneys General re non-funding, **31:214** constitutional challenge, 31:101 religious education, 31:222 provincial non-superior courts, jurisdicpublic safety laws and, 31:228 tion of, 31:82, 34:9 public school provincial superior courts, jurisdiction holidays, 31:215 of, 31:82, 34:9 prayer, 31:216 reading down, 31:92 religious education, 31:221 reading in, 31:92, 31:98 teacher's expression, 31:225 remedies re violation of Charter, 31:86 refusal of medical treatment for child, retroactive and prospective remedies, 31:205 31:87 religion relative to other matters, separation of powers, 31:81 31:204 severance religious corporation, criminal liability doctrine of, 31:93 of, 31:197 within legislative provision, 31:94 religious evidentiary privilege, 31:200 statutory tribunal retail holiday business Acts, 31:198 finding of constitutional invalidity scope of guarantee, 31:193 by, 31:89 sincerity of belief, 31:194 no jurisdiction conferred on, 31:83 state neutrality, 31:195 supreme law of Canada, 31:76 Sunday fishing and hunting, 31:227 unwritten parts of Constitution, 31:78 Sunday openings, 31:198 Contempt of court and terrorist activity, 31:219 see CONTEMPT OF COURT wearing kirpan at school, 31:218 Counsel, right to retain, 31:839 zoning by-laws, 31:207 see also Evidence, exclusion of; criteria Constitution of Canada, primacy of, 31:75 for exclusion Charter as part of Constitution, 31:80 arising on detention, 31:856

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Counsel, right to retain, 31:839—Cont'd	Counsel, right to retain, 31:839—Cont'd
arrest/detention	informational component, 31:859
initial, 31:872	informing police of desire to retain
requirement, 31:849	counsel, 31:920
arrested lawyer, 31:850	initiation of Charter challenge, require-
blood sample demand, 31:884	ments, 31:842
breathalyzer demand, 31:895	intoxicated accused, 31:912
breath sample demand, 31:885	investigatory questioning, 31:853
coercive questioning, 31:852	legal aid, information re, 31:860
components of right, 31:859	limitation on, 31:501
contempt citation, 31:887	non-lawyer, right to speak to, 31:847
conversation initiated by accused,	not continuing right, 31:877
31:826	passenger, detention of, 31:897
counsel at trial, 31:846	plea bargaining after retention of
counsel of choice, 31:848	counsel, 31:870
cross-examination on police statement, 31:932	police duties on arrest, 31:862, 31:866, 31:921
dangerous offender application, 31:933 detention	police interview, presence of lawyer during, 31:930
compliance with police demand,	prior breach of warning requirement,
31:857	31:874
informed of rights, 31:803	privacy while exercising right, 31:928
meaning of, 31:857, 31:864	purpose, 31:842
questioning, during, 31:880	questioning
questioning re consumption of alcohol, 31:882	after consultation with counsel, 31:878, 31:927
roadside physical tests, for, 31:883	after warning, 31:925, 31:930
roadside screening, for, 31:881	as constituting detention, 31:869
teacher detaining student, 31:843	before arrest, 31:867
diligence in pursuing rights, 31:919	before warning, 31:896
dissuasion by police, 31:923	ceasing on exercise of right, 31:914
entering Canada at customs, 31:871	coercive, 31:852
extent of duty to inform	in absence of police demand, 31:868
implicit invocation of right, 31:901	undercover, 31:876
onus on accused to invoke rights,	raising issue, 31:924
31:900	reasonable opportunity to retain
posted sign, 31:913	counsel, 31:918
reasonable diligence by detainee,	reason for arrest, relation to, 31:844
31:902	re-consultation with counsel during
reasonable time to consider rights,	interrogation, 31:922 regulatory offence, 31:851
31:906	repetition of warning, 31:873, 31:875
special circumstances, 31:899	second consultation, right to, 31:905
understanding by accused, 31:897, 31:915	service of, 31:886
waiver, 31:907	silent accused, 31:931
words used, 31:904	statement
failure to act on advice, 31:876	as actus reus, 31:855
failure to advise accused re, 31:865, 31:917	before and after warning, 31:894 to private person, 31:854
foreign arrest/detention, 31:845	telephone call. 31:863

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Counsel, right to retain, 31:839—Cont'd	Cruel and unusual treatment/punishment,
voluntariness inquiry distinct from,	31:1184, 31:1187 —Cont'd
31:916	mentally disordered defendant in Brit-
waiver of right	ain, 31:1207
by counsel, 31:910	mercy killing, 31:1197
clear and unequivocal, 31:908 informational component, of, 31:861	minimum sentences, mandatory, 31:1216
not required, 31:907	murder, first degree, 31:1199
reassertion of right following, 31:909	non-cruel and unusual punishment, 31:1224
young person, by, 31:911	origins and purpose of provision,
warning before arrest, 31:866	15:1146
without delay requirement	"particularized inquiry," 31:1196
consultation with counsel, 31:891	passive inaction, 31:1206
control factors, 31:893	pre-trial detention, 31:1208
immediate search after warning,	prohibition, mandatory, 31:1220
31:892	treatment, 31:1223
incapacitation, 31:889	valid punishments, 31:1224
meaning of, 31:888	victim surcharge, 31:1212
purpose of caution before demand,	Dangerous offenders legislation, 18:371
31:890	Direct indictment, 11:36
Cruel and unusual treatment/punishment,	Equality rights, 31:1259
31:1184, 31:1187	aboriginal peoples, sentencing rights,
constitutional exemption, 31:1191 core meaning of phrase, 31:1189	affirmative action
corporations not protected, 31:1193	
dangerous offender	benefit, conferring of, 31:1368
declaration, 31:1200	disadvantaged group, discrimination re, 31:1364, 31:1365
review, 31:1200	female prison guards, 31:1367
deportation, 31:1203	governmental action, 31:1192
detention of non-citizen re national	interrelationship of ss. 15(1) and (2),
security, 31:1204	31:1363
discharge, unavailability of, 31:1222	programs, 31:421
extradition	purpose of, 31:1362
unfit to stand trial, 31:1213	repeal of, 31:1366
where death penalty imposed,	analysis required, steps in, 31:1273
31:1202	autistic children, funding rights,
factors to be considered, 31:1194	31:1330
fines, 31:1209	comparison of treatment, 31:1272
forfeiture of weapons, 31:1219	discrimination
governmental action, 31:1192	age, 31:1297, 31:1317
grossly disproportionate sentence,	non-proclamation of, 31:1307
31:1195	provincial variation, 31:1308
Imprisonment for non-payment of fine in lieu of forfeiture, 31:1211	anal intercourse, 31:1299
invalid punishments, 31:1225	analogous grounds of, 31:1288
jail segregation, 31:1205	child care expenses, 31:1322
mandatory consecutive sentences,	child support payments, 31:1321
31:1213	citizenship status, 31:1329
mandatory fine, 31:1211	civil damages ceiling, 31:1352

HARTER OF RIGHTS—Cont u	CHARTER OF RIGHTS—Cont u
Equality rights, 31:1259—Cont'd	Equality rights, 31:1259—Cont'd
discrimination—Cont'd	discrimination—Cont'd
civil defendant charged criminally,	naming of child, right re, 31:1295
31:1355	non-enumerated grounds of, 31:1288
comparator group, evaluation by, 31:1290	notice to municipality of injury, 31:1349
compulsory arbitration, 31:1356 contextual analysis of, 31:1291	parents, natural vs. adoptive, 31:1327
corporations, application to, 31:1268	pay equity, 31:1316
corroboration, differing require-	pension benefits, 31:1316, 31:1326
ments, 31:1332	peremptory challenges and stand
court costs, 31:1356	asides, 31:1333
Crown, application to, 31:1269	provincial licence disqualification,
Crown option offence, 31:1335	31:1344
definition of, 31:1292	provincial lottery differences,
differential treatment	31:1345
as reasonable limit, 31:1314	provisions not in force throughout
prohibited, 31:1309	Canada
direct indictment, 31:1336	criminal procedure, 31:1306
disabled pupil, 31:1329	federal offence, 31:1302
discretion, exercise of, 31:1310	sentence advantage, 31:1305
discrimination claim	regional differences, 31:1303
elements of, 31:1285	residence, place of, 31:1304
standing, 31:1284	same sex marriage, 31:1323,
educational, 31:1320	31:1325
enumerated grounds of, 31:1287	school funding, 31:1351
estates, 31:1268	selective prosecution, 31:1342
fatal accident survivors, 31:1328	sexual, 31:1313
four basic rights, 31:1272	sexual assault age differentiation,
inequality of treatment, 31:1311	31:1337
insanity, Crown raising, 31:1334	sexual complainant
invalid	cross-examination of, 31:1338
generally, 31:1312	non-publication order re, 31:1358
list re, 31:1360	sexual orientation, 31:1319
jury	sex with female under 14, 31:1298
minorities not on (racial	sign-language interpretation, failure
discrimination), 31:1341	to provide, 31:1315
non-citizens not on, 31:1340	social context of group, 31:1291
size of, 31:1339	spouses, 31:1319 , 31:1323
language	valid differential treatment (list),
official, 31:1350	31:1259
of trial, 31:1346, 31:1376	young person, 31:1357
legal aid lawyer, 31:1354	Youth Criminal Justice Act, 31:1300
legislation, federal vs. provincial,	foetus, application to, 31:1270
31:1343	guaranteed equally to both sexes,
legislative choice, 31:1293	31:1267
mentally incapacitated accused,	law
detention, 31:1347	application of, 31:1276
minority groups, 31:1294	equal benefit of, 31:1272, 31:1279

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Equality rights, 31:1259—Cont'd	Evidence, exclusion of, 31:1510—Cont'd
law—Cont'd	criteria for exclusion—Cont'd
equality before, 31:1267, 31:1272,	fairness of trial, 31:1541, 31:1574
31:1279	invalid statutory provision, 31:1563
equality under, 31:1267, 31:1272, 31:1279	law operative at time of seizure, 31:1562
equal protection of, 31:1272, 31:1279	non-conscripted real evidence, 31:1577
indirect discrimination, 31:1289	offence committed after Charter
prohibited discrimination, 31:1280	violation, 31:1578
military offence, prosecutor's discre-	police
tion, 7:20	duty to preserve evidence,
official languages, use of, 31:1277	31:1560
protection of rights in relation to, 31:1274	lack of good faith on part of, 31:1559
purpose of provision, 31:1275	misconduct, deterrence of,
retrospectivity, 31:1271	31:1558
special status, extension of, 31:1281	provisional rulings, 16:520
substantive equality, 31:1286 underlying values, 31:1278	purpose of exclusion provision, 31:1539, 31:1558
Evidence, exclusion of, 31:1510	real evidence, 31:1521
generally, 31:1519, 31:5120	reliability of evidence, 31:1544
Charter exclusionary rule, generally,	right to counsel
31:1577	incapacity re, 31:1557
court of appeal substituting view,	knowledge of, 31:1556
31:1580	sanctity of body, 31:1571
criteria for exclusion	seriousness of violation, 31:1542
see also s. 24(2)	substantial vs. technical infringe-
admission and exclusion of tainted evidence, case law, 31:1574 to	ment, 31:1561
31:1577	systemic Charter breach, 31:1570 tainted factor, deletion of, 31:1548
bringing administration of justice	tainted factor, defetion of, 31:1348
into disrepute	different uses of, 31:1554
balancing process, 31:1545	unfair trick used to obtain,
discoverability of evidence,	31:1554
31:1552	temporal nexus, 31:1568
discretion, 31:1552	three lines of inquiry, balancing,
reasonable person test, 31:1551	31:1545
causal connection, 31:1565	unreasonable surreptitionaly
co-conspirator exception, 31:1579	recorded statement, 31:1555
community shock not test, 31:1550	violation as reasonable excuse,
court's reputation, balancing of fac-	31:1569
tors re, 31:1546	derivative evidence, application of s.
deference to trial judge, 31:1573	24(2), 31:1549
degree of intrusion, 31:1572	onus of proof
derivative evidence, 31:1566	accused's burden, 31:1536
effect of exclusion, 31:1543	no automatic exclusion, 31:1538
evidence created by accused after violation, 31:1574	statement of accused, burden re, 31:1537
factors considered, 31:1540	test for exclusion, 31:1535

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Evidence, exclusion of, 31:1510—Cont'd	Habeas corpus, 31:933—Cont'd
pre-condition to, 31:1527	automatic release, entitlement to,
procedure	31:939
American exclusionary rule, 31:1523	availability of, 31:940
application made to trial judge,	certiorari-in-aid and, 31:938
31:1528	Charter guarantee, 31:962
British exclusionary rule, 31:1522	description of Writ, 31:935
civil proceedings, 31:1532	discretionary remedy, as, 31:941
criteria on appeal, 31:1534	former s. 526 and, 31:935
grounds for exclusion, statement of, 31:1531	stay pending appeal, and s. 784(5), 31:937
objection prior to reception of evi-	Insanity verdict, 22:30
dence, 31:1530	Interpretation, principles of, 31:1
personal right, 31:1524	access to justice principle, 31:59.70
pre-Charter violation, 31:1521	actual or reasonable hypothetical viola-
question of law or fact, 31:1533	tion, 31:60
remedy vs. right, 31:1526	administrative decisions, proportional-
voir dire, 31:1529	ity analysis, 31:52
provisions re, 31:1478	bilingual nature of Charter, 31:47
s. 24(2) analysis	Bill of Rights
accused's statements, application to,	interpretation of not binding, 31:9
31:1546	overlap with Charter, 31:10
admissibility test, 31:1541	burden of proof, 31:20
bodily evidence, application to,	Charter exceptions, 31:3
31:1547	Charter values, 31:70
derivative evidence, 31:1549	collective vs. individual rights, 31:53
impact of breach on Charter-	collision of rights or freedoms, 31:56
protected interests, 31:1543	competing rights or freedoms, 31:55
non-bodily physical evidence, application to, 31:1548	constitutional questions, need to answer, 31:50
societal interest in adjudication on	constitutional rights not subject to
merits, 31:1544	Charter compliance, 31:66
waiver of right, 31:1525	constitutional validity
Extradition Act, 32:7	preference for, 31:22
Extraordinary remedies	presumption of, 31:21
jurisdictional error and, 26:4	constitutions, other, reference to, 31:37
Firearms, 18:417	contextual approach, 31:30
Fundamental freedoms	Crown fairness in criminal prosecu-
see Association, freedom of; Con-	tions, duty of, 31:40
science and religion; Peaceful	denominational school rights, 31:67
assembly, freedom of; Thought,	discretion, exercise of, 31:33
belief, opinion and expression	equality of rights and freedoms, 31:72
Fundamental justice	evidence, ordinary rules of, 31:26
see Principles of Fundamental Justice	extravagant interpretations, 31:12
Government matters, application to	extrinsic materials
see Application of	receipt for first time on appeal, 31:36
Guilty plea, 14:60	reference to, 31:35
Habeas corpus, 31:933	factual underpinning, 31:39
appeal re, 31:942	foreign law, 31:58

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Interpretation, principles of, **31:1** Interpretation, principles of, 31:1 -Cont'd -Cont'd free and democratic society, idea of, social and legislative fact findings, 31:16 31:57 functional and structural approach, specific guarantees, 31:51 31:6 specific vs. general Charter rights, genesis of Charter, 31:8 31:71 standing vs. justiciability, 31:24 global approach, 31:28 Hansard, reference to re context, 31:34 stare decisis, issues re, 31:69 headings, **31:45** supremacy of God, 31:43 timing of Charter violation allegation, historical meaning of rights, 31:11 31:36, 31:59 impugned legislation, purpose and effect of, 31:41 transitional period, 31:75 justiciability, 31:24 to 31:26 treaties, reference to, 31:37 laws of other countries, reference to, trivial limitations of rights, 31:13 31:38 two interpretations, 31:23 legal vs. language rights, 31:67 unnecessary interpretations, avoidance legality principle, 31:59.50 of, **31:49** legislative vs. Charter powers, 31:18 vagueness, doctrine of, 31:42 liberal not literal, 31:5 waiver of Charter right, 31:32 living tree doctrine, 31:14 Interpreter, assistance of, 31:1242 marginal notes, 31:46 accuracy, presumption re, 31:1258 application of guarantee, 31:1249, minority rights and freedoms, protection of, **31:7** 31:1251 multicultural heritage, 31:62 assertion of right, 31:1261 non-contravention, interpretation burden on accused, 31:1265 should favour. 31:23 communication with counsel at trial, official versions, ambiguity between, 31:1264 31:48 complementary language rights, organic approach, 31:4 31:1298 overbreadth. 31:42 corporations, 31:1254 plain meaning, 31:27 cross-examination by judge, 31:1260 political conventions, 31:64 deaf party/witness, interpreter for, political issues, 31:25 31:1259 inquiry re need, 31:1255 practical considerations, 31:15 principles of constitutional interpretajudge, by, 31:1256 tion, 31:2 procedural framework, 31:1253 public interest litigation, interim costs purpose of guarantee, 31:1252 to fund, 31:73 standard of interpretation, 31:1257 purposive approach, 31:1, 31:19 understanding proceeding, 31:1262 rational approach, 31:29 waiver, 31:1263 reference opinions, 31:69 Jury, order of closing addresses to, 17:88 referendums, 31:63 Life, liberty and security of the person retrospectivity, 31:61 see also Principles of fundamental rights and freedoms, 31:31 iustice rights vs. freedoms, 31:73 child in need of protection, 31:533 rights vs. remedies, 31:54 conditional rights, as, 31:440 rule of law, 31:44 contextual analysis, 31:426 separation of powers, 31:17 corporations, exclusion of, 31:442

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Life, liberty and security of the person	Life, liberty and security of the person
—Cont'd	—Cont'd
deprivation	property rights not entrenched by,
fundamentally just means, by, 31:446	31:438 public inquiry, 31:425
liberty, three forms of, 31:445	relationship between sec. 7 and sec. 1,
requirement of, 31:424	31:434
destroyed information, non-disclosure	security of the person
of, 31:562 ECHR "right to life," 31:436	abortion and, 31:468 arrest, at home, 31:716
economic/commercial rights and,	basic tenants of legal system, 31:483
31:439	blood samples, seizure of, 31:469
estates, 31:427	blood transfusion, 31:470
"everyone," meaning of, 31:442	bodily integrity, 31:466
extraditional, 31:406	breath sample, reasonable suspicion
"fair process" vs. particular type of	for, 31:472
process, 31:435	compulsion of victim to testify,
foetus, exclusion of, 31:444	31:480
human dignity, principle of, 31:427	consent obtained by compulsion,
independent rights, as, 31:441	31:482
inquiry re deprivation, nature of,	economic rights, 31:465
31:431 liberty	enforcement of foreign judgment, 31:478
arbitrary or irrational law, 31:451	fingerprints, taking of, 31:474
cannabis, use of, 31:454	health care, limited access to, 31:471
cannabis offences, 31:456	medical treatment, right to, 31:468
compulsory education, 31:461	personal autonomy, 31:466
contract, freedom of, 31:457	photographs, taking of, 31:476
deprivation of, 31:445	physical and personal integrity,
driving licence and, 31:459	31:466
gross disproportionate legislative	police right to question, 31:481
response, 31:452	punishment, freedom from, 31:462
harm principle, 31:450	right to good name, 31:479
imprisonment and, 31:448	right to sue, 31:477
meaning of, 31:447	roadside screening, 31:473
medical marijuana exemption,	suicide, physician-assisted, 31:467
31:455	separate interests, as, 31:430
parental rights, 31:460	two components of, 31:429
practising profession and, 31:459	stigma, freedom from, 31:428
prostitution and, 31:453	telephone restrictions at remand centre,
residual management rights re work	31:564
schedule, 31:457	Limitation of, 31:136
right to work and, 31:449	demonstrably justified
life, right to, 31:436	double criteria re, 31:161
limitations of s. 7, 31:433	effects of limitation, 31:172
non-penal matters, 31:423	ends and means, 31:162
permissive nature of deprivation,	evidence
31:432	absence of, 31:166
privacy, right to not included, 31:437	by means of, 31:162

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Limitation of, 31:136—Cont'd	Limitation of, 31:136—Cont'd
demonstrably justified—Cont'd	reasonable limits, 31:137—Cont'd
justified vs. reasonable, 31:167	state interest, 31:149
minimal impairment, 31:171	test re, 31:145
objective of limitation, 31:163	two-stage process, 31:139
policy arguments	two-step inquiry, 31:140
reference to Hansard re, 31:173	underlying values and principles,
use of, 31:165	31:143
pressing and substantive objective,	vagueness
31:164	administrative bodies, re, 31:182
proportionality, 31:168	tolerable certainty, 31:184
rational connection, 31:169	understandable and ascertainable standards, 31:183
sociological, cultural materials, 31:174	
free and democratic society	Minority language educational rights, 31:1377, 31:1386
Canadian standard, 31:177	accessibility, reasonable, 31:1403
other democratic societies, 31:175	child need not speak minority language,
onus of proof	31:1395
administrative infringement, 31:180	delegation to school board, 31:1404
on party justifying limitation, 31:178	discretion re practicability, 31:1397
preponderance of evidence, 31:179	equality rights and, 31:1392
presumption of constitutional valid-	equivalent facilities, 31:1400
ity, 31:181	general framework, 31:1388
prescribed by law	general regime, 31:1387
discussed, 31:153	general remedial right, 31:1389
guidelines and directives, 31:157	historical and social context, 31:1396
implicit prescription, 31:156	location of schools, 31:1404
judicial discretion, 31:160	majority language, no right to, 31:1398
judicial interpretation, 31:159	numbers warranting, 31:1406
law, meaning of, 31:154	parents not of linguistic minority,
regulations, 31:155	31:1392
vague and overly discretionary law,	parents of linguistic majority, 31:1394
31:158	quality of, 31:1401
reasonable limits, 31:137	Quebec, application to, 31:1399
budgetary considerations, 31:148	right to manage and control, 31:1402
contextual approach, 31:144	specific purpose of, 31:1391
denial vs. limitation, 31:152	Mistake of fact and, 21:235
evidence, necessity of, 31:151	Mobility rights, 31:403
flexibility, measure of, 31:146	exceptions
law vs. adjudicative decision, 31:141	Law Society restrictions, 31:419
minimal impairment, 31:147	laws of general application, 31:418
non-absolute nature of rights, 31:138	provincial professional requirements,
policy considerations of legislators,	31:420
31:147	right of entry and exit
proportionality, 31:139, 31:152,	extradition
31:168, 31:169	as reasonable limit, 31:404
rational basis, 31:142	crime committed in Canada, for,
reasonable basis for impairment,	31:407
31:150	hearing, Charter matters at, 31:408

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Mobility rights, 31:403—Cont'd	Offence, person charged with, 31:942
right of entry and exit—Cont'd	—Cont'd
extradition—Cont'd	bail, reasonable—Cont'd
prison transfer to Canada, 31:409,	guarantee to, 31:1108
31:415 procedural fairness re surrender	maintenance of public confidence (s. 510(c)), 31:1110
for extradition, 31:405	presumption of innocence
right to reside/pursue livelihood in any	as basis for bail, 31:1114
province	pending appeal, 31:1115
child's rights, 31:417	pending new trial, 31:1116
grandfathering provisions, 31:413	reverse onus
mobility rights, as, 31:410	
non-resident salesperson, 31:416	on murder charge, 31:1113 on narcotic charge, 31:1117
purpose of rights, 31:411, 31:412	
right to work, no free-standing, 31:414	public interest and protection and, 31:1118
Murder	right to, 31:1107
see also MURDER	show cause on accused, 31:1112
parties to common intention, 15:87	undue delay prior to bail hearing, 31:1109
Offence, person charged with, 31:942	benefit of lesser punishment
accused as non-compellable witness,	increase in penalty after commission
31:1015	of offence, 31:1183
see also TRIALS — Witnesses civil action	lesser punishment at sentencing,
concurrent, 31:1023	31:1182
discovery or trial, 31:1030	long-term offender provisions,
corporate directing mind, 31:1025	31:1186
examination of bankrupt by trustee,	prohibition orders, 31:1185
31:1024	"punishment," meaning of, 31:1179
extent of protection, 31:1016	reduction of penalty after sentence,
failure to testify	31:1184
adverse comment, re, 31:1020	replacement of offence by another,
adverse inference from, 31:1020	31:1180
foreign proceedings, 31:1017	sliding scale of punishment, 31:1181
incriminating statement, time for	"charged," meaning of, 31:943
determination, 31:1019	civil proceedings, inapplicability of,
non-application of protection,	31:947
31:1031	contempt of court, application re,
pending appeal, 31:1027	31:948
pre-trial evidence, application to, 31:1022	corporations and organizations, application to, 31:949
regulatory proceedings, application to, 31:1029	dangerous offender application inapplicable, 31:946
separate informations, 31:1026	double jeopardy, 31:1146
"tactical onus" to testify, 31:1018	binary vs. global right, 31:1177
testimonial compulsion, 31:1016	civil consequences of offence,
bail, reasonable	31:1163
after conviction, 31:1119	common law rule, 31:1176
denial without just cause, no,	completion of punishment for same
31:1111	offence. 31:1153

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Offence, person charged with, 31:942 Offence, person charged with, 31:942 —Cont'd —Cont'd double jeopardy, 31:1146—Cont'd fair and public hearing conditional discharge, revocation of, abolition of peremptory challenges, 31:1151 31:1131 contempt and criminal harassment, accused compelled previously to 31:1166 testify, **31:1081** accused's failure to attend trial, Crown appeal 31:1077, 31:1079 of acquittal, 31:1171 bail hearing, publicity ban at, on facts, 31:1172 31:1075 summary conviction acquittal, certificate evidence. 31:1072 31:1173 conflict of interest for counsel. dangerous offender application, 31:1067 31:1160, 31:1161 contempt proceedings, 31:1073 deportation, **31:1152** counsel, right to DNA samples, taking of not at trial, 31:1064 "punishment," 31:1165 effective counsel, 31:1066 early parole, abolition of, 31:1170 on appeal, 31:1065 extradition hearing, 31:1154 cross-examination on past convichung jury, 31:1168 tions, 31:1080 included offence, 31:1164 Crown stand asides, 31:1069, mandatory supervision, revocation 31:1081 of, 31:1162 extradition hearing, use of affidavits mistrial, 31:1168 at, 31:1071 multiple penal consequences, fairness, concept of, 31:1062 31:1159 fair trial, right to, 31:1063 "offence," meaning of, 31:1149 in camera hearing, 31:1076 parole, forfeiture of, 31:1169 inherently prejudicial practices. perjury following convictions, 16:40 31:1174 jury trial, Attorney General requirpreliminary inquiry, discharge at, ing, 31:1082 31:1156 perpetuated evidence, 31:1074 presumption against retrospectivity police prosecutors, 31:1083 of greater punishment, 31:1177 preliminary inquiry, sealed packet at, probation, breach of, 31:1155 31:1070 "punishment," meaning of, 31:1150, publicity, excessive, 31:1078 31:1165 forfeiture of goods, inapplicability to, purpose of prohibition, 31:1147 31:951 same offence element, 31:1148 independent and impartial tribunal second or subsequent offences, administrative tribunals, non-ap-31:1158 plication to, 31:1093 stay of proceedings, 31:1157 contempt in face of court, 31:1104 use of firearm during indictable court martial offence, 31:1167 General Court Martial, 31:1101 young person, failure to comply, standing, 31:1102 31:1155 independence vs. impartiality, 31:1084, 31:1087 ex post facto offences, no, 31:1141 extradition hearing, inapplicability to, independent commissions, financial 31:950 security of, 31:1089

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Offence, person charged with, 31:942	Offence, person charged with, 31:942
—Cont'd	—Cont'd
independent and impartial tribunal —Cont'd	innocence, presumption of, 31:1032 —Cont'd
judges	reverse onus re mens rea, 31:1037
competency of, 31:1095	trial, application at, 31:1035
disciplinary hearing against,	jury trial, right to, 31:1120
31:1096	abolition of peremptory challenges,
financial security of, 31:1089,	31:1131
31:1090	"benefit of trial by jury," meaning
part-time, 31:1099	of, 31:1122
removal of, 31:1097	contempt of court, 31:1126
sources of independence, 31:1087	corporations, 31:1135
supernumerary, federal judges,	court martial trial, 31:1134
31:1098	Crown adding charge, 31:1127
judicial immunity, 31:1100	Crown option offence, 31:1136
judicial participation in investigative hearing (s. 83.28), 31:1091	Crown's right, 31:1010
maintenance orders, enforcement of,	dangerous offender application, 31:1125
31:1106	
office held at pleasure, 31:1094	discharge of juror, 31:1132
prejudicial comments by government	five years or a more severe punish- ment, 31:1121
officials, 31:1105	judge's opinion on evidence, expres-
purpose of, 31:1085	sion of, 31:1124
standard of independence, 31:1088	juvenile delinquent, 31:1137
information re specific offence, 31:952	loss of, 31:1129
additional offence disclosed by evi-	re-election to, 31:1130
dence, 31:964	representative jury, right to, 31:1125
avoidance of process, 31:955	retrial of original election, 31:1133
Crown election, 31:962	waiver of by accused, 31:1128
failure to refer to charging section,	withdrawal of charge, 31:1140
31:958	young person, 31:1138, 31:1139
included offences, 31:959	lesser punishment where variation in,
multiple and alternative offences,	31:1175
31:960	nature of charge, 31:944
purpose in giving, 31:953	offence in force
real prejudice without, 31:954	access to law, 31:1142
specific averment, 31:963 subsequent charge, 31:961	prior interpretation, 31:1145
summons, 31:965	war crimes, 31:1143
writing requirement, 31:956	parole eligibility, application to acceler-
innocence, presumption of, 31:1032	ate (s. 745.6), 31:945
see also reverse onus	presumptions
	see reverse onus
juvenile delinquent, application to, 31:1034	reverse onus
key principles of, 31:1031.50	association with prostitutes, 31:1051
non-application of, 31:103130	bail pending trial and appeal, 31:1054
public and press, application to,	bawdy house, found in, 31:1055
31:1038	blood alcohol reading, 31:1053
purpose of presumption, 31:1033	evidentiary burden. 31:1041

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Offence, person charged with, 31:942	Offence, person charged with, 31:942
—Cont'd	—Cont'd
reverse onus—Cont'd	trial within reasonable time, 31:967
examples	—Cont'd
invalid reverse onuses/	delay reasonable, 31:995
presumptions, 31:1058	extradition hearings, 31:1014
valid reverse onuses/	extraordinary remedies causing
presumptions, 31:1059 excuse or justification	delay, 31:1003
generally, 31:1046	individual right, as, 31:970 judge's delay, 31:997
	, , , , , , , , , , , , , , , , , , ,
burglar tools, re, 31:1047 facts peculiarly within accused's	jury roll, right to representative, 31:1103
knowledge, 31:1060	motion, discretion re when to hear,
justifiability of, 31:1040	31:976
mandatory presumption, 31:1043	multiple trials, 31:1002
permissive presumption, 31:1044	new proceedings, 31:1012
possession of recently stolen prop-	overall delay, 31:1002
erty, 31:1061	post-verdict delay, 31:999
presumption of innocence, as violat-	pre-charge delay, 31:980
ing, 31:1039	pre-information delay, 31:979
presumption of sanity, 31:1049	prejudice to accused, 31:1009
presumption re age, 31:1050	presumptively unreasonable delay,
presumptions of fact, 31:1042	31:984, 31:985
registered weapon certificate,	promise to appear, 31:979
31:1048	purpose of guarantee, 31:968
strict liability and due diligence,	re-trial delay, 31:1004
31:1056	review of trial findings, 31:1008
truth as defence to wilfully promot-	unreasonable delay
ing hatred, 31:1052	below presumptive ceiling, 31:986
valid statutory presumption, 31:1045	co-accused/others caused delay,
separate charge, 31:1028	31:1006
time of act/omission, criminality	defence delay, 31:1002
requirement, 31:1182	defence-waived/caused delay,
trial within reasonable time, 31:967	31:1010
administrative delay, 31:969	direct indictment, 31:897
appeal, delay raised only on, 31:1013	direct indictment after laying
application to all trial courts, 31:971	information, 31:989
Charter applications re, framework	exceptional circumstances, 31:985
for, 31:981	factors, 31:990
corporate accused, 31:975	meaning of, 31:981
Crown appeal, 31:1007	presumptive ceiling, 31:983
Crown's right to jury trial, 31:1011	presumptively unreasonable delay,
Crown's stay of proceedings, 31:998	31:984, 31:985
delay, requirement to raise issue in	re-election re mode of trial, 31:988
timely manner, 31:1026	
delay as from charge, 31:977	transition, application of, 31:982
delay as from charge, 31.377 delay as question of law, 31:1004	trial judge management to avoid, 31:996
delay caused by co-accused, 31:1006	
delay caused by defence, 31:1005	unreasonable delay, 31:994
delay caused by defence, 31:1005	verdict deliberation delay, 31:999

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Offence, person charged with, 31:942	Presumption of Innocence
—Cont'd	see INNOCENCE, PRESUMPTION
trial within reasonable time, 31:967	OF
—Cont'd	Principles of fundamental justice, 31:422
youth court delay, 31:974	aboriginal accused, "proportionate
Official languages, 31:1359	sentence," 31:615
bilingual/minority official language proceedings, 31:1379	abuse of process generally, 31:593
bilingual statutes, 31:1375	Charter applicability, 12:110
change in venue re language of trial,	entrapment as, 31:600
31:1382	pre-charge delay as, 31:595
complementary language rights, three,	relaying of charge as, 31:603
31:1298	access to personal information held by
counsel of choice, right to, 31:1380	government, 31:346, 31:539
disclosure in language of trial, 31:1436	accomplice as Crown witness, 31:586
English and French	adequate investigation, right to, 31:494
advancements of, 31:1371	adjudication on facts and law, 31:510
as official languages, 31:1369	administrative appeal, submission on, 31:520
federal courts, 31:1373	administrative hearing, 31:535
federal institutions	amnesia, accused suffering from,
communication by public, 31:1384	31:573
(provincial functions) in New Bruns-	application of law, arbitrariness and
wick, 31:1370	disproportion, 31:507
municipal matters, 31:1385	arbitrariness, overbreadth and gross
New Brunswick, linguistic rights in, 31:1386	disproportionality, 31:505 arbitrary laws, 31:506
preliminary inquiry in accused's	bail hearing
official language, 31:1377	evidence at, 31:645
provincial offence tried in accused's	right of accused to testify at, 31:647
official language, 31:1378	bodily harm, unlawfully causing,
transcript of evidence, access to,	31:552
31:1381	breathalyzer, refusal re, 31:646
trial in accused's official language (ss.	child, counsel for, 31:649
530, 530.1), 31:1376, 31:1436	compendious expression, as, 31:487 compensation orders, 31:556
understanding language chosen, 31:1374	compulsion, statutory defence of,
Override provision, 31:101	31:502
constitutional override power, 31:102	compulsory treatment, 31:642
declaration of override, 31:103	concepts involved, 31:486
formal requirements, 31:105	confession, trickery in obtaining,
general override, 31:104	31:519
Peaceful assembly, freedom of	consent defence, removal of, 31:607
freedom of association, 31:351	counsel, limitation on access right, 31:501
freedom of expression, relation to,	Crown's right of appeal, 31:598
31:352	dangerous driving, 31:554
prisoners, by, 31:350	dangerous offender application, 31:531
Perpetuated evidence, 16:229	delay
Preliminary inquiry and, 13:22, 13:54	appellate, 31:597

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Principles of fundamental justice, 31:422	Principles of fundamental justice, 31:422
—Cont'd	—Cont'd
delay—Cont'd	Hague Convention re child refugee,
pre-charge, 31:595, 31:980	31:648
test re pre-charge, 31:596	harmless conduct, criminalization of,
deportation, 31:529, 31:636	31:450
detention of mentally unfit accused,	inadmissibility of non-citizens re
31:543	national security, 31:530
direct indictment, 31:557	incapacity to make full answer and
disclosure	defence, 31:572
informer's identity, of, 31:567	injunction, 31:499 inmates
right to, 31:571	
stay for non-disclosure, 31:565	see parolees and inmates
discretion, exercise of, 31:498	issuing process, 31:581 jail sentence, mandatory, 31:571
discussed, 31:485	joinder of counts, 31:558
drinking and driving charge	
administration of ASD, alcohol in	jury Crown's right to address last, 31:604
mouth, 31:584	mandatory jury trial, 31:611
automatic suspension of licence, 31:614	right to civil, 31:540
drunkenness	secrecy, 31:605
	legal rights provisions, interplay with,
common law defence of, 31:525 removal of, 31:609	31:484
·	loitering in park by sex offender,
evidence	31:553
bail hearing, at, 31:645	manifest unfairness, 31:497
perpetuated, 31:585	manslaughter, 31:551
restriction on adducing, 31:591	mens rea
right to test, 31:566	care/control of motor vehicle, 31:49
videotaped (ss. 715.1 and 715.2),	need for, 31:495
31:588	military service offences, 31:655
videotaped evidence of witness with disability, 31:589	mistake of fact re age, 31:606
· · · · · · · · · · · · · · · · · · ·	moral fault, need for, 31:495
ex parte trials, 31:582	moral voluntariness, need for, 31:495
extradition hearing	multiple punishment, 31:577
generally, 31:527	murder
fair process requirement, 31:638	attempted, 31:549
foreign country, standards in, 31:641	constructive, 31:544
use of depositions at, 31:635	first degree, 31:545
extraterritorial crimes, 31:528, 31:529	implied intent re, 31:546
fair notice, 31:511	objective liability and, 31:548
fault	provocation to, 31:547
objective, 31:550 , 31:552	non-publication of accused's identity,
regulatory offences, for, 31:570	31:641
firearms, no constitutional right to bear,	obscenity
31:576	definition of, 31:503
foreign jurisdiction, deprivation by, 31:651	ignorance of nature of obscene matter, 31:612
full answer and defence, 31:493 , 31:572	offence in force at time of commission. 31:490

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Principles of fundamental justice, 31:422 —Cont'd	Principles of fundamental justice, 31:422 —Cont'd
oppressive/vexatious proceedings,	public inquiry prior to trial, 31:512
31:594	publicity, widespread, 31:599
oral hearing, 31:536	rape shield provisions, 31:591
overbreadth, 31:509, 31:640	reasons for judgment, failure to give,
parolees and inmates	31:578
day parole, 31:626	regulatory offences, fault and imprison-
discretion of institutional head,	ment for, 31:570
31:632	removal from court, 31:583
double-bunking, 31:633	right of appeal, 31:653
isolation/withholding programs,	right to control defence, 31:500
31:628	right to remain silent, 31:518
knowledge of case against, 31:631	right to state-funded counsel, 31:652
mandatory release, 31:629	safe injection facility, 31:644
mandatory supervision, withholding,	sealed packet, access to, 31:560
31:627	seat belts, mandatory, 31:650
parole application, 31:624	self-incrimination
parole term, non-association, 31:630	compulsory records in regulated
rights of, 31:623	industry, re, 31:517
right to counsel at hearing, 31:625	Crown's theory of liability, re,
van rides to and from court, 31:634	31:515
penal negligence, 31:550	forensic DNA samples, taking of,
penalty, reasonable notice re greater,	31:475
31:538	investigative hearing re terrorism
people smuggling, offence of, 31:640	offences, 31:516
peremptory challenges and stand	pre-charge inquiry and, 31:514
asides, 31:569, 31:1131	residual right against, 31:513
possession of controlled drugs, 31:555	right of witness against, 31:523
preliminary inquiry, at	statement
disclosure, refusal to order, 31:620	elicitation of by trickery, non-active, 31:520
jurisdiction re remedy, 31:618	income tax, 31:521
re-election, Crown's consent to, 31:621	tax statement, statutory compulsion
right to, 31:622	to make, 31:522
sealed packet, opening of, 31:619	statutory definition, lack of, 31:508
presence at hearing	stay of proceedings, 31:559
right of accused, 31:579	stolen property, prior possession of,
presumption of innocence, 31:488	31:613
previous convictions, cross-examina-	substantive review, 31:491
tion on, 31:603	substitution of health care decisions,
principles re, key, 31:484.50	31:643
private information records, access to,	summary judgment, 31:541
31:565	suspension of civil proceedings, 31:617
procedural fairness, 31:492, 31:535	testimony
procedural safeguards against miscar-	behind screen, 31:590
riage of justice, 31:489	transfer to adult court, 31:616
prosecutorial discretion, 31:568	"true adjudication," requirements for,
psychiatric assessment, refusal to	31:510
submit to 31:524	unrepresented accused 31:654

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Principles of fundamental justice, 31:422	Remedies, 31:1398, 31:1408—Cont'd
—Cont'd	court of competent jurisdiction
vagueness, 31:508	—Cont'd
vicarious liability, 31:542	appellate court—Cont'd
war crimes, 31:526 weapons prohibitions, mandatory,	dangerous offender appeal, 23:192, 31:1459
31:575	inherent and ancillary powers, 31:1457
witnesses	new Charter issues on appeal,
right to confront, 31:587 tainting of Crown witness by police,	31:1460
31:601	pre-trial ruling, appeal of, 31:1458
untried or unsentenced accomplice	remedy by, limitation on, 31:1456
as, 31:586	statutory court, as, 31:1455
Youth Criminal Justice Act, 31:534	collective agreement, 31:1439
Private prosecution, 12:95	Criminal Code exhaustive of
Protection of privacy, 4:2	appeals, 31:1436
Religion, freedom of, 31:186	extradition proceedings, 31:1437
driver's licence, photograph require-	jurisdiction
ment, 31:224	no increased, 31:1435
religious beliefs, definition of, 31:192	requirement of prior, 31:1433
same-sex marriages, freedom not to	preliminary inquiry
perform, 31:202	no power to stay, 31:1441
terrorist activity, 31:219	not court of competent jurisdic-
wearing kirpan at school, 31:218	tion, 31:1450
Remedies, 31:1398, 31:1408	power to exclude evidence,
appropriate and just remedy	31:1442
appellate intervention, 31:1469	provincial court
declaration of law at judgment, 31:1472	Crown compensation, no power to order, 31:1446
efficacious requirement, 31:1462 extension of invalid law, 31:1473	jurisdiction to award remedies, 31:1445
nexus with legislative objective, 31:1470	mandamus, no power to order, 31:1446
nexus with wrong, 31:1463	no additional jurisdiction, 31:1444
range of remedies, 31:1464	power to declare legislation invalid, 31:1443
reduced sentence as remedy, 31:1475 reference to past practices, 31:1471	superior court
remedy not appropriate, 31:1474	admission on criminal motions,
stay as exceptional remedy, 31:1477	31:1454
tainted possession of seized items,	co-ordinate jurisdiction, 31:1452
31:1485 costs, 31:1466, 31:1494	federal legislation, attack on, 31:1448
court of competent jurisdiction	inherent jurisdiction of, 31:1447
additional powers, vesting of, 31:1434	matter before inferior court, 31:1450
administrative or statutory tribunals, 22:105, 31:1438	motion to strike for no cause of action, 31:1451
appellate court	motion vs. action, 31:1453
Charter remedy on appeal, 31:1461	summary conviction appeal court, 31:1449

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Remedies, 31:1398, 31:1408—Cont'd	Remedies, 31:1398, 31:1408 —Cont'd
damages	right of appeal
availability of, 31:1465, 31:1492	admission of evidence ruling,
constitutional damages, 31:1491	31:1499
constitutional tort, 31:1490	Charter rulings as questions of law,
Crown prosecutorial misconduct,	31:1499
31:1466	interlocutory order, 31:1497
exclusion of evidence	moot appeal, 31:1501
no stay where evidence admissible,	non-publication order, of, 31:1496
31:1479	stay of proceedings, of, 31:1495
provisions re, 31:1478, 31:1519	total absence of evidence, 31:1500
exemption, issuance of, 31:1480	standing to apply
impounding seized documents, 31:1429	abortion injunction, 31:1419 action for declaration, 31:1413
injunction	anticipatory breach, 31:1426
interlocutory, 31:1483 issuance of, 31:1480	charge and violation, nexus between,
judicial review	31:1425
mandamus inappropriate re stay,	charged with offence, being, 31:1409
31:1503	Charter jurisdiction after trial
other remedies available, 31:1505	terminates, 31:1411
prerogative writ where no appeal,	costs to successful civil party,
31:1502	31:1428
presumption against prerogative	damages, action for, 31:1417
remedy, 31:1504	interventions, 31:1418
onus of proof	issue estoppel, 31:1424
assertion of violation, 31:1430	mootness, 31:1412
balance of probabilities, 31:1429	personal right, 31:1410
causal link requirement, 31:1432	premature application, 31:1427
prima facie violation, 31:1431	procedural bars, 31:1420
procedure	public interest standing, 31:1416
affidavits, cross-examination on,	reasonable cause of Charter action
31:1513	and standing, 31:1414
evidence, requirement to hear,	s. 8 Charter declaration, 31:1415
31:1518	third party
factual backdrop, need for, 31:1515	searches, 31:1422
frivolous application, 31:1516	violations, 31:1421
judge raising Charter issue, 31:1517	wiretaps, 31:1423
motion	trade unions, 31:363
civil motion during criminal	stay
proceedings, 31:1512	declaration of unconstitutionality, of,
defence at trial, as, 31:1510	31:1481
during criminal trial, 31:1509	issuance of, 31:1480
individual pre-trial, 31:1506	unreasonably seized items, return of
pre-trial Charter, 31:1507	copies, notes, etc., 31:1488
summary dismissal of, 31:1508	delay of return, 31:1487
withdrawal of, 31:1511	discretion to order return, 31:1484
normal, 31:1514	factors re detention, 31:1486
purposive interpretation of s. 24(1),	return vs. admissibility, 31:1489
31:1408	Restitution orders, 18:375

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Search and seizure, unreasonable, 31:655,	Search and seizure, unreasonable, 31:655
31:656	31:656 —Cont'd
generally, 3:3	interference with private and family
administrative searches	life, 31:670
audit powers, 31:787	investigative detention, pat-down
mandatory information under ITA, 31:786	search incidental to, 31:693 , 31:807
privacy, low expectation of, 31:785	investigative techniques, impermis-
regulatory searches, 31:784	sible, 31:692
tax seizure, 31:788	legislation permitting, 31:697
American authorities, relevance of, 31:793	plain view, seizure pursuant to, 31:794 prior judicial authorization, 31:676
burden on accused, 31:675	privacy
computers, privacy interest in, 31:681	individual, 31:669
concurrent search purposes, 31:672	office, of, 31:792
corporations, 31:658	reasonable expectation of, 31:662 , 31:668
customs searches, 31:712	rights, 31:790
conduct of, 31:783	state intrusion on, 31:671
lower standard of reasonableness,	subject matter of search as factor,
31:781	31:667
temporary restraint, 31:780	private search, 31:660
warranted, 31:783	real property, seizure of, 31:789
warrantless, 31:763	reasonable and probable grounds for
warrant provision of Customs Act,	warrant, 31:678
31:782	reasonableness
disjunctive nature of terms, 31:665	factors determining, 31:687
dwelling house, 31:791	meaning of, 31:663 self contained meaning in provision,
electronic surveillance	31:698
constitutional validity, 31:772	reasonable suspicion for search, 31:679
electronic beeper, 31:777	retrospectivity, 31:795
search and seizure, constituting, 31:771	s. 7 analysis, redundancy of, 31:657
surreptitious entry of private resi-	search
dence, 31:775	blood samples
video surveillance, 31:779	demand for, 31:709
videotaping, 31:778	taken by hospital, 31:708
wiretaps	demand for
admissibility of evidence,	blood samples, 31:709
principles, 4:84	breath sample, 31:705
consent, 31:773	driver's licence, 31:706
consent re admissibility, 31:774	information, 31:704
emergency, 31:776	eavesdropping, 31:711
"everyone," meaning of, 31:658	illegal vs. unreasonable vs. arbitrary, 31:690
foreign search, 31:659	inspection of documents, 31:707
forms of, 31:664	meaning of, 31:702
impact on subject of, 31:666	posted signs indicating, 31:700
informational privacy, 31:681	reasonable, 31:688
inquiry re grounds 31:685	safety search warrantless 31.703

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Search and seizure, unreasonable, 31:655 ,	Search and seizure, unreasonable, 31:655 ,
31:656 —Cont'd	31:656 —Cont'd
search—Cont'd	search with warrant—Cont'd
unreasonable execution of, 31:689	writs of assistance, 31:737
visual observations, 31:710	seizure
warrantless	blood sample, 31:724
see warrantless search	breath sample, 31:726
with warrant	breath sample under provincial
see search with warrant	legislation, 31:723
search of the person	by police from third party, 31:674
choking re drug search, 31:766	confiscation, 31:722
frisk search, 31:764	consent and, 31:713
incident of arrest, 31:762	detention order, 31:728
internal search, 31:767 , 31:770	fingerprints, 31:727
strip search, 31:768 , 31:783 , 31:784	forced production of documents
suspicion, 31:769	civil, 31:719
timing, 31:763	criminal, 31:720
search warrant	forfeiture and restraint, 31:718
defective, 31:691	impounding car, 31:715
entry prior to, 31:696	impounding materials, 31:701
general, 31:677	of other item, 31:699
hearsay grounds, 31:683	person, of, 31:717
invalid federal provisions re, 31:682	real property, 31:714
judicial discretion re issuing, 31:680	records, inspection and photocopies
reasonable and probable grounds requirement, 31:678	of, 31:721
search with warrant	restraint order, 31:729
blood sample by warrant, 31:738	standing to attack, 31:673
determination by judge, 31:734 disorderly house search warrant,	subject matter of search as privacy determinant, 31:667
31:731	substantial interference with rights
DNA judicial warrants, 31:733	requirement, 31:686
ex post facto justification, 31:746	totality of circumstances, 31:684 warrantless search
extended search warrant, 31:742	
general search warrant, 31:730	arrest
informer's statement, disclosure of, 31:744	after, 31:756, 31:757 before, 31:759
prior unconstitutional search, 31:750	auto, for, 31:695
quashing warrant	consent and waiver, 31:751
admissibility of evidence, 31:740	courthouse perimeter searches,
cross-examination of affiant,	31:753
31:745	exigent circumstances
indirect collateral attack, 31:747	described, 31:761
reasonableness of execution, 31:736	need for, 31:694
reasonableness of issuance, 31:735	lawful detention, following, 31:758
seizure of other items, 31:743	open fields doctrine, 31:750
typographical/technical errors, 31:739	presumption of unreasonableness, 31:748
weapons, re, 31:732	prison inmates, of, 31:754

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Search and seizure, unreasonable, 31:655, Thought, belief, opinion and expression **31:656**—Cont'd —Cont'd warrantless search—Cont'd access to courts—Cont'd private property, right to enter, personal records, automatic ban, 31:749 31:309 reasonable suspicion exception, prohibition re filming re courtroom, 31:760 31:320 school official, by, 31:752 acts and deeds, protection of, 31:245 weapons, for, 31:755 broad and purposive interpretation, 31:236 Testimonial self-incrimination, 31:1219 coercion or constraint, absence of, affidavit evidence, 31:1233 31:232 applicability of protection, 31:1228 bail hearing, 31:1242 communication re prostitution, 31:240 confidentiality order in civil suit, civil liability, 31:1194 31:242 civil or administrative proceedings, contempt of court by media publicaprior, 31:1232 tion, 31:244 contradictory evidence, 31:1238 effective expression, 31:237 cross-examination expression, freedom of accused to impeach credibility, abortion services, protest re, 31:235 31:1237 access to government information, accused witness to incriminate him, 31:252 of. 31:1236 advertising by professionals, limits non-accused witness, of, 31:1234 on, 31:258 timing of ruling, 31:1235 child pornography, 31:286 examination for discovery, 31:1245 common law limits on, 31:259 extent of protection, 31:1226 conduct permitted by, 31:249 forfeiture hearing, 31:1245 confidentiality order in civil suit, incriminating evidence, 31:1230 31:242 non-absolute nature of, 31:1229 contempt by scandalizing court, non-accused witness, jury instruction 31:275 re, 31:1237 criminal indecency, 31:290 perjury, 31:1238 criticism of fellow teacher, 31:281 preliminary inquiry, 31:1241 defamatory libel prior conviction, admission at trial, civil. 31:266 31:1240 criminal, 31:265 purpose of protection, 31:1227 demonstrations, 31:259 re-trial after appeal, 31:1247 distribution of leaflets, peaceful, sentencing hearing, 31:1244 31:254 testimonial protection, 31:1231 election or referendum spending, voir dire. 31:1243 31:260 waiver of immunity, 31:1248 extent of protection, 31:246 Thought, belief, opinion and expression gross indecency, 31:290 access to courts hatred, promotion of, 31:263 in camera proceedings, 31:319 ideas and beliefs, protection of, innocent persons, identities of, 31:247 31:321 information, access to government, no absolute ban on, 31:316 31:252 non-absolute right, 31:317 information supplied by union to members, 31:255 open-court principle, 31:318

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Thought, belief, opinion and expression	Thought, belief, opinion and expression
—Cont'd	—Cont'd
expression, freedom of—Cont'd	freedom re, meaning of, 31:234,
inquiry re violation	31:242
issues considered, 31:251	labour issues
steps, 31:250	electioneering, ban on, 31:348
lawyer's expression on legal matters,	picketing as expression, 31:347
31:284	language of choice, 31:243
letter of recommendation, 31:279	mental aspect of human activity,
municipal employees as municipal	31:236
councillors, 31:267	non-absolute nature of, 31:233
national security, protection of,	political vs. commercial speech, 31:241
31:261, 31:346	press, freedom of the
negative obligation, as, 31:244	concealing identity of person/place
oath of citizenship, 31:273	searched, 31:307
obscene matter (s. 163), 31:285	court exhibits, examination of,
obscene theatrical performance,	31:310
31:287	court exhibits, publication of during
personal information, use of in	trial, 31:314
labour contexts, 31:256	court proceedings
picketing, peaceful, 31:254, 31:275, 31:276	audio publication of, prohibition re, 31:295
posters in public areas, 31:280	cameras in courtroom, 31:294
professionals	concealing identity of accused,
limits on advertising by, 31:258	31:304
picketing, 31:277	concealing identity of journalistic
professional criticism, 31:270	source, 31:301, 31:303
regulation of advertising by, 31:349	concealing identity of witnesses, 31:302
regulation of unregistered, 31:269 publications, 31:259	contemptuous pretrial publicity, 31:309
public property, access to, 31:253	limited access re interviews and
purposes of, 31:248	photos, 31:296
racial contempt, 31:272	necessity of reporting, 31:292
referendum, right to vote at, 31:271	press vs. private citizen, 31:297
Remembrance Day prohibition, 31:278	publication of court exhibits after trial, 31:313
right of teacher to use film as	rights after acquittal, 31:311
educational tool, 31:282	scrutiny and openness of, 31:298
right to vote at referendum, 31:270	special status for media, 31:291
school employee as school trustee,	defamation by, 31:299
31:268	distribution of newspapers, 31:315
seal-hunt filming, 31:283	publication ban
sexual immorality in home endanger-	bail hearing, at, 31:324
ing child's morals, 31:289	court of appeal, by, 31:328
terrorist activity, 31:219	inferior court judge, by, 31:326
union dues, compulsory, 31:257	superior court judge, by, 31:327
wilful promotion of hatred, 31:262	trial judge, by, 31:325
wilful publication of false statement,	responsible communication defence,

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Thought, belief, opinion and expression Vote, right to, 31:379—Cont'd -Cont'd municipal plebiscite, 31:402 press, freedom of the-Cont'd municipal voting, 31:403 sealing order, 31:293 political speech vs., freedom of, 31:386 search warrant of media premises, prisoner 31:305 already sentenced, 31:391 subpoenaed media official, 31:306 on remand, 31:390 publication bans probation, persons on, 31:394 see also press, freedom of the provincial assembly, disqualification re accused's identity, 31:337 membership, 31:400 alleged wrongdoer, identity of, public funding to registered parties, 31:341 31:389 application to lead other sexual purpose of guarantee, 31:380 activity, 31:336 referendum, 31:401 bail hearing, at, 31:324 registered electoral parties, 31:388 complainant's/witness's/juror's residency requirement, 31:397 identity (ss. 486.4, 486.5), school trustee, right to run for, 31:399 31:335 voter identification, requirement re, election information, 31:345 31:396 evidence at change of venue applica-CLASSIFICATION OF OFFENCES tion, 31:339 Anomalous classification, 7:10 journalistic source, re, 31:331 By jurisdiction of court, 7:11 jurisdiction to make, 31:327 court of criminal jurisdiction, 7:14 jurors, identification of, 31:334 electable indictable procedures, 7:12 marital proceedings, 31:342 indictable procedures, 7:11 materials disclosed in civil suit, offences not otherwise classified, 7:16 31:343 summary conviction court, 7:15 review of indefinite ban, 31:344 superior court (plenary jurisdiction), right to fair trial, 31:329 7:13 temporary ban, 31:332 Canadian young person's identity, 31:340 after 1892, 7:2 publication of prejudicial information, three types, 7:6 contempt for, 31:330 Common law, at, 7:1 public servants criticism of government by, 31:239 Crown option offences, 7:17 public expression by, 31:238 appeal consequences, 14:70 Vote, right to, 31:379 arrest by private citizen re, 5:3 absentee voting, 31:395 attempted property offences under § 5,000, **7:23** application of, 31:383 discrimination under Charter, 31:1335 democratic principles, relevance of, 31:395 dual offence as included offence, 7:34 deviations from voter parity, 31:385 election effective representation, 31:384 abandonment of, 7:29 election results, annulment of, 31:387 by indictment resulting in election by accused, 7:37 judges, 31:392 by prosecutor, 7:24 liberal interpretation of enfranchising statutes, 31:382 by provincial court judge, 7:26 mentally disordered persons, 31:393 change of, 7:30 municipal office, right to run for, conviction deemed indictable 31:398 offence, 7:33

CLACCIELCATION OF OFFENCES	
CLASSIFICATION OF OFFENCES —Cont'd	CLASSIFICATION OF OFFENCES —Cont'd
Crown option offences, 7:17—Cont'd	Indictable offences—Cont'd
election—Cont'd	superior court (s. 469), triable only in
endorsement requirement, 7:25	—Cont'd
failure of Crown re, 7:28	waiver of jury trial, 7:44
in absence of accused, 7:27	Misdemeanours, 7:1
military offence, 7:20	Petty offences, 7:1
not contravening Charter, 7:22	Public welfare offences, 7:7
timing of, 7:38	Summary conviction offences (s. 785),
guilty plea to, 14:70	7:53
hybrid/mixed offence, sentence for,	agents at trial, 16:26
7:40, 18:151	described, 7:53
indictable, meaning of, 7:35	U.S. classification, 7:4
indictable for purposes other than trial,	CO-CONSPIRATORS
7:36	See also CONSPIRACY
joinder of dual and indictable offences,	Acts and declarations of unindicted co-
7:31	conspirators, 19:73
jury trial, right to, 31:1136 mixing not fatal, 7:32	Authorized intercepted communications,
procedure on, 7:19	4:104
prosecutor's discretion, 7:18	Corroboration re declaration of, 19:108
provincial court judge, within absolute	Evidentiary rules, application to, 19:56
jurisdiction, 7:21	Exclusion of evidence, 31:1579
terminology re, varied, 7:17	Pure narrative not admissible against,
time limitations	19:63
generally, 1:37	COMMISSION EVIDENCE
determination on election, 1:39	Civil rules of practice, application of,
no bar, 7:39	16:201
English classification, 7:3	Commissioner's power to compel
Federal offences, 7:9	testimony, 16:202
Felonies, 7:1	Commission out of Canada
French classification, 7:5	accused, presence or absence, 16:207
Indictable offences	application re, 16:205
provincial court judge, in absolute	considerations re granting, 16:206
jurisdiction of, 7:21, 7:46	foreign law, application of, 16:211
attempted property offences over	letters rogatory re, 16:213
01675,000, 7:52	Counsel's duty of co-operation, 16:221
discretion to hold preliminary, 7:51	Denial of cross-examination, 16:199
monetary amount indicated, 7:49	Described, 16:197
non-consensual jurisdiction, 7:46	Evidence on application for, 16:200
not exclusive jurisdiction, 7:48	Factors considered on application, 16:198
summary trial on information, 7:47	Foreign commission in Canada
value over 01675,000, 7:50	counsel representing accused, status of, 16:218
superior court (s. 469), triable only in	discretion re, 16:216
generally, 7:41	letters rogatory, 16:214
forms of indictments, 7:42	documents only, 16:210
non-jury trial, right to, 7:45	non-enforcement of, 16:219
procedure, 7:41	preconditions, 16:215
Quebec trials, 7:43	Forms of evidence, 16:203
240000 Hidis, 7.40	i dillib di evidence, ittiato

COMMISSION EVIDENCE—Cont'd COMMON LAW-Cont'd Fresh evidence on appeal, 16:203 Insanity, tests at, 22:1 Illness or other cause, application re, Joinder 16:204 counts, 9:247 Media, presence of at hearing, 16:208 summary conviction and indictable Reading in offences, 9:289 Crown's discretion re, 16:212 Jury trial, powers re, 17:81 preconditions, 16:210 Murder at, 27:35 Refusal to answer/produce documents, Necessity at, 21:85 16:222 Parties to common intention, rule re, Trial judge as commissioner, 16:209 15:69 Possession at, 16:428 **COMMITTAL** Preferring indictments at, 11:2 Consent. 11:25 Preliminary inquiry at, 13:1 For extradition, 32:75, 32:114 Principals and accessories at, 15:1 For trial Provocation at. 27:143 certiorari to quash Rules and principles of, 31:90 see Certiorari Search and seizure warrant, 3:1 committal or discharge of accused, Seizure of jurisdiction doctrine, 1:125 13:58 Standing mute at, 14:14 extended jurisdiction re, 1:121 Territorial jurisdiction, 1:57 joinder of separate committals, 11:59 Verdicts Preliminary inquiry, at included offences, 16:278 see PRELIMINARY INQUIRY Waters, jurisdiction over at, 1:96 Quashed, 11:15 Withdrawal of charges at, 12:151 Warrant of, 18:205 **COMPETENCE AND COMMON LAW** COMPELLABILITY Abuse of process, power re, 12:110 See TRIALS — Witnesses Arrest without warrant at, 5:1, 5:12, 5:13 Attempts at, 20:5 COMPULSION, DEFENCE OF Bail at, **6:1** See also DURESS, DEFENCE OF Charter application of, **31:109**, **31:127** Affirmative defence, as, 21:106 Classification of offences at, 7:1 Availability Conspiracy at, 19:16 party to conspiracy or association, Criminal negligence, definition at, 28:2 21:117 Criminal pleadings at secondary party, 21:121 see CRIMINAL PLEADINGS Charter validity, 21:104, 31:502 Duress by threats, British definition of, Drafting of statement of offence, 9:61 21:136 Drunkenness defence at, 21:38, 31:525, 31:609 Duress of circumstances, British defini-Duplicity and multiplicity, rule re, 9:77, tion of. 21:96 9:83 Duress vs., 21:119 Duress, definition of, 21:126 Kidnapping, availability for, 21:109 Exceptions, evidentiary rule re, 9:107 Onus of proof, **21:118** Expression, common law limits on Principal offenders, application only to, freedom of, 31:259 21:108 Guilty plea at, 14:57 Rationale for, 21:107 Homicide, culpable, at, 27:1 Related defences, 21:101 Indictable appeals at, 23:1 Related terms, 21:99 Indictments, amendment of at, 9:201 Ruzic case, after, 21:105

COMPULSION, DEFENCE OF—Cont'd	CONSENT—Cont'd
Spousal coercion, abolition of presump-	HIV positive, failure to disclose, 21:310
tion of, 21:102	Homicide, to, 21:300
Statutory defence of, 21:103 , 31:502	Interception of communications, to, 4:13 ,
Threats and	4:25
concomitancy of offence and, 21:111	Jurisdiction, re, 1:8, 1:47
harm to third party, 21:112	Medical treatment by mentally disordered
immediate death/bodily harm, 21:110	person, to, 21:297
opportunity to escape threatener,	Obtained by compulsion, 31:482
21:115	Preferring indictments, 11:19, 11:25
particular crime requirement, 21:113	Preliminary inquiry, 13:66
physical presence of threatener, 21:114	Prosecuting offences
reasonable subjective belief re, 21:116	see PROSECUTING OFFENCES —
CONFESSION	Attorney General
Charter freedom of conscience and	Re-election, 8:47
religion, 31:201	Seizure, 31:713
Hearsay evidence rule, 31:519	Statutory provisions re, 21:298
Obtained through trickery, 31:519	Supreme Court of Canada appeals consent judgments, 23:284
Videotaped, 16:184	Trafficking in person, 21:305
Voluntariness, 31:519	Warrantless search, 3:235, 3:236, 31:751
CONSCIENCE, FREEDOM OF	Wiretaps, re, 31:773
See CHARTER OF RIGHTS	
	CONSPIRACY
CONSENT	See also CO-CONSPIRATORS
Abduction of young persons, 21:304	Abetting, 15:65
Committal, re, 11:25	Agreement to commit more than one
Defence, as	offence, 19:98
assault, to	Aiding and abetting vs., 19:16
generally, 21:306	Association and, 19:40
mistake re consent, 21:313	Attempt and, 19:14, 20:13
assault causing bodily harm, 21:312	Attempt to conspire, 19:8
discussed, 21:301	Charge
drunkenness, 21:227	particulars in, 19:106
removal of, 31:607	rule re, 9:41
sexual assault	severance of accused on, 19:107
generally, 21:307	sufficiency, 9:129
accused and complainant's	wording of, 19:104
testimony, 21:317.50 air of reality re consent, 21:225	Compulsion, defence of, 21:117 Conspiracy rule, change to, 16:335
apprehended consent, 21:314	
evidence of other sexual activity,	Conspiracy to attempt, 19:10
21:311, 21:317.50	Counselling and, 15:105, 19:14
mentally impaired accused, 21:316	Count re
mistake re consent, 21:314	divisibility of unlawful objects within same count, 19:101
vitiated consent, 21:308	multiple agreements within same count
sexual offences, specified, 21:302	19:103
Definition of (A.L.I.), 21:315	non-severed counts, 9:265
Excision of external genitalia, no consent,	one agreement subdivided into counts,
21:303	19:100, 19:111
Guilty plea to included offence, 14:65	severance of accused. 9:285

CONSPIRACY—Cont'd	CONSPIRACY—Cont'd
Count re—Cont'd	Evidentiary rules re, 19:56 —Cont'd
severance of counts, 9:261	co-conspirators—Cont'd
Divisibility of conspirators, 19:97	pure narrative not admissible against,
Duplicity and multiplicity and, 9:89	19:63
Elements of offence, 19:26	similar acts and declarations, 19:59
agreement	witness testifying re co-conspirators,
acting in concert vs. independently,	19:60
19:39	conduct in furtherance of conspiracy, 19:57
actus reus, 19:34	conduct prior to conspiracy, 19:66
changes to, 19:38	continuation of conspiracy, 19:70
committal of offence, 19:42	corporate documents, 19:72
negotiations, 19:41	declaration of non-conspirator, 19:73
proof of, 19:36	declaration of hon-conspirator, 19:75
pursuit of strict liability/recklessness offence, 19:35	spiracy, 19:68
pursuit of unlawful object, re, 19:34	declarations as to future conduct, 19:64
qualified, 19:41	declarations in furtherance of conspir-
relevance of association, 19:40	acy, 19:58, 19:65
single act in general conspiracy, 19:43	documents and wiretap declarations, 19:71
tacit or implicit, 19:37	joint accused, 19:61
intention	motion for directed verdict, 19:57
	similar fact evidence, 19:112
mere intention insufficient, 19:46	termination of conspiracy
purchase of drugs, 19:48	by all but one of conspirators, 19:69
recklessness insufficient mens rea, 19:47	declarations after, 19:68
	wider conspiracy, revelation of, 19:102
to adhere to agreement, 19:44	Extraterritorial jurisdiction, 1:78
to play some part, 19:45	Historical origins of offence, 19:2
knowledge	Impossible object, to commit, 19:11,
absolute/strict liability offences, 19:33	19:12 Inciting to, 15:120
degree of, 19:30	Individual liability, 19:109
direct communication between	Intention in common, vs., 19:15
conspirators, 19:29	Issue estoppel/res judicata defence, 19:5
general conspiracies, 19:28	Jurisdiction, 19:86
general nature of conspiracy, of,	conspiracy in Canada
19:27	to commit offence outside Canada,
illegality, of, 19:31	19:89
mere knowledge insufficient, 19:32	to overthrow foreign government,
listed, 19:26	19:90
Evidentiary rules re, 19:56	conspiracy in foreign country
accused not joined, where, 19:62	to commit offence in Canada, 19:92
acts and declarations prior to agree-	local nature of crime, 19:86
ment, 19:67	overt acts conferring, 19:88
co-conspirators	s. 465(3) and (4) conspiracies, 19:93
conviction/acquittal of co-conspira-	venue, vs., 19:87 Jury trial, re, 19:51
tors, 19:94	Lawful object, to commit, 19:13
corroboration re declaration of,	Merger with substantive offence, 19:18
19:108	i wiciger with substantive offence, 19:18

CONSPIRACY—Cont'd	CONSPIRACY—Cont'd
Multiple conspiracies, 19:99	Verdicts—Cont'd
Multiple convictions, 16:648 , 19:19	need for two convictions, 16:334
Nature of offence, 19:1	Wiretap evidence, Charter contravention,
Offence of, 19:22	admissibility, 19:65
British statutory definition of, 19:19	CONSTITUTIONAL LAW
common law, at, 19:16	See also CHARTER OF RIGHTS —
overt acts in different countries, 19:18	Constitution of Canada, primacy of
types, 19:22	Aboriginal peoples, 31:1583
Overt acts, 19:14 , 19:18	American courts, concurrency of jurisdic-
Parties to, 19:76	tion, 34:66
husband and wife	American executive orders, 34:75
marital privilege and, 19:83	Canadian governments, roles of branches
with each other, 19:81	34:5
with others, 19:82	Canadian vs. British laws, 34:10
organizations	Characterization of laws, 34:23
directing minds	generally, 34:24
and organization, 19:80	colourability doctrine, 34:34
fraud by, 19:79	concurrent legislative jurisdiction,
number of, 19:78	34:28
liability of, 19:76	constitutionality
probable membership, 19:77	assessment of, process re, 34:25
persons with legal immunity	declaration of unconstitutionality,
exemptions re, 19:84	effectiveness of, 34:78
immune victim and accused, 19:85	presumption of, 34:36 distribution of legislative powers,
Plurality rule, 19:4	34:24
Proof of	double aspect doctrine, 34:28
conspiracy charged, 19:96	effect of particular law, 34:33
existence of conspiracy, 19:52 membership of accused	federalism, principle of, 34:29
beyond reasonable doubt, 19:54	federal spending power, 34:31
probable, 19:53	interjurisdictional immunity, 34:30
three-stage process outline, 19:49	"matter" of challenged law, determina-
Rationale for offence, 19:7	tion of, 34:26
Reverse onus offence, conspiracy to com-	national concern doctrine, 34:27, 34:61
mit, 19:9	peace, order and good government,
Secondary party to, 19:17	34:27, 34:60
Separate, 19:20	principled approach to, 34:27
Statutory forms of, 19:3	purpose of particular law, 34:32
Three-stage process re	reading down, doctrine of, 34:37
three more conspirators, 19:49	severability, 34:38
two conspirators, 19:50	singling out for special treatment,
Tort of, 19:21	34:35
Unknown unindicted conspirators, 19:95	Constitutionality of legislation, grounds
Verdicts	for challenging, 34:20
acquittal of some conspirators, 19:75	Constitution of Canada
conspiracies as included offences, re,	amendments to, 34:7
16:319	defined, 34:4
conspiracy vs. substantive charges,	Conventional international law, 34:12
16:329, 19:74, 19:110	Corrections, 34:56

CONSTITUTIONAL LAW—Cont'd	CONSTITUTIONAL LAW—Cont'd
Courts, provincial vs. federal, 34:74	Non-criminal law matters, 34:58 —Cont'd
Criminal justice, administration of, 34:54	national concern doctrine, 34:27, 34:61
Criminal law, 34:45	peace, order and good government,
Canada Evidence Act, 34:56	34:27, 34:60
definition of, 34:48	property in province, 34:63
division of powers re, 34:46	taxing power, federal and provincial,
enforcement of, 34:53	34:65
invalid federal laws re, 34:51	trade and commerce, 34:62
provincial encroachments on, 34:52	Parliamentary privilege, 34:17
provincial penal laws, 34:55	Parliamentary sovereignty, 34:15, 34:16
valid federal laws re, 34:50	Prerogative power of mercy, 34:73 Provincial legislative authority over
Youth Criminal Justice Act, 34:49	municipalities, 34:22
Criminal law and procedure, overlap	Provincial non-superior courts
between federal-provincial matters, 34:47	constitutional jurisdiction of, 31:82
Crown, 34:6	vires jurisdiction of, 34:9
Declaration of unconstitutionality, imme-	Provincial superior courts
diate vs. suspended effect, 34:78	constitutional jurisdiction of, 31:81
Imperial Privy Council, appeals to, 34:3	vires jurisdiction of, 34:9
Indian, meaning of, 31:1583	Reference questions, discretion re, 34:14
Interjurisdictional immunity, 34:30	Royal prerogative, 34:76
International law, customary, 34:13	Senate, reform of, 34:8
Interpretation of legislative powers, 34:38	Standing, 34:2
ancillary doctrine (incidental effect),	Statutory vs. constitutional superior
34:27, 34:41, 34:42	courts, 34:70
Constitution Act	Superior vs. inferior courts, 34:69
classes of subjects, 34:39	Supreme Court of Canada, Quebec
criminal law, 34:46	Members, 34:67
direct concurrency of powers, 34:43	Treaties, power to make, 34:11
exhaustiveness, 34:44	Tribunals, constitutionally disqualified
delegation of powers, 34:45	(doctrine of necessity), 34:80
federal paramountcy, doctrine of, 34:40	Unconstitutional law, effect of, 34:79
Judicial review, 34:1	Unified national judicial system, 34:68 Unwritten constitutional principles, 34:22
core policy decisions, immunity of,	Unwritten constitutional principles, 34:22
34:18	CONTEMPT OF COURT
Judicial supremacy, 34:16	Access to courts, obstruction of, 29:43
Judiciary	Affidavit evidence re, 29:35
federal vs. provincial appointments,	Alternative remedies, 29:29
34:72	Apology, purging contempt by, 29:59
jurisdiction of superior court to hear	Appeal against conviction, 23:56, 29:60,
constitutional challenges, 34:73	29:66
Ministerial override of judicial decision, unconstitutionality of, 34:19	Attack on persons connected with court, 29:50
National unity and rule of law, 34:71	Charter rights and
Non-criminal law matters, 34:58	application re, 31:887
see also Characterization of laws	arbitrary arrest/detention, 31:822
generally, 34:59	contempt citation, 31:887
civil rights in province, 34:63	double jeopardy, 31:1166
interprovincial trade, 34:64	expression, freedom of, 31:244

CONTEMPT OF COURT—Cont'd	CONTEMPT OF COURT—Cont'd
Charter rights and—Cont'd	Jurisdiction of court to punish for
fair hearing, 29:56 , 31:1073	—Cont'd
independent and impartial tribunal,	provincial court judge, 29:23, 29:26
31:1104	superior court, 29:15
jury trial, right to, 29:58, 31:1126	Supreme Court of Canada, 29:28
right to counsel, being informed of, 29:57	witness refusal to be sworn/testify, 29:25
summary process, 29:56	youth justice court, 29:21
Civil contempt, 29:4	Juror, misconduct by, 29:54
appeal, 29:60	Lawyer
no parole for, 29:64	misconduct by, 29:53
repeated breaches of civil order, 29:63	wilful non-attendance by, 29:52
sentencing for, 29:62	Liability for
Civil vs. criminal contempt, 29:10	Crown and ministerial, 29:12
Compellability of contemnor, 29:9	trade union, 29:11
Contempt citation, particulars of, 29:38	vicarious, 29:13
Contempt in face of court, 29:16, 29:18 Contempt out of fact of court, 29:17,	Municipal by-law, repeated breaches of, 29:34
29:20 Criminal contempt	No miscarriage of justice proviso (s. 686(1)(b)(iii)), 23:190
appeal against, 29:6	availability of, 23:189
described, 29:5	burden on Crown, 23:193
disobedience of court order, 29:47	Crown appeals, 23:191
examples of, 29:65	Crown failure to rely on, 23:209
initiation by judge, 29:8	directed verdict on Crown appeal,
mens rea for, 29:45	23:194
provincial power to limit, 29:14	error of law, notwithstanding, 23:207
Criminal offence, same conduct constituting, 29:46	exclusion of evidence for Charter breach, 23:208
Definition of, 29:3	exculpatory evidence excluded, 23:195
Dispute of previous ruling, 29:55	factors considered, 23:202
Function of appellant court, 23:185	failure of accused to testify at trial, 23:210
Initiating of proceedings, persons permitted, 29:36	failure of counsel to object at trial, 23:211
Intervention in proceedings, persons permitted, 29:36	judge's findings of credibility, review of, 23:201
Invalidity of order giving rise to	jurisdictional error, 23:189
contempt, 29:49	jury charge
Journalist, refusal to disclose source, 29:48	review of by appellate court, 23:198 viewed as whole, 23:197
Judge's jurisdiction re, 29:8	jury findings of fact, review of, 23:199
Jurisdiction of court to punish for	procedural irregularity (s.
contempt in face of court, 29:18	686(1)(b)(iv)), 23:213
contempt out of face of court, 29:20	rationale for, 23:190
county court judge, 29:27	relationship between s. 686(1)(a) and s.
court of appeal, 29:28	686(1)(b)(iii), 23:206
court of record, 29:22	slip of tongue, 23:200
preliminary inquiry, 29:23	statutory omissions, application to,
"preserve order in court" power, 29:24	23:196

CONTEMPT OF COURT—Cont'd	CORONER
No miscarriage of justice proviso (s.	Generally, 9:17
686(1)(b)(iii)), 23:190 —Cont'd	CORPORATIONS
tactics of counsel at trial, 23:212	Application of Charter to
tests, 23:203	equality rights, 31:1268
unfairness, appearance of, 23:204	interpreter, right to assistance of,
Notice of basis of charge, 29:37	31:1254
Opportunity to explain conduct, 29:33	jury trial, right to, 31:1135
Order for new trial, 23:221	life, liberty and security of the person
Origins of, 29:1	rights, 31:442
Personal attack on judge, 29:42	person charged with offence, as, 31:949
Power to allow, 23:174	search and seizure, freedom from
additional order under s. 686(8), 23:184	unreasonable, 31:658
disregard of material evidence by trial	Conspiracy, party to
judge, 23:182	see CONSPIRACY — Parties to
error of law, 23:185	Direct indictment against, 11:57
evidence supporting verdict, 23:178	Sentencing of
failure to mention or give effect to	see SENTENCING
material evidence, 23:182	Words deemed to include, 33:87
findings of fact, 23:175	CORROBORATION
insanity verdict, substitute of (s.	Declaration re co-conspirators, 19:108
686(1)(d)), 23:183	Differing requirements as discrimination,
misapprehension of evidence, 23:179,	31:1332
23:180	Prosecutor's discretion to prosecute,
miscarriage of justice, 23:186	12:64
three grounds for, 23:173	Requirements, 16:685
uneven scrutiny of evidence, 23:181	Statutory corroboration, 16:684
unreasonable verdict, 23:176, 23:179	COSTS
Publication causing risk of prejudice,	Against Crown, 24:31, 24:35, 31:1466
29:39	Against Crown, 24:31, 24:35, 31:1400 Against lawyer, personally
Public inquiry during criminal prosecu-	civil, 24:33
tion, 29:40	criminal, 24:34
Purpose of, 29:2	Charter discrimination and, 31:1356
Quashing of guilty verdict, 23:174	Charter remedy re, 31:1494
Scandalizing court, 29:41	
Sentencing for, 29:61	Civil costs, generally, 24:32
Summary process	Extraordinary remedies and, 26:24 Order for new trial, no order re costs,
Charter validity of, 29:56	23:244
indictment/information, vs., of, 29:30	Payment of to accused, 2:22
nature of, 29:32	
use of, 29:31	Successful civil party, to, 31:1428
Tape recorder, use of in court, 29:51	Summary conviction appeals, 24:30
Third party contempt, 29:7	COUNSEL
Voluntariness of accused's statement,	Address to jury
review of, 16:609	see JURY TRIAL
Witness	Charter right to
defaulting, 1:198	see CHARTER OF RIGHTS —
refusal to be sworn, 29:25	Counsel, right to retain, Evidence,
Young person, 30:25	exclusion of; criteria for exclusion

COUNSEL—Cont'd	COURTS—Cont'd
Child, for, 31:649	Fair and public
Commission evidence	see CHARTER OF RIGHTS — Offence, person charged with
counsel's duty of co-operation, 16:221 Conflict of interest, 14:45 , 31:1067	Independent and impartial
	see CHARTER OF RIGHTS —
Conviction appeal failure of to object at trial, 23:211	Offence, person charged with
tactics of counsel at trial, 23:211	Judges
	see JUDGES
Decisions by, surrogacy principle, 12:20 Fair and public hearing and	Jurisdiction
	see JURISDICTION
conflict of interest of counsel, 31:1067	Provincial
right to counsel, 31:1064	see CHARTER OF RIGHTS — Reme-
Guilty plea by, 14:56	dies, Court of competent jurisdic-
Insanity	tion; JURISDICTION — Territo-
assignment of counsel, 22:78	rial
Right to counsel	Summary Conviction Appeal Court, con-
fundamental justice, as, 31:652	stitution of, 24:3
on appeal, 31:1065	Superior
parolees and inmates, 31:625	see CHARTER OF RIGHTS — Reme-
Supreme Court of Canada appeals, power	dies, Charter, Court of competent jurisdiction
to appoint, 23:265	Supreme Court of Canada
Trial, at	see SUPREME COURT OF CANADA
see TRIALS — Preliminary matters	APPEALS
Young person, 30:35 , 31:911	Youth court
COUNSELLING	see YOUTH JUSTICE COURT
Attempt, vs., 15:104	CRIMINAL LAW
Conspiracy and, 15:105, 19:14	See CONSTITUTIONAL LAW
Parties to offence	
see PARTIES TO OFFENCE	CRIMINAL NEGLIGENCE
COLINCELLOD CONFECCION TO	Acts or omissions or both, 28:29
COUNSELLOR, CONFESSION TO	Causing death in operation of motor vehi-
Generally, 31:201	cle, 28:20, 28:30
COURT MARTIAL	Civil standard, application of, 28:3
Bail pending appeal from conviction,	Commission vs. omission, 28:15
6:119	Contributory cause of death, 28:21
Prosecutor's discretion, Charter equality	Contributory negligence by victim, 28:22 Dangerous acts, duty to complete, 28:25
rights and, 7:20	Dangerous driving vs., 28:27
Right to independent and impartial	Dangerous weapons or things, use of,
tribunal	28:26
General Court Martial, 31:1101	Definition
standing, 31:1102	Code, 28:1
Right to jury trial, 31:1134	common law, 28:2
COURTS	Driving while intoxicated, 28:31
See also CLASSIFICATION OF	Drunkenness as defence, 28:11
OFFENCES	Evidence after act, 28:18
Court of competent jurisdiction	Foetus, to, 28:5
see CHARTER OF RIGHTS — Reme-	Impairment as, 28:31
dies	Intentional act encompassed within, 28:17

CRIMINAL NEGLIGENCE—Cont'd	CRIMINAL PLEADINGS—Cont'd
Manslaughter by, 27:126, 28:4	Duplicity and Multiplicity, 9:77—Cont'd
Manslaughter vs., 28:32	multiple objects, 9:89
Medical treatment, objective standard re,	possession of narcotic, 9:95
28:24	pre-1955 summary conviction cases,
Non-criminal statute, contravention of,	9:92
28:16	recent trends, 9:79
Offences re, 28:1	s. 590, application of, 9:81
Omitting to act in face of duty, 28:12 Parents and others having duty, 28:14	tests re
Recklessness	former, 9:97
applied to criminal negligence, as, 28:9	primary, 9:98
general doctrine re, 28:7	theft, 9:96
Similar acts, 28:19	"unlawfully," use of word, 9:101
Street racing, 28:28	void for uncertainty doctrine, 9:102
"Wanton or reckless disregard"	Exceptions, 9:105
marked departure from objective stan-	burden of proving, 9:106
dard, 28:10	common law evidential rule re, 9:107
meaning of, 28:6	Facts particularly within one's knowledge, 9:109
CRIMINAL PLEADINGS	Modern approach to, 9:48
Amendments	Motion to quash
see INDICTMENTS AND INFORMA-	see INDICTMENTS AND INFORMA
TIONS	TIONS
Civil action not suspended by criminal charge, 9:51	Negatives, 9:105
Common law, at	need not be pleaded, 9:105
charges, 9:26	other averments, 9:108
proper accusation requirement, 9:27	Particulars, 9:144
rules, 9:24	generally, 9:144
Duplicity and Multiplicity, 9:77	aid to trial judge, as, 9:147
alternative modes of same offence,	amendment of, 9:168
9:93	amounts, 9:174
autrefois acquit/convict, 9:84, 9:99	application to non-trial judge, 9:146
careless driving, 9:94	broad range, 9:162
common law rule, 9:77	burden on accused, 9:153
application of, 9:78	Crown bound by
basis for, 9:83	Crown's theory as particulars, 9:167
conspiracy, 9:89	general rule, 9:165
subordinate conspiracy, 9:91	oral particulars, 9:166
defect in form, 9:80	Crown unable to furnish, 9:156
duplicitous acts or omissions, 9:82	defining "factual transaction" Crown
duplicitous count	must prove, 9:67
amendment of, 9:86	defining issues through, 9:148
dividing, 9:87	disclosure, vs., 9:152
examples of duplicity, 9:103	evidence, vs., 9:150
examples of non-duplicity, 9:104	fettering of prosecution, 9:144
included offence not duplicitous, 9:85	indictment, as part of, 9:163
late objection, 9:88	judge's discretion, 9:158
matter of form, as, 9:100	material facts, 9:149
multiple agreements, 9:90	particulars not to be ordered, 9:155

Particulars, 9:144—Cont'd possession of goods obtained by indictable offence, 9:169 pre-1955, 9:159 premature application for, 9:164 prior knowledge considered, 9:157 purpose of, 9:145 s. 587, paramountcy over s. 583, 9:161 sufficiency, lack of, 9:160 theory of liability vs., 9:151 Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of rule re, 9:74 different victims, 9:70 discretion re number of counts, 9:76 duplicity and distinction between, 9:71 overlap between, 9:73 overlapping of counts vs., 9:72 general rule, 9:66 several incidents, 9:68 void for uncertainty, 9:75 Statement of offence, 9:54 dalternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140 first degree, 9:139	CRIMINAL PLEADINGS—Cont'd	CRIMINAL PLEADINGS—Cont'd
able offence, 9:169 pre-1955, 9:159 premature application for, 9:164 prior knowledge considered, 9:157 purpose of, 9:145 s. 587, paramountcy over s. 583, 9:161 sufficiency, lack of, 9:160 theory of liability vs., 9:151 Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47	Particulars, 9:144—Cont'd	
discretion re number of counts, 9:69 premature application for, 9:164 prior knowledge considered, 9:157 purpose of, 9:145 s. 587, paramountcy over s. 583, 9:161 sufficiency, lack of, 9:160 theory of liability vs., 9:151 Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleading rules, purposes of, 9:29 statement of charge, 9:47		
division of count into several counts, 9:164 prior knowledge considered, 9:157 purpose of, 9:145 s. 587, paramountey over s. 583, 9:161 sufficiency, lack of, 9:160 theory of liability vs., 9:151 Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleading rules, purposes of, 9:29 statement of charge, 9:47		· ·
prior knowledge considered, 9:157 purpose of, 9:145 s. 587, paramountcy over s. 583, 9:161 sufficiency, lack of, 9:160 theory of liability vs., 9:151 Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleading pr		
purpose of, 9:145 s. 587, paramountcy over s. 583, 9:161 sufficiency, lack of, 9:160 theory of liability vs., 9:151 Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof at joint trial, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleading rules, purposes of, 9:29 statement of charge, 9:47		
s. 587, paramountcy over s. 583, 9:161 sufficiency, lack of, 9:160 theory of liability vs., 9:151 Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleading provisions of Code,		
overlap between, 9:73 overlapping of counts vs., 9:72 general rule, 9:66 severse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of clause, 9:140 overlapping of counts vs., 9:72 general rule, 9:66 several incidents, 9:68 void for uncertainty, 9:75 Statement of offence, 9:54 generally, 9:54 all essential elements, 9:64 alternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details mot required, 9:126 examples insufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of oretrainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference, 9:59 common law drafting, 9:61 English practice, 9:52 specificity, 9:63 Sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 gol		
theory of liability vs., 9:151 Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof (multiple offences), 9:43 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of offence, 9:40 overlapping of counts vs., 9:72 general rule, 9:66 several incidents, 9:68 void for uncertainty, 9:75 Statement of offence, 9:54 generally, 9:54 all essential elements, 9:64 alternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:122 guideline, 9:122 minder generally, 9:64 alternative modes of wording, 9:57 Canadian practice, 9:55 statement of ofence, 9:55 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficien		
Provisos, 9:105 Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of offence, 9:54 all essential elements, 9:64 alternative modes of wording, 9:57 Canadian practice, 9:55 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy, 9:111 alternative wordings of offence, 9:120 conspiracy, 9:111 alternative wordings of offence, 9:120 conspiracy, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:54 all essential elements, 9:66 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:131 sufficiency, 9:130 sufficiency, 9:131 sufficiency, 9:132 factual d	•	_ ·
Reverse onus within underlying offence, 9:110 Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47		
void for uncertainty, 9:75 Statement of offence, 9:54 generally, 9:54 all essential elements, 9:64 alternative modes of wording, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of offence, 9:54 generally, 9:54 all essential elements, 9:64 alternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:54 all essential elements, 9:64 alternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:62 charge in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder		
Rules and principles charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of offence, 9:54 generally, 9:54 all essential elements, 9:64 alternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:120 curative provisions generally, 9:126 extamples in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:122 guideline, 9:122 guideline, 9:122 multiple accused d		i i
charge anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47		
anomalous situations re wording of, 9:33 conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47		· ·
sonspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 alternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative modes of wording, 9:57 Canadian practice, 9:56 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative modes of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:59 common law drafting, 9:61 English practice, 9:52 specificity, 9:63 Sufficiency, 9:112 alternative modes of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual de		1
conspiracy, 9:41 deeming clauses incorporated in, 9:30 definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 Canadian practice, 9:56 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment enert enert oreference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		·
definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 certainty requirement, 9:62 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140	conspiracy, 9:41	
definitions, inclusion in, 9:28 divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 charge in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140	deeming clauses incorporated in,	_
divisibility of, 9:38 interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 in popular language, 9:58 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140	7.00	· ·
interpretative provisions, inclusion in, 9:28 joint and several liability, 9:39 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 in words of enactment, 9:60 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:129 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:60 English practice, 9:55 specificity, 9:63 Sufficiency, 9:110 alternative wordings of offence, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:222 guideline, 9:123 high treason, 9:129 invisidiction prior to election, 9:128 knowledge of accused re case to meet. 9:127 murder generally, 9:140		
reference to element of minimum sentence, 9:59 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 reference to element of minimum sentence, 9:59 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140	•	
sentence, 9:59 legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47		· · · · · · · · · · · · · · · · · · ·
legal character of, 9:31 multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 common law drafting, 9:61 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:40	,	
multiple, 9:46 failure of proof (multiple offences), 9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 English practice, 9:55 specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:112 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140	•	
specificity, 9:63 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 conspiracy charge, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		_
9:43 failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 Sufficiency, 9:111 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		
failure of proof at joint trial, 9:42 indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 alternative wordings of offence, 9:120 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		
indictment as minor premise, 9:34 information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 conspiracy charge, 9:129 curative provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		
information/indictment concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		_
concurrent, 9:52 defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 generally, 9:137 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		1
defects in, 9:49 multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 details not required, 9:138 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140	concurrent, 9:52	_
multiple accused discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 demand for particulars, 9:117 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet 9:127 murder generally, 9:140	defects in, 9:49	
discretion re number of counts, 9:44 failure of proof, 9:42 insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 evidence at preliminary inquiry, 9:126 examples insufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet. 9:127 murder generally, 9:140	multiple accused	_ ·
insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 examples insufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		
insufficient nexus between charge and, 9:40 objection to indictment before plea, 9:32 parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 insufficiency, 9:131 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		
sufficiency, 9:132 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 pleadings rules, purposes of, 9:29 statement of charge, 9:47 sufficiency, 9:132 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		
parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 factual detail, 9:111 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140	*	
parties accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 golden rule, 9:122 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140	•	· · · · · · · · · · · · · · · · · · ·
accessory after fact, 9:37 party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 guideline, 9:123 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		· · · · · · · · · · · · · · · · · · ·
party to offence, 9:35 secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 high treason, 9:139 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		_
secondary, 9:36 pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 jurisdiction prior to election, 9:128 knowledge of accused re case to meet, 9:127 murder generally, 9:140		
pleading provisions of Code, application of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 knowledge of accused re case to meet, 9:127 murder generally, 9:140		
tion of, 9:45 pleadings rules, purposes of, 9:29 statement of charge, 9:47 9:127 murder generally, 9:140		
pleadings rules, purposes of, 9:29 statement of charge, 9:47 murder generally, 9:140		
statement of charge, 9:47 generally, 9:140	,	murder
	statement of charge, 9:47	generally, 9:140

CRIMINAL PLEADINGS—Cont'd CROSS-EXAMINATION—Cont'd Sufficiency, 9:111—Cont'd Ouashing search warrant, on, 3:128, property, ownership of 31:745 Sexual complainant, 31:1338 person/persons unknown, 9:142 Testimonial self-incrimination rule, 9:141 special property interest, 9:143 see CHARTER OF RIGHTS purpose of statement, 9:113 Trial, at see TRIALS recent approach, 9:124 reference to other counts. 9:121 **CROWN** rule re (s. 581(3)), 9:112 See also PROSECUTING OFFENCES s. 581(3), paramountcy of, **9:136** Action/injunction/mandamus against, section number 12:22 no reference to. 9:133 Admissions by, 16:164 reference to, 9:134 Appeals by specificity requirement, 9:114 see Appeals time, 9:116 Assessment order, application for, 22:54 summary conviction offences, re, 9:125 Authorized intercepted communications time and place, 9:115 access to sealed packet by Crown, 4:96 nature of offence, and, 9:118 prerogative re leading evidence, 4:102 "wilfully," omission of, 9:130 Automatism, onus on accused to estabwords of enactment, 9:119 lish, 21:30 Surplusage, 9:170 Certiorari, application for, 26:73 broad time-frame, 9:176 Charge discretion, 9:15 examples of, 9:184 Commission evidence, discretion re readfatal variance, 9:171 ing in, 16:212 general rule, 9:170 Contempt of court, liability for, 29:12 name, variance of, 9:183 Crown option offences ownership, 9:182 see CLASSIFICATION OF place **OFFENCES** immateriality, 9:179 Disclosure by required to give jurisdiction, 9:180 generally, 13:83 specified dates, between, 9:178 defence request requirement, 13:88 time and evidentiary matters, 9:177 late/non-disclosue, remedies at trial for, 13:86 time immaterial, 9:175 specific situations, 13:87 "unlawfully," use of, 9:172 Discrimination under Charter, application unnecessary particulars, 9:181 to, 31:1269 wrong section or subsection specified, Divisibility of. 12:24 9:173 Double jeopardy, Crown appeal as, **CROSS-EXAMINATION** 31:1360 By judge re need for interpreter, 31:1260 Immunity, **1:23** Character evidence, on, 16:134 Insanity Charter affidavits, on, 31:1513 evidence, 22:42 Expert witness, of, 16:668 raised by Crown, 31:1334 Extradition hearing, at, 32:66 Interception of private communications, Past convictions, on, 31:603, 31:1080 notice duty, 4:170 Perpetuated evidence Issue estoppel unavailable to, 14:157 see PERPETUATED EVIDENCE Mandamus, 26:97, 26:98 Police statement, on, 31:932 Onus re Psychiatric assessment, on, 22:85 generally, 16:77

CROWN—Cont'd	DANGEROUS ACT—Cont'd
Onus re—Cont'd	Unlawful
guilty plea sentence hearing, 14:55	see MANSLAUGHTER — Unlawful
mens rea, 21:325	act
mistake of fact, 21:233	DANGEROUS DRIVING
Particulars, Crown bound by, 9:165	See DRIVING OFFENCES
Plea bargaining	
see SENTENCING — Plea bargaining	DANGEROUS OFFENDER
Preliminary inquiry disclosure by, 13:83 ,	Appeals, 23:192, 31:1459
13:109	Application judge, 18:381
Privilege	Arbitrary arrest or detention, 31:810
see Privilege	Charged with offence, not, 31:946
Probation, 18:309	Cruel and unusual punishment, 31:1200
Procedendo, right to invoke, 26:101	Double jeopardy and, 31:1161
Re-election, consent to, 31:621	Hearing, adjournment of, 18:383 Legislation re, 18:379
Right to address jury last, 17:88, 31:604	Long-term offender, finding in substitu-
Right to jury trial, 31:1010	tion, 16:308, 18:395
Sentencing	Principles of fundamental justice and,
bargaining, 18:456	31:531
onus, 18:224	Right to jury trial, 31:1125
submissions, 18:228 , 18:239	Right to retain counsel, 31:933
view of facts, 18:232	Sentencing of
Separate indictments, discretion re trials of, 9:280	see SENTENCING
Severance of accused, discretion re, 9:278	DEATH
Severance of counts, discretion re, 9:263,	Abatement of appeal, 23:168
9:279	Causing through operation of motor vehi-
Stand asides by, 17:23, 31:1069, 31:1081	cle, 28:30
Stay of proceedings prerogative, 12:100	Homicide
Supreme Court of Canada, appeal to,	see HOMICIDE, CULPABLE
23:250	Informant, of, 10:67
Trial forum, election re, 8:14	Murder
Undertaking, 12:145	see MURDER
Witnesses, duty to call, 13:112	Of child caused by assault on pregnant woman, 27:5
CROWN OPTION OFFENCES	Of victim after guilty plea, 14:110
See CLASSIFICATION OF OFFENCES	Penalty, extradition and, 31:1202
CRUEL AND UNUSUAL TREATMENT	Self-defence and
See CHARTER OF RIGHTS	see SELF-DEFENCE, DEFENCE OF — Unprovoked assault
CUSTOMS	Threats and ensuing immediate death,
Right to retain counsel, 31:871	21:110
Search and seizure	DEFENCE OF OTHERS
see CHARTER OF RIGHTS — Search	(PREVENTING CRIME)
and Seizure, unreasonable	Described, 21:137
DANGEROUS ACT	Different forms of, 21:140
See also CRIMINAL NEGLIGENCE	Onus of proof, 21:141
Duty to complete, 28:25	Related defences, 21:137
Reckless murder and, 27:59	Use of force (s. 27), 21:193
recented murder and, 21.37	050 01 10100 (5. 21), 21.175

DEFENCE OF PROPERTY	DEFENCES—Cont'd
Generally, 21:197	Inconsistent defences, 21:3
American Law Institute definition, 21:211	Insanity
Availability of defence, 21:197	see INSANITY
Movable property	Law, obedience to de facto, 21:348
force, degree of, 21:201	Mens rea, lack of
peaceful possession of, 21:198	see MENS REA
private bailiff repossessing, 21:202	Military orders, obedience to, 21:345,
reasonable belief, 21:200	21:346
reasonableness of accused's conduct,	Mistake of fact
21:199	see MISTAKE OF FACT
unavailability of defence, 21:201	Mistake of law
Real property and dwelling house	see MISTAKE OF LAW
defence of, 21:203	Necessity
force, use of, 21:204	see NECESSITY
killing, justification of, 21:209	Preventing crime
reasonable belief, 21:210	see DEFENCE OF OTHERS
trespasser	(PREVENTING CRIME)
duty to request departure of, 21:206	Public good, 21:330
not restricted to trespassers within	Ruling re availability of, 17:103
dwelling, 21:208	Self-defence
preventing trespass, 21:205	see SELF-DEFENCE, DEFENCE OF
shooting, 21:207	Superior's order, obedience to, 21:345
DEFENCES	Superior's order, police obedience,
Accident	21:347
see ACCIDENT	Victim, illegality or negligence of, 21:343
Automatism	DELAY
see AUTOMATISM	After charge, 31:977
Compliance, impossibility of, 21:341	Before charge, 5:77 , 31:595 , 31:980
Compulsion	Discretion re when to hear motion re,
see COMPULSION, DEFENCE OF	31:976
Consent	Extradition, 32:106 , 32:113
see CONSENT	Fundamental justice and
	see CHARTER OF RIGHTS —
Correction of pupil/child, 21:340	Principles of fundamental justice
Defence of others	Reasons for arrest, being informed,
see DEFENCE OF OTHERS (PREVENTING CRIME)	31:830
	Release from custody, 6:102
Defence of property	Return of seized items, 31:1487
see DEFENCE OF PROPERTY	Right to retain counsel, being informed of, 31:888
De minimis conduct, 21:349	· · · · · · · · · · · · · · · · · · ·
Drunkenness	Sentencing considerations see SENTENCING
see DRUNKENNESS	Systemic, 2:21
Duress	
see DURESS, DEFENCE OF	Trial within reasonable time see CHARTER OF RIGHTS —
Entrapment	Offence, person charged with
see ENTRAPMENT	•
Evidentiary burden to raise defence ("air	DEPORTATION
of reality"), 21:2	Cruel and unusual punishment and,
"General defence," 21:1	31:1203

DIRECT INDICTMENT—Cont'd DEPORTATION—Cont'd Double jeopardy and, 31:1152 Non-jury trial against corporation, 11:57 Extradition and, 32:2 Not contravention of Charter, 11:36 Objection to preferring of indictment, Freedom of association and, 31:358 11:55 Principles of fundamental justice and, 31:529, 31:636, 31:637 Override of accused's election, 11:43 Substantial risk of torture, 31:637 Override of severance order, 11:44 Preliminary inquiry DETENTION after discharge at, 11:48 See also ARREST: RELEASE FROM non-completion of, 11:51 **CUSTODY** refusal to add charges at, 11:52 After arrest without warrant, 5:35 Ouashing of indictment, 11:56 Certiorari and, 26:72 Substantial change of offence, 11:53 Charter and Withdrawal of order, 11:50 see CHARTER OF RIGHTS — Arrest or detention, Counsel, right to **DISCHARGE** detain Appeals from, 23:57 Detention order on seizure, 31:728 Conditional Hospital order probation and, 18:310 see SENTENCING revocation of as double jeopardy, Insane person, 22:58, 22:110 31:1151 Mental illness and, 22:144, 31:1347 Discharged offence Mistake of law no basis for, 31:824 relaying, 12:91 Pending appeal, **6:130** Extradition proceedings and, 14:98, Pre-trial, 31:1208 32:15, 32:40 Reasonable suspicion as basis for, 5:73 Fugitive offender, of, **14:98**, **32:15** Release from custody and, 6:39 Juror, of, 17:62, 31:1132 Seized items, of Jury before verdict, of, 1:129 see SEARCH AND SEIZURE Mandamus and, 26:99 Witness, of, 1:202 Young person, of Motion to, 13:49 see YOUNG PERSON Preliminary inquiry, at, 11:14, 11:48, 13:49, 13:74 DIRECT INDICTMENT Recognizance, of, 6:64 Abandoning prior proceedings, 11:42 Sentence, as Adding accused after appeal not permitsee SENTENCING ted, 11:38 Sentence appeal, against, 25:40 Amendment of, 11:40 Supreme Court of Canada appeal of, Application by private citizen, 11:49 23:256 Attorney General Unavailability of attendance not required, 11:46 as cruel and unusual punishment, former Attorney General's signature, 31:1222 11:47 DISCLOSURE power of to prefer, 11:54 Alibi, of, 16:404 Election or re-election on, **8:12, 11:45** Crown, by see CROWN Joinder of separated accused, 11:41 Intercepted communications, 4:35, 4:50 "Judge alone" indictment, no, 11:59 Jury deliberations, 17:188 Judge not permitted to add charges, 11:39 Particulars, vs., 9:152 Judicial review of decision to prefer, Preliminary inquiry, at see PRELIMINARY INQUIRY New jurisdictional starting point, 11:37

DISCLOSURE—Cont'd

Principles of fundamental justice re see CHARTER OF RIGHTS —

Principles of fundamental justice

Private communications

see DISCLOSURE OF PRIVATE COMMUNICATIONS

Search with warrant

informant's statement, 31:744

Trial language, in, 31:1383

Young person's records

see YOUNG PERSON — Records

DISCLOSURE OF PRIVATE COMMUNICATIONS

Cellular phone, 4:169

Exemptions to offence, 4:166, 4:168

Foreign officials, to, 4:167

Offence re. 4:165

DISCRIMINATION

Affirmative action, 31:1364, 31:1365

Appeal against sentence

class discrimination, 25:31

Charter equality rights and

see CHARTER OF RIGHTS — Equality rights

DISORDERLY HOUSES

See SEARCH WARRANT

DNA EVIDENCE

See OPINION EVIDENCE

Admissibility of DNA testing, 3:51

Search warrant re, 3:27, 3:50, 3:99

DOCTRINE OF RECENT POSSESSION

See POSSESSION

DOUBLE JEOPARDY

Acquittal, Crown appeal of, 31:1171

Autrefois acquit and convict

see AUTREFOIS ACQUIT AND CONVICT

Charter and

see CHARTER OF RIGHTS —

Offence, person charged with

Revocation of probation, 18:312

DRIVING OFFENCES

Care/control of motor vehicle, 31:496

Careless driving, 9:94

Causing death in operation of motor vehicle, **28:30**

DRIVING OFFENCES—Cont'd

Dangerous driving, 28:10, 28:27, 31:554

Drinking and driving

see DRUNKENNESS

Included offences

actual driving, 16:313

care and control, 16:312

DRUGS

Aiding sale or purchase of, 15:49

Entrapment and

see ENTRAPMENT

Possession of, 16:459

Sentencing of drug offences

see SENTENCING

DRUNKENNESS

Aggravated assault (s. 268), 21:76

Alcohol or drug

drunkenness by, 21:44

involuntary consumption of, 21:45

medicinal consumption of, 21:46

Amnesia, **21:80**

Assault causing bodily harm (s. 267),

21:77

Attempted offences and, 21:60

Automatism and, 21:26, 21:62

Automatism vs. insanity, 21:61

Beard case

natural consequences of act, intending,

21:55

pre-Beard, 21:39

rules in, 21:40

Common law, at, 21:38

Courage to commit crime, 21:79

Defence, as, 21:37

Drinking and driving offences

administration of ASD, alcohol. in

mouth, 31:584

mens rea for. 21:48

unforeseen impairment, reasonable

person standard, 21:49

General intent crime

examples of, 21:82

inclusion in specific intent crime, 21:67

Hypoglycaemia as defence, 21:47

Insanity, drunken, 21:43

Insanity and, 21:78

Intent

and foresight, 21:58

basic vs. ulterior, 21:51

DRUNKENNESS—Cont'd	DURESS, DEFENCE OF—Cont'd
Intent—Cont'd	Britain, in, 21:125
degree of drunkenness, 21:56	British draft Criminal Code definition of
general, 21:82	duress by threats, 21:136
natural consequences of person's act,	Common intention, 21:133
21:55	Duress, defined, 21:126
specific, 21:63 , 21:65 , 21:81	Examples of successful defence, 21:134
specific vs. general, 21:50	Incest committed under, 21:100
Intoxication	Onus on Crown, 21:127
American Law Institute definition of,	Rationale for, 21:120
21:83	Related defences, 21:101
British draft Criminal Code definition	Related terms, 21:99
of, 21:84	Spousal coercion, abolition of presump-
three levels of, 21:41	tion of, 21:102
Irresistible impulse, 21:66	Threat
Knowledge, relation to, 21:58	future harm, of, 21:130
Misdirection re incapacity, 21:64	presence of threatener, 21:129
Mistake of fact and, 21:59, 21:227	safe avenue of escape, 21:131
Murder (220) 21.72	standards of belief re, 21:128
constructive (s. 230), 21:72	ELECTION
planned and deliberate, 21:70	Amended information
reckless (s. 229(c)), 21:71	no further election on, 8:13
second degree murder, 21:68	Arraignment and, 8:4
Onus of proof re, 21:53	Charter requirements, 31:962, 31:1130
Provocation (s. 232), 21:73 Recklessness, crimes of, 21:52	Co-accused, separate election in absence
Right from wrong, knowledge of, 21:66	of, 8:9
Secondary party, re, 21:69	Combines, re, 8:15
Self-defence (s. 34), 21:74	Conspiracy and substantive counts, 9:263
Self-induced extreme intoxication,	Corporate accused, for, 8:15
21:26.50, 21:42	Crown option offences
Sexual assault, 21:75	see CLASSIFICATION OF
Sobriety, presumption of, 21:54	OFFENCES
Specific intent	Direct indictment, on, 8:12 , 11:45
crimes, examples of, 21:81	Discretion not to accept, 8:65
drunkenness, and, 21:63	multiple accused
general intent included in, 21:67	limitation re, 8:65
having regard to all circumstances,	same mode of trial for, 8:66
21:65 Violent passions, release of through,	preliminary inquiry where election not recorded, 8:67
21:57	Endorsement of, 8:22
	Evidence disclosing value over
DURESS, DEFENCE OF	01675,000, where, 8:21
See also COMPULSION, DEFENCE OF	Forum of trial, Crown election re, 8:14
Aiding and abetting, 21:132	Information as whole, on, 8:10
American Law Institute definition, 21:135	Jury trial
Availability	deemed election for, 8:27
gang members, 21:124	mandatory, 8:20
murder, 21:123	presumption of, 8:17
principal and secondary parties, 21:122	waiver of, 8:26
secondary party, to, 21:121	Mandatory nature of, 8:19

ELECTION—Cont'd	ELECTION—Cont'd
Mode of trial, re, 8:1, 11:59	Speedy trial (judge alone)—Cont'd
New trial, no election on, 8:4	form of indictment, 8:41
Nonsuit motion, on, 16:256	guilty plea, 8:38
Other indictable offences, on, 8:2	judge-alone indictments, 8:44
Overriding of by Attorney General (s. 568), 8:68 , 11:43	jurisdiction before indictment filed, 8:42
preliminary inquiry requirement, 8:70	jurisdiction on re-election, 8:43
previous election, of, 8:72	non-appearance of accused, 8:40
re-election	post-1955, 8:34
no later, 8:71	pre-1955, 8:33
of, 8:73	Quebec superior court, 8:37
right to require jury trial, 8:68	s. 552 judge, 8:35
s. 568 election not subject to review,	s. 469 offence, 8:36
8:69	Substantial compliance of, 8:23
signing of indictment (577(a)), 8:74	Summary trial
Pre-election evidence, 8:24	former practice, 8:5
Preliminary inquiry, request for, 8:3	information as charging document,
Provincial court judge, for trial by	8:31
see Summary trial	judge (provincial court)
Re-election, 8:46	declining election, 8:30
charge read on, which, 8:62	limited powers of, 8:32
compliance with statutory form, 8:55	strict compliance (former requirement),
informed waiver of, 8:58	8:28
consent requirement, 8:47	substantial compliance, 8:29
Crown consent to, 31:604	Trial by judge alone
direct indictment, on, 8:64	see Speedy trials
discretion not to accept, 8:65	Under former Codes
election not complied with, 8:57	1970-85, 8:8
election other than prov.ct., where, 8:52	1927 Code, 8:6
election trial by prov.ct., where, 8:53	until 1969, 8:7
failure re, 8:56	Waiver
irrevocable step, 8:46	jury election, 8:26
jury trial, 31:1130	reading of election, 8:25
mode of trial, 11:62	Writing, in, 8:11
new trial, 8:63	Young person, by
on consent, 8:47	mode of trial, 30:22 , 31:120
on entire indictment, 8:49	EMERGENCY
preliminary inquiry, at, 13:32, 31:621	Intercepted communications
SCC new trial order, on, 23:283	see AUTHORIZED INTERCEPTED
stayed indictment, recommencement of, 8:50	COMMUNICATIONS
summary conviction offence, 8:51	Wiretaps, 31:776
to judge alone, 8:59	ENTRAPMENT
trial at different level, 8:60	Agent provocateur
waiver of reading of, 8:61	acting on own initiative, 21:288
S. 469 offence, 8:41	mere solicitation by, 21:295
Speedy trial (judge alone)	American Law Institute definition of,
charges disclosed by evidence, 8:39	21:297
election on direct indictment 8:45	Availability of 21.276

ENTRAPMENT—Cont'd	EVIDENCE—Cont'd
Bona fide investigation (reasonable	Admissibility of—Cont'd
suspicion), 21:282	motion to quash search warrant, on,
British rejection of, 21:274	31:740
Canadian position re, 21:273	private communications, 4:21
Conceptual analysis, 21:294	similar fact evidence, 16:631
Drugs	text messages, 16:450
dial-a-dope investigation, 21:289	unreasonably seized items, 31:1489
paid drug agent, 21:286	wiretaps, 31:774
police providing accused, 21:285	Character
reverse sting, 21:284	see CHARACTER EVIDENCE
Factors considered, 21:280	Circumstantial, 16:683
Guilty plea, defence raised after, 21:291	Commission
Hearsay evidence as basis of "reasonable	see COMMISSION EVIDENCE
suspicion," 21:276	Complainant's private records, 31:609.50
Inducement of average non-predisposed	Exclusion of
person, 21:279	see also CHARTER OF RIGHTS —
Investigative steps, 21:281	Evidence, exclusion of; Remedies;
Legal effect of, 21:292	TRIALS — Evidence
Onus on accused, 21:293	accused's bad character, 16:517,
Opportunity commit offence, 21:293	16:623
Police falsehoods, 21:287	conviction appeals, on, 23:208
Question of law, as, 21:290	self-serving evidence
Re-trial on entrapment alone, 21:296	see SELF-SERVING EVIDENCE
Third party, through, 21:278	Expert
U.S. position re, 21:275	see OPINION EVIDENCE
•	Extrinsic materials
EQUALITY RIGHTS	Extrinsic materials see CHARTER OF RIGHTS — Inter-
EQUALITY RIGHTS See CHARTER OF RIGHTS	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS —	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS —
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated see PERPETUATED EVIDENCE
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63 curative admissibility, doctrine of,	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63 curative admissibility, doctrine of, 16:690	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated see PERPETUATED EVIDENCE
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63 curative admissibility, doctrine of, 16:690 DNA evidence, 3:51, 16:676	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated see PERPETUATED EVIDENCE Prior consistent statements
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63 curative admissibility, doctrine of, 16:690 DNA evidence, 3:51, 16:676 national DNA data bank, 3:54	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated see PERPETUATED EVIDENCE Prior consistent statements see SELF-SERVING EVIDENCE
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63 curative admissibility, doctrine of, 16:690 DNA evidence, 3:51, 16:676 national DNA data bank, 3:54 extradition proceedings, 32:152	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated see PERPETUATED EVIDENCE Prior consistent statements see SELF-SERVING EVIDENCE Self-serving
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63 curative admissibility, doctrine of, 16:690 DNA evidence, 3:51, 16:676 national DNA data bank, 3:54 extradition proceedings, 32:152 fresh evidence on appeal, 23:140,	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated see PERPETUATED EVIDENCE Prior consistent statements see SELF-SERVING EVIDENCE Self-serving see SELF-SERVING EVIDENCE
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63 curative admissibility, doctrine of, 16:690 DNA evidence, 3:51, 16:676 national DNA data bank, 3:54 extradition proceedings, 32:152 fresh evidence on appeal, 23:140, 23:141, 23:153	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated see PERPETUATED EVIDENCE Prior consistent statements see SELF-SERVING EVIDENCE Self-serving see SELF-SERVING EVIDENCE Similar fact evidence see CHARACTER EVIDENCE
EQUALITY RIGHTS See CHARTER OF RIGHTS EVIDENCE Admissibility of see also CHARTER OF RIGHTS — Evidence, exclusion of; TRIALS — Evidence accessory after fact, 15:135 authorized intercepted communications see AUTHORIZED INTERCEPTED COMMUNICATIONS — Trial issues certiorari and, 26:68 conspiracy charge, 19:63 curative admissibility, doctrine of, 16:690 DNA evidence, 3:51, 16:676 national DNA data bank, 3:54 extradition proceedings, 32:152 fresh evidence on appeal, 23:140,	Extrinsic materials see CHARTER OF RIGHTS — Interpretation, principles of Forms of, 16:92, 16:196 Fresh evidence see FRESH EVIDENCE ON APPEAL Fundamental justice and see CHARTER OF RIGHTS — Principles of fundamental justice Hearsay see HEARSAY EVIDENCE Opinion see OPINION EVIDENCE Perpetuated see PERPETUATED EVIDENCE Prior consistent statements see SELF-SERVING EVIDENCE Self-serving see SELF-SERVING EVIDENCE Similar fact evidence

EXTRADITION—Cont'd

Fresh evidence on appeal, 23:147 See TRIALS From Canada **EXHIBITS** see EXTRADITION FROM CANADA Continuity of, 16:476 Fugitive offender vs., 32:11 Examination of, 31:310 to 31:312 Mutual legal assistance, 32:129 Extradition proceedings and, 32:150 generally, 32:129 Jury room, in, 17:157 appeal of order or decision re, 32:151 Marking of real evidence as, 16:169 application of agreement or administra-Numbered vs. lettered, 16:160 tive arrangement, 32:131 Publication of after trial, 31:313 death penalty prosecution, evidence for Retention of. 23:131 use in, 32:144 Return of. 3:175 detained person, transfer of, 32:149, Trial, at 32:155 see TRIALS disclosure of young person's record, 32:135 EXTRADITABLE CONDUCT evidence-gathering order Generally, 32:1 application for, 32:143 Conduct as offence in foreign jurisdiction refusal to comply with, 32:146 proof re, 32:18 safeguards for witness, 32:145 requirement re, 32:17 evidence obtained abroad, admissibil-Defined, 32:14 ity, 32:152 Discharge, proceedings after, 32:15 evidence-sending order Double criminality report re, 32:147 jurisdictional elements of, 32:20 target of, 32:147 requirement, 32:17, 32:19 fines, 32:137 Double jeopardy, 32:21 foreign orders, filing of, 32:138, 32:139 Foreign materials requirement, 32:23 foreign state or entity, meaning of, Jurisdictional issues, 32:16, 32:167 32:20 32:130 Time of commission of offence, 32:22 lending exhibits, 32:150 **EXTRADITION** letters rogatory, 32:129 Autrefois acquit and convict pleading, Minister's responsibility for, 32:134 14:98 offences, 32:136 Charter issues, 31:406, 31:409, 31:1202, privilege for foreign records, 32:157 31:1213 request and approval as preconditions, Crimes 32:133 see EXTRADITABLE CONDUCT request for, 32:132 Criminal matters, as, 32:6 restriction of. 32:134 Definition, 32:1 safe conduct. 32:154 Deportation, vs., 32:2 search and seizure, 32:140 Discharge at, 14:98 special authorization to enter Canada, Disguised extradition of alien, 32:5 32:153 Extended jurisdictional basis, 1:55 terms and conditions of sending item abroad, 32:142 Extradition Act, Charter validity, 32:7 transferred person, detention of, 32:155 Extradition agreements, publication of, 32:12 video or audio-links evidence, 32:148 Extradition of aliens and refugee claimwitness refusal to answer, ruling on, ants, 32:5 32:156 "Extradition partners," designation of, Principles governing, 32:9 32:13 Recognition of foreign states and govern-Fair process requirement, 31:638 ments, 32:5

EXAMINATION-IN-CHIEF

EXTRADITION—Cont'd	EXTRADITION FROM CANADA
Refugee status, of person granted, 32:32	—Cont'd
Refusal, Ministerial reasons for, 32:24	Hearing, 32:48—Cont'd
death penalty, 32:33	intervention by foreign state, 32:52
discretionary grounds, 32:34	judge's information to fugitive, 32:77
discriminatory grounds, 32:31	judge's report to Minister, 32:76
military offence, 32:29	person already convicted, 32:70
Ministerial review of fugitive's sur-	prima facie test, 32:59
render, 32:24	publication ban, 32:54
political character, 32:26, 32:27	record of case, 32:65
political offences, 32:25	transfer of seized property, 32:78
time-barred prosecution, 32:28	treaty and foreign law, proof of, 32:69
unjust or oppressive grounds, 32:30	warrant of remand, 32:53
Stages of process, 32:10	witnesses
To Canada	compulsion of to attend, 32:56
see EXTRADITION TO CANADA	right of fugitive to call, 32:71
U.K., in, 32:4	Minister's duty of fairness, 32:81
EXTRADITION FROM CANADA	Policy, purpose and objectives underlying, 32:8
Committal for extradition, procedure on,	calculation of sentence of imprison-
32:75 Death penalty, Charter issue re, 32:80	ment, 32:112
Delay, 32:60	committal, consent to, 32:114
Deportation, 32:3, 32:117	court of appeal powers, re, 32:95
Disclosure of young person's record, 32:68	Criminal Code provisions, incorporation of, 32:94
Hearing, 32:48	delay, remedy re, 32:113
abuse of process, 32:61	deportation, 32:117
Charter jurisdiction, 32:50	escape and arrest of fugitive, 32:105
committal into custody	evidence provided to requesting state,
formal order of, 32:75	32:118
for surrender, 32:74	habeas corpus application, 32:113
court document, 32:52	joint appeal, 32:93
cross-examination of documents,	judicial review, 32:93 , 32:98
absence of, 32:66	Minister's reasons for surrender/ refusal, 32:84
defences, 32:72	power to convey, 32:104
disclosure, no right to full, 32:67	quashing Minister's order, 32:99
evidence	rule of specialty in requesting state or
calling on matters unrelated to prima facie issue, 32:73	entity, 32:103 Supreme Court of Canada, powers of,
inquiry re admissibility/sufficiency/	32:97
availability of, 32:58	surrender
rules of, 32:64	assurances from extradition partner,
exclusion from, 32:55	32:101
extradition agreements, proof of, 32:69	assurances from requesting state,
fitness of fugitive, 32:51	32:90
fugitive not present at foreign convic-	Canadian Aboriginal, 32:88
tion, 32:63	citizen of Canada, 32:87
function of, 32:48	consent to, 32:114
general procedure, 32:49	court intervention, 32:85
identity of fugitive, 32:57	delay before. 32:106

EXTRADITION FROM CANADA	EXTRADITION TO CANADA—Cont'd
—Cont'd	Conveyance of surrendered person to
Policy, purpose and objectives underlying,	Canada, 32:126
32:8 —Cont'd	Detention order re temporary surrender,
surrender—Cont'd	32:127
extradition agreement override of	Foreign warrant conclusive re foreign
refusal, 32:91	compliance, 32:125
final, 32:110	Fugitive serving sentence, 32:122
for other offences, 32:102	Procedure, 32:120
fresh evidence, 32:83	Request for extradition
fugitive charged or sentenced in	evidence for, 32:121
Canada, 32:86	fugitive serving sentence, 32:122
Minister's decision re, 32:92	Rule of specialty in Canada, 32:124
Minister's powers re, 32:79	Treaty requirement, 32:119
Minister's refusal, 32:89	EXTRAORDINARY REMEDIES
order of	Availability of
contents of, 32:100	Attorney General's discretion, re, 26:2
priority of, 32:111	other remedy available, 26:21
place of, 32:107	Certiorari
postponement of, 32:108	see CERTIORARI
submissions to Minister re, 32:82	Costs, 26:24
temporary, 32:109	Court of appeal, original jurisdiction of,
transit through Canada, 32:116	26:12
waiver of extradition, 32:115	Discretionary remedies, as, 26:19
Preliminary proceedings, 32:36	Evidentiary rulings and, 26:5
appearance in court, 32:45	Federal Court prerogative writs, 26:13
authority to proceed	General rule re, 26:1
arrest or summons after issuance,	Habeas corpus, 26:1
32:43	anticipatory jurisdiction re, no, 26:34
issuing of, 32:42 bail, 32:46	appeal re, 26:50
	application for
discharge if no proceedings, 32:40 general procedure, 32:36	affidavit/extrinsic evidence, filing of
judges, jurisdiction of superior court,	26:33
32:38	discretion not to hear, 26:40
Ministerial duties, 32:37	repeated, 26:38
provisional arrest warrant, 32:39	availability
request for extradition as condition pre-	after conviction, 26:35
cedent, 32:41	alternative remedy provided, where,
transfer to another place, 32:47	26:32
Rule of specialty, 32:103	collateral attack, 26:31
Search and seizure of items, 32:44	custody requirement, 26:39
Surrender	jurisdictional error, 26:30
see Post-hearing proceedings	where appeal provided, 26:32
see I ost-nearing proceedings	bail application, as, 26:42
EXTRADITION TO CANADA	certiorari application and, 26:53
Generally, 32:119	charter guarantee, 31:962
Canadian offence not offence in foreign	discretion re release, 26:41
state, where, 32:123	extradition hearing, after, 26:49
Commencement of sentence or disposi-	federal detention, as review of, 26:44
tion in Canada 32:128	illegal arrest not available for 26.29

EXTRAORDINARY REMEDIES	EXTRAORDINARY REMEDIES
—Cont'd	—Cont'd
Habeas corpus, 26:1—Cont'd	Prohibition, 26:78 —Cont'd
mandamus/declaratory relief in aid,	prior ruling on related matter by same
with, 26:28	judge, 26:88
meaning of, 26:27	recusal of American judges, 26:89
nature of, 26:25	recusal of superior court judge, 26:83
ninety-day review violation, 26:47	Provincial superior court jurisdiction over
parole ineligibility, as review of, 26:43	federal boards, 26:11
parole review, as, 26:44	Rules of court re, 26:6 Summary dismissal of application, 26:20
personal appearance by subject of writ, 26:26	Summary dismissar of application, 20:20
right to be present, 26:46	FAIR AND PUBLIC HEARING
scope of re federal detention, 26:45	See CHARTER OF RIGHTS — Offence,
superior court	person charged with
conviction by, 26:36	FALSE IMPRISONMENT
limited territorial jurisdiction of,	See ARREST — Civil consequences of
26:37	•
plenary jurisdiction of, 26:48	FAULT
Historical approach to, 26:2	Automatism, as bar to, 21:28
Inferior court	Principles of fundamental justice and
discretion to continue despite	see CHARTER OF RIGHTS — Principles of fundamental justice
application/appeal, 26:17	Regulatory offences and, 31:570
jurisdiction, suspension of, 26:16	Regulatory offences and, 31.370
Interlocutory appeals, limited, 26:15	FINES
Jurisdictional error	Appeal against sentence
Charter contravention not resulting in,	suspension of fine, 25:27
26:4	Cruel and unusual punishment, 31:1209
error of law, vs., 26:3 procedural fairness, vs., 26:3	Extradition and, 32:137
superior court, by, 26:9	Remission of on pardon, 14:130
Mandamus, 26:93	Sentence re
availability, 26:100	see SENTENCING
Crown	Young person see YOUNG PERSON — Sentences
against, 26:96	see 100110 1 ERSON — Sentences
by, 26:97	FINGERPRINTING
discharge, against, 26:99	Arbitrary arrest and, 31:820
nature of remedy, 26:94	Bail, requirement re, 6:29
Nature of application for, 26:7	Evidence re possession, 16:474
Premature application for, 26:14	On arrest
Procedendo, 26:99	see ARREST — With warrant
right of Crown to invoke, 26:101	Security of person and, 31:474
Prohibition, 26:78	Taking and retention of fingerprints,
availability prior to trial, 26:92	31:474
bias, 26:81, 26:82	Unreasonable search and seizure, as,
discretionary nature of, 26:93	31:727
dismissal of motion for, 26:94	Young person, of, 5:91 , 30:167
judicial interference with prosecution,	FIREARMS
26:90	See also WEAPONS
nature of remedy 26.79	Charter and 18:417

FIREARMS—Cont'd

Indictable offence, use of during, **31:1167**No constitutional right to bear, **31:576**Prohibition order re, **18:425**Sentencing considerations
see SENTENCING

Unlicenced firearm, right to bear in self-defence, 21:145

FITNESS TO STAND TRIAL

See INSANITY

FOETUS

Criminal negligence and, **28:5**Culpable homicide and, **27:4**Equality rights, application to, **31:1270**Injury to, **27:4**

Life, liberty and security of the person rights, application to, **31:444**

FORCE, USE OF

Arrest, during, 5:65
Defence of others, in, 21:193
Defence of property, 21:201, 21:204
Definition of re self-defence, 21:192
Excessive, 21:194, 27:44, 27:156
Necessary (unprovoked assault)
measure of, 21:167, 21:171
non-excessive (s. 34(1)), 21:166
relief re, 21:172
Preventing commission of offence, 21:193
Propertionality, 21:166

Proportionality, **21:166**Provocation for manslaughter, **27:156**

Reasonable, 3:107

FORFEITURE

Appeal against sentence of, 25:24
Disorderly house, re, 3:196
Fine, in lieu of, 18:210
Forfeiture of goods not offence, 31:951
Forfeiture of parole as double jeopardy, 31:1169

Judicial interim release, on amount of, 6:59 no appeal, 6:60 of recognizance, 6:58 standing at hearing, 6:52 Recognizance, of, 6:58, 30:188 Search and seizure and

see SEARCH AND SEIZURE

FORFEITURE—Cont'd

Suspension of order re on appeal, suspension of, 23:132
Unreasonable seizure and, 31:718
Young person, 30:188

FORMS

Defects in, 10:56
Indictments, of, 7:42
Language of, 16:509
Statutory interpretation, 33:86
Trial
see TRIALS
Youth Court, 30:190

FRAUD

Act, on, 33:74
Authorization to intercept communication, 4:136
Directing mind of organization by, 19:79
Elements of, 21:332
Mistake of law and, 21:271
Prohibition order for, 18:213

FRESH EVIDENCE ON APPEAL

Admissibility requirement, 23:153
Admission of, 23:140, 23:141
Affidavit requirement, 23:156
Circumstances where not allowed, 23:163
Crown, led by, 23:166
Due diligence requirement, 23:161
Evidence not disclosed at trial, 23:145
Examination prior to considering, 23:157
Examples of, 23:167
Extradition appeal, 23:147
Factual/legal findings, challenging, 23:143
In the interests of justice, 23:162

In the interests of justice, 23:162
Mental capacity, condition and insanity,
23:150
Minister's Reference, on, 23:148

No substantial miscarriage proviso (s. 686(1)(b)(iii)), 23:159

Preliminary inquiry, from, 23:146

Previous testimony, re, 23:164

Recantation by key witness, 23:144

Sealed envelope practice, 23:155

Sentencing hearings, on, 23:152

Special circumstances required, 23:141

Subsequent acquittal, re, 23:165

Summary conviction appeals, on, 23:160

Third party records, 23:142

FRESH EVIDENCE ON APPEAL

—Cont'd

To challenge trial process, 23:149 Two-step procedure, 23:158 Verdict affect requirement, 23:159 Virtual appearance of party or witness, 23:141

FUGITIVE OFFENDER

See EXTRADITION

FULL ANSWER AND DEFENCE

Abuse of process, denial of as, 12:122 Accused suffering from amnesia, 31:573 Constitutional right, as, 31:493 Cross-examination re, 13:40, 16:117 Crown privilege vs., 16:554 Innocence at stake vs., 16:41 Preliminary inquiry and, 13:40 Principle of fundamental justice, 31:493 Right to, **16:42**

FUNDAMENTAL JUSTICE

See CHARTER OF RIGHTS — Principles of fundamental justice

GROSS INDECENCY

Generally, **31:290**

GUILT, CONSCIOUSNESS OF

Altering appearance, **16:419** Attempted suicide, 16:421 Bribery, 16:425 Examples of, **16:414** Fabrication of evidence, 16:422 False alibi. 16:424 False statements generally, 16:418 proper direction on, 16:420 False vs. fabricated alibi, 16:400 Flight or concealment from police, **16:416** Interfering with witness, 16:427 Meaning of, 16:409 Post-offence conduct, burden of proof re, 16:412

Post-offence demeanour, 16:423 Suborning false testimony, **16:426** Suppression or destruction of evidence,

16:417

GUILTY PLEA

See also PLEADING Admission, 14:58, 14:63, 14:68

GUILTY PLEA—Cont'd

Appeal from, 23:74

Autrefois acquit and convict and, 14:110

Common law, at, 14:57

Counsel, by, 14:56

Death of victim after, 14:110

Entrapment defence raised after, 21:291

Included offence, to, 14:65

Judge-alone trial election, 8:37

Principal of offence, of, 15:132

Sentencing and

see SENTENCING

Young person, 30:46

HABEAS CORPUS

See also EXTRAORDINARY REME-DIES

Appeals and, **26:50, 31:915**

Certiorari, in aid of, 31:938

Charter and

see CHARTER OF RIGHTS

Extradition and, 32:113

Review of release from custody order, 6:105

HEARSAY EVIDENCE, 16:594

See also OPINION EVIDENCE

Generally, 16:577

Accused's statements

disputed by accused, 16:610

factors considered re. 16:608

Admissions

see also Voluntary statements

against interest, 16:597

agent/employee, by, 16:598

involuntary

confirmed by finding of fact, 16:607

to medical practitioner, 16:603

to person in authority, 16:602

vicarious, 16:598

voluntariness, proof requirement, 16:600

Ante-mortem statements of victim, 16:584

Banking records, 16:614

British statutory approach, 16:578

Business records at common law and by statute, 16:616

Concept of, 16:576

HEARSAY EVIDENCE, 16:594—Cont'd	HEARSAY EVIDENCE, 16:594—Cont'd
Confession rule	Voluntary statements
reason for proof of voluntariness,	see also Admissions
31:504	generally, 16:604
Declaration	Charter motion, on, 16:605
against interest by unavailable declar-	Charter right to silence vs., 16:601
ant, 16:611	voir dire to prove, 16:606
dying, 16:613	HOMICIDE, CULPABLE
identity of declarant, 16:610	Anger, defence of, 27:50
in course of duty, 16:612	Assault on pregnant woman causing
Documents in accused's possession,	child's death, 27:5
16:622	Causation, 27:7 to 27:10, 28:20
Electronic documents, 16:617 to 16:621	Child en ventre sa mere, 27:5
Exceptions to rule	Classification of, 27:2
children, hearsay utterances of, 16:588	Common law, at, 27:1
declaration of intention, 16:590	Consent to death no defence, 27:34
list of, 16:581	Criminal negligence, 27:19 , 27:126 ,
narrative evidence, 16:91	28:10
necessary and reliable requirement,	Death
16:586	acceleration of, 27:30
out of court identification, 16:389	brain, 27:29
spouse, utterances of, 16:589	caused by failure to discharge undertaking, 27:26
state of mind, 16:590	caused by threats, 27:20
utterance, 16:587	caused by unlawful act, 27:16
Exclusionary rule, 31:517	cause of, 27:17
Identification evidence, 16:585	causing death that might have been
Identity of declarant, 16:610	prevented, 27:25
Insanity, expert testimony re, 22:41	contributing cause of, 27:24
Intercepted communications, consent to, 4:27	crime initiating events culminating in,
	27:31
Investigative hearsay, 16:583	defined, 27:28
Mr. Big, accused's statements to, 16:594	finding exact cause of, 27:15
Non-hearsay evidence, 16:579 Photographic evidence of property,	intervening act as more direct cause,
16:582	27:11
Prior statement	meaning of, 27:13
consistent, 16:592	procuring by false evidence, 27:23
inconsistent, 16:593	proof of, 27:12
tendering of accused's or third party's,	recklessness as to, 27:52
16:599	treatment or injury, from, 27:27 within year and day, 27:32
Proof that statement was made, 16:579	Driving offences, causation factor, 27:10
"Reasonable suspicion," as basis for,	Factual and legal causation, 27:7
21:277	Foetus, injury to, 27:4
Records, 16:615	Frightening child or sick person, 27:21
Search warrant, grounds for, 31:665	Heart attack, causing, 27:22
Statement obtained by torture, 16:596	Infanticide, 27:1
Text messages, 16:450	death of human child, 27:101
Unconstitutional hearsay evidence,	defined, 27:4, 27:99
16:580	disturbed mind, 27:106
101000	

HOMICIDE, CULPABLE—Cont'd	IDENTIFICATION—Cont'd
Infanticide, 27:1—Cont'd	Multiple victims, 16:369
included offences, 27:112	Multiple witnesses differing, 16:370
jury approach to, 27:110	Necessity of proof, 16:357
mens rea, 27:107	Opinion evidence re, 16:359
mental disorder and, 27:107, 27:111	Out-of-court identification as original
newly born infant, meaning of, 27:100	evidence, 16:389
onus on accused, 27:102	Parades
origin of offence, 27:103	see Lineups
partial defence to murder, as, 27:109	Photographs
post-partum recovery, 27:111, 27:113	identification following photographic
related offences, 27:114	id, 16:385
wilful act must constitute culpable	not to be used after arrest, 16:387
homicide, 27:104	use of, 16:384
Intent and guilty act, 27:6	Procedural improprieties, 16:375
Killing by influence of mind, 27:33	Recognition identification, 16:366
Manslaughter	Sensory modes of, 16:362
see MANSLAUGHTER	Similar fact evidence, proof through,
Murder	16:643
see MURDER	Single suspect, 16:368
Panic, effect on intent, 27:51	Single witness, by, 16:367
Provocation, defence of, 27:173	Testimonial factors, 16:361
Threats causing death, 27:20	Videotape, identification from, 16:383
Unlawful act	Videotape at crime scene, 16:382
causing death by, 27:16	Visual
homicide by, 27:18	model guidelines on, 16:371
Victim	testimonial factors affecting, 16:377
awareness of identity of, 27:15	Voir dire, necessity of, 16:365
human being, requirement re, 27:4	Warning re past miscarriages of justice, 16:372
objective fault requirement, 27:125	
HOSPITAL ORDER	Witness approaching accused in court, 16:380
See MENTAL ILLNESS; SENTENCING	
	IDENTITY
IDENTIFICATION 200	See ALIBI; IDENTIFICATION
Alibi and, 16:378, 16:399	IMPRISONMENT
police failure to investigate, 16:376	See also SENTENCING
Description, necessity for, 16:364	False, 5:56, 5:64
Direction, need for careful and complete,	Female prison guards, 31:1367
16:373	Liberty and, 31:448
Dock, 16:379	Mandatory minimum, 31:809
Evidence of identity, 16:358	Mental illness and, 22:142
Evidence supporting accused, 16:363	Type of prison, 18:439
Expert evidence re, 16:360	
In-court, 16:381	INCEST
Inherent frailties of evidence re, 16:364	Generally, 21:100
Initial failure, later success, 16:386	INCHOATE OFFENCES
Lineups	See ATTEMPTS; CONSPIRACY
police practice re, 16:388	
refusal of accused to participate in,	INCLUDED OFFENCES
16:390	Adding to indictment, 9:225

INDICTABLE APPEALS—Cont'd INCLUDED OFFENCES—Cont'd Amending indictment, 9:225, 9:232 Administrative orders, attacking, 23:69 Appeal against sentence, substitution of, Appeal court 25:42 nature of, 23:4 Attempted offence, 16:318 new issue raised by, 23:38 Common law verdicts, 16:278 Appeals in general Conspiracies as, 16:319 civil or criminal, 23:6 Crown option offences nature of. 23:5 dual offence as, 7:34 Bifurcated appeals, 23:46 Distinguishing features of, 16:279 Collateral attack, rule against, 23:68 Double jeopardy, 31:1164 Combined indictable and summary Driving offences, of, 16:312 conviction appeal, 23:25, 24:60 Duplicity and, 9:85 Common law, at, 23:1 Full offence charged; attempt proved, Conditional stay, appeal from, 23:61 16:317 Constitutional appeals, 23:50 Guilty plea to Contempt appeals, 23:55 consent required, 14:65 Conviction vs. sentence appeals, 23:10, Crown option offence, 14:70 23:11 non-acceptance of, 14:66 Costs, appeal against, 23:26, 23:62 Infanticide, 27:112 Custodial sentence, application for leave Information re specific offence, 31:959 to appeal, 23:53 Nonsuit motion, directed verdict in. Discharge, appeals from, 23:57 16:254 Early Canadian approach to, 23:3 Order for new trial on appeal, 23:232 Erroneous concession of law, 23:67 Provincial offences not included in Evidence federal offences, 16:281 fresh Substituted verdict on appeal, 23:215 see FRESH EVIDENCE ON Summary conviction appeals APPEAL see SUMMARY CONVICTION not heard at trial, 23:51 APPEALS Extraordinary remedies appeals, 23:56 Summary conviction offence as, 1:45 Final judgment, meaning of, 23:63 Verdicts Final orders see VERDICTS appeal from, 23:60 power to re-open or vary prior judg-**INCOME TAX** ment or order, 23:90 Disclosure order re information, 3:233 Findings of fact, 23:35 Extended jurisdiction re residence, 1:116 Findings on non-appealed charge, 23:76 Freedom of conscience and. 31:229 Frustration of appeal, 23:46 Fundamental justice and, 31:521 Further argument, power to hear, 23:91 Tax statement, statutory compulsion to Grounds of appeal make, 31:522 questions of law Territorial jurisdiction exception, 1:84 see Questions of law INDEPENDANT AND IMPARTIAL Guilty plea, appeal from, 23:74 TRIBUNAL Interlocutory orders, appeal from, 23:64 See CHARTER OF RIGHTS — Offence. Intervention person charged with addition of new grounds, 23:79 INDICTABLE APPEALS application re, 23:77 Abuse of process, miscarriage of justice circumstances justifying, 23:81 requirement, 23:190 evidentiary record, no expansion of, Academic appeal, 23:58 23:80

INDICTABLE APPEALS—Cont'd	INDICTABLE APPEALS—Cont'd
Intervention—Cont'd	Procedure, 23:93—Cont'd
scope for submissions, 23:78	extension of time
Judgment obtained by fraud, 23:48	criteria for granting, 23:107
"Justice requires" order, appeal from,	factors considered, 23:108
23:52	reconsideration, 23:109
Mixed appeal of indictable and summary	frivolous appeal, 23:119
conviction offences, 23:9 Moot appeal, 23:59	jury charge, judge's certification of,
Negated alternative defence, 23:66	23:129
New issues, raising on appeal, 23:65	leave to appeal, application for, 23:93
Nullity, appeal from, 23:72	legal assistance for appellant (s. 684), 23:97
Order of separate appeals in same matter,	restitution/forfeiture orders
23:11	stay of, 23:104
Other common law remedies, 23:2	suspension of, 23:132
Parties to, 23:7	rules of court
Procedural irregularity	application of, 23:94
failure to object to at trial, 23:89	conflict with Code, 23:106
Procedure, 23:93	service
abandoned appeal, reconsideration of,	evasion of by respondent, 23:120
23:115	failure to serve notice of appeal,
amendments to appeal provisions,	23:121
23:133	out of Canada, 23:122
attendance, right of	substitutional, 23:123
appellant in custody, 23:124	transcripts
re sentence, 23:125	inaccurate, 23:130
compliance with appeal requirements,	partial, 23:128
failure re, 23:96	trial judge, request of, 23:138
computing time, 23:110	trial proceedings, of, 23:127
court appealed to, 23:92	waiver of appeal, 23:111
court of appeal powers	Quashing of indictment, appealability,
generally, 23:99	23:63
ancillary and inherent, 23:102 costs, re, 23:100	Questions of law
production re non-charged crimes,	generally, 23:28
23:101	accused's routes of appeal to SCC and,
stay of acquittal, 23:105	23:15
summary dismissal of frivolous	admissibility of evidence
appeal, 23:98	failure to object at trial no bar, 23:43
suspension, re, 23:103	appeal by accused, 23:24
Crown appeal	contradictory position on appeal, 23:42
Attorney General's instructions,	counsel's address re law, 23:44
23:126	Crown appeals
defective notice, 23:95	acquittal on greater offence, re,
dismissal for abuse of process/fraud,	23:32
23:113	expanded, 23:23
dismissal for want of prosecution	insanity or fitness verdict, re, 23:31
considerations re, 23:112	misdirection in jury charge, 23:29
erroneous dismissal, 23:117	reasonable doubt, re finding of,
reconsideration on merits, 23:118	23:33
exhibits, retention of, 23:131	rejected evidence, re, 23:30

INDICTABLE APPEALS—Cont'd INDICTABLE APPEALS—Cont'd Ouestions of law—Cont'd Writ of error, 23:2 evidence, misapprehension of, 23:19 INDICTABLE OFFENCES examples of, 23:16 See CLASSIFICATION OF OFFENCES examples of matters not questions of law, 23:34 INDICTMENTS AND INFORMATIONS failure to make findings on preliminary Accused and defendant, use of terms, 9:3 matters, 23:20 Amendments, 9:201 first and second degree murder as two adjournment following, 9:218 distinct offences, 23:18 alternative mode of same offence, add-"law alone," meaning of, 23:17 ing, **9:226** legal effect of facts, 23:22 bill of indictment, 9:201 miscarriage of justice, **23:37, 23:37.30** charge of different offence, 9:222 new ground of defence common law, at, 9:201 appellant still in system, 23:41 date/place/items/quantity, 9:217 new issue on appeal, 23:40 defective charge, 9:227 new issue raised by appeal court, 23:38 discretion re, 9:205, 9:213 new theory of liability, 23:39 essential averment, omission of, 9:229 no substantial miscarriage proviso (s. evidence of variance, 9:210 686(1)(b)(iii)), **23:36** examples of, 9:237 notice of appeal extraordinary remedy, on hearing or inclusion of grounds in, 23:27 appeal from, 9:235 question of fact, vs., 23:12 included offence, adding, 9:225 reasonable doubt. 23:21 irreparable prejudice resulting, 9:215 Ouestions of mixed fact and law. 23:14 joinder of charges/accused, to permit, Questions re interpretation of administra-9:209 tive statute, 23:13 jurisdiction vs., 9:204 Reasons for judgment limitation period, after, 9:208, 9:219 after verdict, 23:84 new charge, 9:223 defence evidence, higher level of new election probably not necessary, scrutiny, 23:88 9:221 discharge at preliminary inquiry, 23:83 new plea unnecessary, 9:220 disregard of material evidence in, 23:87 new trial ordered, 9:234 multiple counts, re, 23:86 no timely objection, 9:233 requirement of, 23:82 on appeal Reinstatement of, 23:114 s. 683(1)(g), **9:230** Respondent's entitlement to raise argusubject-matter, re, 9:231 ments, 23:75 underlying/included offence, re. Section 686(8) order, appeal from, 23:52 9:232 Summary conviction appeal. pre-1955 cases, 9:203 distinguished from, 23:8 pre-trial objections re patent defects, Third party appeals, 23:49 9:206 Trial judge's report, 23:135 reference to wrong Act, 9:236 comments on jury verdict, 23:136 remedial approach, 9:202 conflict of with evidence, 23:135 resworn charge, 9:239 contents of, 23:134 same transaction, 9:214 no or corrected reasons for judgment, summary conviction offence 23:137 transcript and other matters, 23:138 insufficient charge, 9:228 timing of, 9:211 Tribunal's standing, 23:71 Ultra vires legislation ruling, 23:73 trial judge acting on own motion, 9:212

INDICTMENTS AND INFORMATIONS	INDICTMENTS AND INFORMATIONS
—Cont'd	—Cont'd
Amendments, 9:201—Cont'd	Information—Cont'd
variance between evidence and charge,	Crown stay, review of, 10:11
9:216	defective vs. nullity, 9:240
when power available, 9:207	defects in
widening count, 9:224	generally, 10:55
wrong oath not nullity, 9:240	date/place, omission of, 10:63
Charges against different Acts, 9:6	defacement, 10:59
Charging documents, 9:1	face and back, 10:60
Complaint, 9:10	facsimile signature, 10:65
Conclusion	improper form, 10:55
at common law, 9:21	jurisdiction disclosed on information,
British Columbia practice, 9:22	10:61
Coroner's inquisition, 9:17 Counts, 9:5	multiple offences, where containing, 13:13
Criminal proceedings	onus on accused, 10:57
criminal prosecution vs., 10:10	plea to defective information, 10:64
stay/withdrawal prior to issuance of	receiving justice, presumption re
process, 10:11	capacity, 10:62
Crown discretion re charge, 9:15	reference to previous convictions,
Drafting modes, 9:23	10:66
General rules, 9:1	statutory forms, 10:56
Indictment	unsworn information, 10:58
commencement of, 9:19	duplicative, 10:52
defined, 11:1	issuing process
direct	generally, 10:36
see DIRECT INDICTMENT meaning of, 9:4	allegations and evidence at hearing, 10:47
parchment no longer required, 9:20	defective process, 10:51
parts of, 9:18	duty of justice, 10:38
persons entitled to prefer, 9:14	non-compliance with information requirements, 10:53
preferring	other charges than on process, 10:54
see PREFERRING INDICTMENTS	postponing execution of arrest war-
statement of venue no longer required, 9:20	rant, 10:40
Information	pre-enquete
abatement of proceedings	disclosure to counsel, 10:44
death of informant, 10:67	duty to hear all witnesses, 10:45
amendments to, 10:68	duty to hear informant, 10:46
information need not be resworn,	ex parte, 10:43
10:69	indictable offences, 10:42
not constituting new proceedings,	motion to quash at, 10:49
10:68	prerogative remedies and, 10:37
charging document in prov.ct., as, 10:1	prescription on face of information,
complaint	10:36
inclusion of, 9:11	subsequent application for, 10:48
vs., 9:12	test for, 10:39
contents of, 9:8	laying
criminal, 9:16	entitlement, 10:6

INDICTMENTS AND INFORMATIONS	INDICTMENTS AND INFORMATIONS
—Cont'd	—Cont'd
Information—Cont'd	Information—Cont'd
laying—Cont'd	time limitation re laying—Cont'd
factual basis of information, 10:29	specific, 10:35
false oath, 10:14	whole day to be considered, 10:32
former complaint, 10:22	use of, 10:1
former form, 10:21	Information vs. indictment, use of, 9:2
historical forms, 10:20	Joinder of accused
identification of accused, 10:15	generally, 9:266
language of, 10:30	accessory after fact, 9:286
new information, consent requirement, 10:12	illegal possession of property, 9:287 Joinder of counts
pre-1955 practice, 10:23	
private information, practice in	Canadian practice, 9:252 Charter consideration, 31:558
receiving, 10:8	common law practice, 9:247
public official, by, 10:7	doctrine of election, 9:248
purpose of, 10:19	English practice since 1915, 9:250
reasonable grounds requirement,	English provision, 9:251
10:13	general rule, 9:241
reception of	joinder of separate accused by judge,
by one justice, 10:24	9:254
mandatory, 10:26	murder indictment
ministerial act, as, 10:27	English practice re, 9:246
release prior to laying (s. 5050(b)),	multiple murders, 9:245
10:16	practice re, 9:244
restriction on, 10:25	mutually exclusive counts, 9:253
review of, 10:17	one felony rule, 9:249
territorial factors, 10:18	overload of indictment, 9:243
meaning of, 9:7	Joinder of indictable and summary
null information, 10:14	conviction offences, 9:242
oral, 9:13	Joinder of offences disclosed by evidence
prior conviction, reference to in, 9:65	11:61
private information, referral of, 10:18	Joinder of separate committals for trial,
purpose of, 9:9	11:60
replacement, 10:52	Joinder of summary conviction and
resworn, 9:240	indictable offences, 9:289
Sovereign	common law rule, 9:289
information not necessarily in name	failure to elect, 9:292
of, 10:3	information, in, 9:242, 11:5
prosecution in name of, 10:4	not necessarily fatal, 9:293
summary conviction appeal, use in,	pre-1955 rule, 9:291
10:2	present rule, 9:290
terrorism offence, investigative hearing	Motion to quash, 9:185
of, 10:41	aider by verdict
time limitation re laying	doctrine of, 9:198
generally, 10:31	first-time objection, 9:199
application of, 10:31	consolidation of former procedures,
continuing offence, 10:33	9:185
nartial prescription 100.54	criterion for Y.IX6

INDICTMENTS AND INFORMATIONS INDICTMENTS AND INFORMATIONS —Cont'd —Cont'd Motion to quash, 9:185—Cont'd Severance of counts-Cont'd English practice, 9:196 separate indictments Crown's discretion re trials of, 9:280 essential averment, omission of, 9:194 sex counts, 9:264 late motion re jurisdiction, 9:191 late objection on appeal, 9:200 similar fact evidence, 9:260 motion in arrest of judgment, 9:193 **INFANTICIDE** offence unknown to law, 9:197 See HOMICIDE, CULPABLE; power re nullity, 9:192 **INCLUDED OFFENCES** prior to election, 9:190 INJUNCTION relaying of quashed charge, 9:188 Abortion, re, 31:1419 result of, 9:187 Attorney General, application by, 12:21 rule re timeliness of objections, 9:189 Charter remedy, as, 31:1480 waiver of objection, 9:195 Crown, against, 12:19 Pleadings generally Fundamental justice and, 31:499 see CRIMINAL PLEADINGS Restitution order, 18:373 Severance applications Sentence during trial, 9:283 see SENTENCING heard by trial judge, 9:281 renewal of motion, 9:284 **INMATE** when made, 9:282 Arbitrary detention of, 31:821 Severance of accused Fundamental justice and consideration against, 9:275 see CHARTER OF RIGHTS considerations favouring, 9:269 Principles of fundamental justice conspiracy count, 9:285 Right to counsel, 31:625 Crown's discretion re, 9:278 Warrantless search of, 31:754 delayed severance, 9:272 INNOCENCE, PRESUMPTION OF discretionary nature of order, 9:276 See also REVERSE ONUS effect of, 9:271 As basis for bail, 31:1114 English and French accused, 9:277 Fundamental justice and, 31:488 examples of, 9:288 Impartial judge, right to, 31:1086 factors for and against, 9:269 Juvenile delinquent, application to, grounds for, 9:270 31:1034 insufficient grounds for, 9:273 Non-application of, 31:1036 power re, 9:267 Pending appeal, 31:1115 preliminary inquiry, at, 9:274 Pending new trial, 31:1116 Severance of counts Public and press, application to, 31:1038 application to trial judge, 9:257 Purpose of presumption, 31:1033 considerations re, 9:259 Reverse onus re mens rea, 31:1037 conspiracy and substantive counts Trial, application at, 31:1035 Crown election, 9:263 improper use of, 9:262 **INSANITY** practice re, 9:261 Amnesia vs., 22:35 Crown's discretion re, 9:279 Automatism general rule, 9:255 drunken insanity vs. drunken automatism, 21:62, 22:33 onus on accused and appellant, 9:258 preliminary inquiry, at, 9:256 insane vs. non-insane, 22:32 relationship between non-severed mental disorder vs. non-mental disorcounts, 9:265 der, 22:32

INSANITY—Cont'd	INSANITY—Cont'd
Canadian test of	Disease of the mind—Cont'd
"appreciate," meaning of, 22:15	review board—Cont'd
discussed, 22:9	costs against, 22:106
mens rea of offence, 22:18	hearing before, 22:108
nature and quality of the act, 22:16	powers of, 22:112
"wrong," meaning of, 22:24 Common law tests for, 22:1	stay of proceedings recommendation, 23:135
Conduct insanity vs. hearing insanity,	review of disposition, 22:133, 22:134
22:70	review of order, 22:97
Consent verdict of NCR, 22:42.50	terms of disposition, 22:98, 22:118
Diminished responsibility defence, 22:38	treatment as part of disposition, 22:124
Disease of the mind	treatment pending disposition
appeal of disposition	direction re, 22:122
grounds, 22:129	requirement for, 22:123
powers of appeal court, 22:131	unfitness verdict
suspension of dispositions pending,	continued detention in hospital,
22:130	22:110
unreasonable disposition, 22:132	review of, 22:109
bail pending, 22:107	verdicts
compellability of accused, 22:115	not acquittal, 22:29
conditional discharge, 22:119	unfitness and insanity for same
conditional disposition, 22:121	offence, 22:126
constitutionality of scheme, 22:101	victim impact statements, consideration
definition discussed, 22:12	of, 22:126
directing jury re, 22:20	Drunken, 21:44
disposition information, 22:116	discussed, 22:34
dual status offender, 22:128	drunken automatism vs., 22:33
effective date of disposition, 22:125	Equality rights and, 31:1334
enforcement of orders, 22:137	Expert testimony re, 22:41
factors re disposition, 22:99	Fitness to be sentenced, 22:77
high-risk accused	Fitness to stand trial, 22:68
detention of, 22:96	appeal from finding, no interlocutory,
finding, 22:127	22:90
hearing re, 22:95	assignment of counsel, 22:78
review of, 22:134	burden of proof, 22:75
in-court hearing, 22:102	consequences of finding, 22:94
interprovincial transfers, 22:136	court-ordered assessment, 22:84
irregularities, 22:120	deaf mute, 22:72
joint submission, rejection of, 22:113	defence counsel unable to receive
mental disorder amounting to, 22:11, 22:19	instructions, 22:79
NCR detainee, detention of, 22:95	detention of permanently unfit accused, 22:91
non-publication of names, 22:114	duty to conduct hearing re, 22:76
procedure at, 22:111	evidence at hearing, 22:83
psychopathy as, 22:14	factors considered, 22:71
record of proceedings, 22:117	finding of unfitness, 22:88
review board	bail after finding, 22:89
Charter jurisdiction of, 22:105	hearing on multiple informations,
constitution of 22:104	22.82

INSANITY—Cont'd	INSANITY—Cont'd
Fitness to stand trial, 22:68—Cont'd	Procedure, 22:39—Cont'd
incapacity to act in best interests, 22:73	assessment orders—Cont'd
jury disagreement re, 22:87	Crown application for, 22:54
postponement of issue, 22:80	defence counsel application for,
preliminary inquiry re, 22:74	22:55
presumption of, 22:69	enforcement of, 22:137
s. 16 insanity vs. s. 615 insanity, 22:70	grounds for, 22:51
sufficiency of evidence, inquiry re,	review board assessment orders,
22:93	22:52
treatment order, 22:92	time limitations for, 22:53
trier of issue, 22:81	assessment reports, 22:60
"unfit to stand trial," defined, 22:68	burden of proof, 22:39 , 22:75
Incapacity, exemption due to, 22:10	direction to jury
Irresistible impulse vs., 22:36	order of consideration, 22:47
Jurisdiction over "mentally disordered,"	re insanity, 22:45
22:2	re insanity verdict, 22:46
Mental disorder	expert testimony
automatism and, 22:32	hearsay evidence re, 22:41
British draft Criminal Code defence,	practice re, 22:40
22:6	insanity evidence
definition of, 22:12	introduction by Crown, 22:42
expert evidence, rejection of, 22:19.50	rebuttal by Crown, 22:45
former Canadian test of insanity, 22:7	insanity verdict, 22:48, 22:49
not criminally responsible defence,	legal insanity vs. unfit to stand trial,
22:11	22:50
psychomotor epilepsy, 22:21	Sanity, presumption of, 22:10
question of law, as, 22:19	Sentencing and, 18:257
M'Naghten's Case, 22:3	Specific delusions, 22:23
Natural imbecility, 22:22	Specific intent vs., 22:37
Not criminally responsible defence, lead-	U.S. tests, 22:4
ing evidence re, 22:43	Verdict of insanity
Procedure, 22:39	generally, 16:270
appeals re findings/verdicts, 22:67	appeal of and order for new trial, 23:238
appeal stage, at	autrefois acquit and convict, 14:96
court of appeal raising insanity,	Charter validity, 22:30
22:63	effect of
jurisdiction to hear appeal despite	Britain, in, 22:25
unfitness, 22:64	Canada, in, 22:26
order for new trial, 22:66	U.S., in, 22:31
raising insanity at, 22:62	high-risk accused
substitution of insanity finding,	effect of finding, 22:28
22:65	finding, 22:20
assessment	not acquittal, 22:29
appearance after, 22:59	special, 22:29
detention during, 22:58	substitution of, 23:183
protected statements during, 22:61	Withdrawal of defence by judge, 22:16
assessment orders	Trinidiawai of defence by judge, 22.10
contents of, 22:57	INTENT
court's motion, on, 22:56	See also MENS REA

INTERCEPTION OF PRIVATE INTENT—Cont'd Generally COMMUNICATIONS—Cont'd see DRUNKENNESS Possession of devices see POSSESSION OF INTERCEP-Attempts TION DEVICES see ATTEMPTS Prevention of bodily harm (s. 184.1), for, Conditional, 20:8 Conspiracy Prevention of serious harm (s. 184.4), for, see CONSPIRACY — Elements of offence Prior consent to interception, 4:13 Duress. 21:133 "Private communication," meaning of, General intent crimes 4:6 see DRUNKENNESS; MISTAKE OF Reasonable expectation of non-intercep-**FACT** tion, **4:8** Homicide, 27:6, 27:38 Reasonable expectation of privacy re Insanity vs. specific intent, 22:37 communications, 4:9 Knowledge vs., 21:335 Text messages, interception of, 4:17 Murder Time of interception, 4:11 see also MURDER — Second degree implied intent re. 31:546 INTERNATIONAL CRIMINAL LAW parties to common intent, 15:87 Customary international law, jurisdiction three forms of intent, 27:38 over, 1:68 transferred intent, 27:55 International conventions, 32:165 Parties to common intent rule, 15:69 International crime, Canadian prosecution of, 32:171 Parties to offence see PARTIES TO OFFENCE — Com-International Criminal Court, 32:170 mon intention, parties to International criminal law, 32:159 Preparation distinguished from, 20:19 International customary law, 32:166 Specific intent International law see DRUNKENNESS; MISTAKE OF defined, 32:158 **FACT** general principles of, 32:167 Transferred, 27:55 sources of. 32:163 International law of the sea, 32:169 INTERCEPTION OF PRIVATE Judicial decisions and teachings, 32:168 **COMMUNICATIONS** Jurisdiction, non-territorial bases of, Access to, **4:94** 32:163 Admissibility of communications, **4:21** Sovereignty, 32:35 Authorized Statehood, recognition of, 32:160 see AUTHORIZED INTERCEPTED **COMMUNICATIONS** Territorial sovereignty, 32:162 Foreign interception, 4:19 INTERPRETATION ACT Impersonation of recipient, 4:18 See STATUTORY INTERPRETATION Interprovincial interceptions, 4:20 Intra-provincial interception, 4:20 INTERPRETERS Multiple parties to, 4:10 See CHARTER OF RIGHTS Notice of, 4:170 INTERVENTION Crown's duty re, 4:170 extent of notification, 4:172 Appeal, on indictable failure, re, 4:173 see INDICTABLE APPEALS Attorney General of Canada, by notice to all charged, 4:171 Permitted forms of, 4:7 non-Code prosecutions, in, 12:49

Charter remedy, 31:1418

Place of interception, 4:12, 4:170

See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management of interpreter, 31:1260 Crown option offence election by, 7:26 Delay caused by, 31:997 Disregard of evidence by, 23:182 Duty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Guity plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally See JURY CHARGE; JURY TRIAL — Addressing jury	INTERVENTION—Cont'd	JUDGES—Cont'd
judge, 26:77 Commission of evidence by, 16:209 Compellability of, 16:539 Competency of, 16:539 Contempt of court and see CONTEMPT OF COURT — Jurisdiction of court to punish for Co-ordinate jurisdiction, of, 3:125 INTOXICATION See DRUNKENNESS ISSUE ESTOPPEL See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management	Extradition	Certiorari application
Private prosecutions, in, 12:57 Summary conviction proceedings, 12:56 Supreme Court of Canada appeals, 23:254 INTOXICATION See DRUNKENNESS ISSUE ESTOPPEL See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Aduthorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Compellability of, 16:539 Competency of, 16:53 Competency of, 16:539 Competency of, 16:539 Competency of, 16:53 Competency of, 16:539 Competency o		protection order for provincial court judge, 26:77
Summary conviction proceedings, 12:56 Supreme Court of Canada appeals, 23:254 INTOXICATION See DRUNKENNESS ISSUE ESTOPPEL See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Competency of, 16:539 Contempt of court and see CONTEMPT OF COURT — Jurisdiction of court to punish for Co-ordinate jurisdiction, of, 3:125 Cross-examination by of interpreter, 31:1260 re need for interpreter, 31:1260 re ned for interpreter, 31:1260 re need for interpreter, 31:1260 r	foreign state, intervention by, 32:52	Commission of evidence by, 16:209
Supreme Court of Canada appeals, 23:254 INTOXICATION See DRUNKENNESS ISSUE ESTOPPEL See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, off see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Common law, at see COMTEMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Contempt of court and see CONTEMPT of COURT — Jurisdiction, of, 3:125 Ccos-examination by of interpreter, 31:1260 Crown option offence election by, 7:26 Delay caused by, 31:997 Disregard of evidence by, 23:182 Duty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see (LASSIFICATION OF OFFENCES — Indictable offences in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
see CONTEMPT OF COURT — Jurisdiction of court to punish for Co-ordinate jurisdiction, of, 3:125 ISSUE ESTOPPEL See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management see CONTEMPT OF COURT — Jurisdiction of court to punish for Co-ordinate jurisdiction, of, 3:125 Cross-examination by of interpreter, 31:1260 Crown option offence election by, 7:26 Delay caused by, 31:997 Disregard of evidence by, 23:182 Duty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:141 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury	Summary conviction proceedings, 12:56	
diction of court to punish for Co-ordinate jurisdiction, of, 3:125 ISSUE ESTOPPEL See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:89 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management diction of court to punish for Co-ordinate jurisdiction, of, 3:125 Cross-examination by of interpreter, 31:1260 re need for interpreter, 31:1260 Crown option offence election by, 7:26 Delay caused by, 31:997 Disregard of evidence by, 23:182 Duty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction, of, 3:125	Supreme Court of Canada appeals, 23:254	
See DRUNKENNESS ISSUE ESTOPPEL See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Co-ordinate jurisdiction, of, 3:125 Cross-examination by of interpreter, 31:1260 Crown option offence election by, 7:26 Delay caused by, 31:997 Disregard of evidence by, 23:182 Duty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHASTIFICATION OF OFFENCES — Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury	INTOXICATION	
ISSUE ESTOPPEL See PLEADING — Res judicata JOINDER Accessory after the fact, 9:286 Accused, of See INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Common law, at See COMMON LAW Counts, of See INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences See INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management of interpreter, 31:1260 crown option offence election by, 7:26 Delay caused by, 31:997 Disregard of evidence by, 23:182 Duty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally See JURY CHARGE; JURY TRIAL — Addressing jury		Co-ordinate jurisdiction, of, 3:125
JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management re need for interpreter, 31:1260 Crown option offence election by, 7:26 Delay caused by, 31:997 Disregard of evidence by: 23:182 Duty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally See JURY CHARGE; JURY TRIAL — Addressing jury	ISSUE ESTOPPEL	
JOINDER Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management	See PLEADING — Res judicata	
Accessory after the fact, 9:286 Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management	·	
Accused, of see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Disregard of evidence by, 23:182 Duty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
see INDICTMENTS AND INFORMATIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Cuty to ensure fair trial and counsel's civility, 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to guity to ensure fair trial and counsel's civility. 17:71 Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indicable appeal trial judge's report see INDICTABLE APPEALS Indicable appeal trial and counselfest		
TIONS — Joinder of accused Amendment to indictment to permit, 9:209 Charge, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management ividence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to mention or give effect to material evidence, 23:182 Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to mention or give effect to material evidence, 23:182		
Amendment to indictment to permit, 9:209 Charge, 9:209 Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Extradition hearings, 32:38, 32:73 Failure to mention or give effect to material evidence, 23:182 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Pallure to mention or give effect to material evidence, 23:182 Fauntus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTMENTS AND INFORMA- TIONS Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management		
Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management		
Common law, at see COMMON LAW Counts, of see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Functus officio, as, 1:137, 16:482 Guilty plea acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of See CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury	Charge, 9:209	
Counts, of see INDICTMENTS AND INFORMA- TIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMA- TIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management acceptance/rejection by, 14:24, 14:34 change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
see INDICTMENTS AND INFORMATIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management change of judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury	see COMMON LAW	* 1
TIONS — Joinder of counts Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Judge's discretion on, 14:41 Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury	Counts, of	
Dual and indictable offences, 7:31 Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Independence and impartiality of see CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
See CHARTER OF RIGHTS — Offences disclosed by evidence, 11:61 Preferring indictments and, 11:21 Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management See CHARTER OF RIGHTS — Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Offence, person charged with Indictable appeal trial judge's report see INDICTMENTS AND INFORMA- TIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Offence, person charged with Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Separate committals, 11:60 Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Indictable appeal trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Separated accused, 11:41 Summary conviction and indictable offences see INDICTMENTS AND INFORMATIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management trial judge's report see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury	_	
see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally Case management see INDICTABLE APPEALS Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury	•	
Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Indictable offence jurisdiction of see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury	•	
see INDICTMENTS AND INFORMA- TIONS See CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally Case management see CLASSIFICATION OF OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
TIONS JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management OFFENCES — Indictable offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		· ·
JUDGES Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Offences Integrity, presumption of, 26:80 Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Additions to charge by, 11:39 Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Interest in outcome, prohibition against, 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Adjournments, discretion re, 16:33 Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management 26:87 Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Amendment to indictment by, 9:212 Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Issue estoppel, determination of, 14:148 Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Application to for exclusion of evidence, 31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Joinder of separate accused by, 9:254 Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
31:1528 Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management Jury and aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Authorization for intercepted communications, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management aids to, 17:147 charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		· · · · · · · · · · · · · · · · · · ·
tions, 4:31, 4:37, 4:87, 4:99 Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management charge to generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Bias, recusal of judge for general, 26:85 Calling witnesses, 16:193 Case management generally see JURY CHARGE; JURY TRIAL — Addressing jury		
Calling witnesses, 16:193 Case management see JURY CHARGE; JURY TRIAL — Addressing jury		
Case management TRIAL — Addressing jury		•
	see CASE MANAGEMENT JUDGE	certification of, 23:129
Certification of jury charge, 23:129 premature, 17:82		

JUDGES—Cont'd	JUDICIAL REVIEW
Jury and—Cont'd	Charter remedies
direction to stand by, 17:17	see CHARTER OF RIGHTS —
excusing, 17:16	Charter remedies
interview in judge's chambers, 17:156	Constitutional law and, 34:1
pre-screening, 17:36	Extradition order, of, 32:93 , 32:98
verdicts	JURISDICTION
exhortation by judge, 17:180	Bases, 1:3
judge's function re, 17:170	Cessation of, 1:134
judge's report, 23:136	contempt by defaulting witness, 1:198
vetting, 17:26	detention of arrested witness, 1:202
Mistrial, 1:138, 17:74	excusing witness, 1:196
Nonsuit function, 16:247, 16:248, 16:262	irregularity of summons/warrant, 1:192
Particulars and, 9:147, 9:158	prisoner required as witness, 1:203
Personal attack on, 29:42	subpoena
Plea/sentence bargaining, involvement in,	collateral attack of, 1:185
14:50, 18:454	duces tecum, 1:186
Preliminary inquiry transcript, reading,	duration of, 1:188
16:486	jurisdiction re issue of, 1:184
Pre-trial judge as trial judge, 16:14	material evidence requirement, 1:183
Prior rulings by same judge, prohibition re, 26:88	modified to circumstances of case,
Private inquiries by, 18:236	1:179
Publication ban by inferior court judge,	motion to quash
31:326	generally, 1:194
Publication ban by superior court judge,	at trial, 1:195
31:327	search warrant vs., 1:187
Questioning of witnesses by, 16:192	service of, 1:190
Raising Charter issue, 31:1517	service of document, 1:189
Recusal of American judge, 26:89	service outside Canada, 1:180
Recusal of inferior court judge, 26:84	substitutional service of, 1:191
Re-opening accused's defence, discretion	witness at large, 1:182
re, 16:158	witness defaulting on, 1:197
Re-opening case, discretion re, 16:157	unsubpoenaed witness in courtroom,
Revocation of parole application, 18:310	1:181
Right to vote, 31:392	warrant
Severance applications, 9:257, 9:281	issue of instead of subpoena, 1:199
Special pleas, disposal of, 14:74	territorial effect of, 1:200
Substitution of during jury trial, 1:131	witness absconding on recognizance,
Sureties, naming of, 6:48	1:201
Unable to continue/act, 1:135, 18:318	witness fee, 1:193
Withdrawal of insanity defence by, 22:17	Consent to, 1:9
Youth court	Court levels, of, 1:6
see Youth Justice Court judge	Court records, over, 1:9
JUDICIAL NOTICE	Customary international law, 1:68
Court records re previous convictions,	Defined, 1:1
18:267	Extended, 1:109
Facts, of, 16:681	generally, 1:109
Laws, of, 16:682	"arrested" (s. 470), 1:112
Proclamation/regulation, of, 33:78	committal for trial, 1:121
- 100141141101111011110111, 01, 00010	- Committee for windly 101 Mark

JURISDICTION—Cont'd	JURISDICTION—Cont'd
Extended, 1:109—Cont'd	Loss of, 1:139 —Cont'd
extradition and, 1:55	loss of over offence, 1:140
extraterritorial aspect of charge infor-	consequence of, 1:142
mation, 1:110	loss of over offender, 1:146
"found" (s.470), 1:111	no initial jurisdiction, 1:145
"in custody"	no loss of
entering plea, 1:114	over indictment, 1:141
general (s. 470), 1:113	over offence, 1:139
non-jury trials, 1:123	remand
preliminary inquiry	non compliance with, 1:147
appearance at (s. 470), 1:115	summary conviction proceedings
transfer of offence during, 1:117	appearance by agents in, 1:161,
provincial legislation, 1:124	16:26
residence (Income Tax Act), 1:116	proceeding in absence of defendant,
search warrant (interprovincial), 1:118	1:163
superior court, 1:122	technological appearance in court,
territorial, 1:88	
where process returnable, 1:120	time limits, no waiving of, 1:172 unfit appellant, 1:167
wiretap authorization (interprovincial),	withdrawal or stay of charge, Charter
1:117	jurisdiction, 12:162
Federal Court, 1:75	young person, failure to arraign, 1:169
Judge as persona designata, 1:7 Loss of, 1:139	Over offence, 1:46
absolute vs. relative nullity, 1:144	commencement vs. institution vs.
adjournment	continuation of proceedings, 1:46
by clerk/registrar, 1:151	consent of Attorney General
in absence of defendant, 1:158	continuation of proceedings, 1:51
non compliance with, 1:147	federal, 1:48
of ruling or judgment, 1:149	provincial, 1:47
Part XIX adjournment, 1:150	disclosure re jurisdiction on informa-
to fixed date, 1:148	tion, 1:52
to holiday, 1:157	dismissal for want of prosecution, 1:51
without information, 1:152	inferior court, limited jurisdiction, 1:53
appearance by counsel of record, 1:160	Over person, 1:10
appearance by designated counsel, 1:26	absence of accused, 1:28
appearance notice, failure to confirm,	acts of state in foreign jurisdiction,
1:168	1:20
bench warrant, 1:154	adjournment at jail, 1:30
conditional appearance, 1:156	armed forces
dismissal for want of prosecution,	generally, 1:25
1:155	Canadian, 1:24
exceeding jurisdiction, 1:143	Canadian citizen, 1:15
indictable offence proceedings	Canadian offence committed outside
proceeding in absence of accused,	Canada, 1:14
1:164	Crown immunity, 1:23
irregularities	diplomatic and consular immunity, 1:17
allowing new process, 1:171	diplomatic/sovereign immunity, 1:18
cured by appearance, 1:170	foreign acts of state doctrine, 1:21
jurisdiction acquired/regained, 1:153	foreign offender re territorial sea, 1:16
janisarenon acquired/regamed, 1.155	10101511 Offender to territorial sea, 1.10

JURISDICTION—Cont'd	JURISDICTION—Cont'd
Over person, 1:10—Cont'd	Territorial, 1:54—Cont'd
international organization, 1:22	extended territorial jurisdiction, 1:61,
presence of accused in court (indict-	1:88, 1:106
able), 1:27	extraterritorial
presence of defendant (summary	conspiracy
conviction), 1:29	s. 465(3), 1:78
state immunity, 1:19	s. 465(4), 1:79
young person, 1:10 Procedural requirements, waiver of, 1:9	jurisdiction re offences committed outside Canada, 1:77
Religious matters, over, 31:195 , 31:1336 Seizure of jurisdiction, doctrine of, 1:125	federal jurisdiction over provincial land, 1:60
adjournment by any official, 1:132	foreign acts of state doctrine, 1:21
common law rule, 1:125	foreign law and Canadian sovereignty,
discharge of jury before verdict, 1:129	1:56
indictable offences, 1:128	guilty plea to offence committed in
judge unable to continue/act, 1:135	another province, 1:64
mistrial by judge without jury, 1:138	guilty plea to offence committed in
present statutory rule, 1:127	same province, 1:65
substitution of judge during jury trial, 1:131	importation of illegal drugs into Canada, 1:90
summary conviction (former rule),	Income Tax Act exception, 1:84
1:126	international matters, 1:68
waiver of jurisdiction after evidence, 1:133	judicial powers in extended territories, 1:106
Summons, affect of on jurisdiction	mail in different jurisdictions, 1:94
accused need not appear before issuing	non-province part of Canada, 1:63
justice, 1:175	offence committed outside Canada,
irregular summons, 1:177	1:67
place of service, 1:174	offence committed outside state terri-
summons signed by clerk or another judge, 1:178	tory, 1:105 official, limited jurisdiction of, 1:91
summons vs. notice outside Canada,	overt act (conspiracy), 1:90
1:176	provincial jurisdiction over Aboriginal
Superior Court, 1:5, 1:6 Territorial, 1:54	rights, 1:72
accused not in jurisdiction during	provincial territorial jurisdiction
offence, 1:76	over federal matters, 1:59
acts of state in foreign jurisdiction,	over provincial matters, 1:71
1:20	to sit in other provinces, 1:74
common law rules, 1:57	proving place of offence, 1:87
concurrent jurisdiction, 1:92	question of law re situs of crime, 1:108
continuing offence (importing), 1:91	real and substantial link to Canada,
Controlled Drugs and Substances Act	1:58
exception, 1:85	Security of Information Act exception, 1:83
county jurisdiction, 1:80	
crime is generally local to realm, 1:54	summary conviction court, 1:86 terrorism offences exception, 1:82
divisions of, 1:80	* '
doctrine of stare decisis applicable to	unorganized territory in Canada, 1:62 vehicle/vessel/aircraft, 1:93
provincial courts, 1:72	venue vs. jurisdiction 1.81

JURISDICTION—Cont'd	JURY CHARGE—Cont'd
Territorial, 1:54—Cont'd	Provocation for manslaughter, 27:165,
waters	27:168
arctic, 1:96	Similar fact evidence, 16:639
Canadian fishery waters, 1:97	Written copy of, jury not entitled to,
Canadian waters/territorial sea, 1:66	17:155
common law, at, 1:95	JURY TRIAL
continental shelf, 1:98	See also CHARTER OF RIGHTS —
exclusive economic zone, 1:99	Offence, person charged with
Great Lakes, 1:102	Addressing jury, 17:82
high seas (hot pursuit), 1:104	after judge's instructions, 17:84
sea ice, 1:107	charge by judge
territorial sea, 1:96	see instructions by judge
Time limitations, 1:31	closing addresses by counsel
continuing/separate offences, 1:42	absence of evidence, comment re,
Crown option offences	17:98
generally, 1:38	conduct of counsel, 17:92
determination on election, 1:39	Crown's theory of liability, 17:91
informations and, 1:41	disregarding of law, comment re,
partial prescription, 1:44	17:97
prescription on face of information,	failure of accused/spouse to testify,
prescription periods, 1:31	17:135 fixed view, comment re, 17:95
repeal of, 1:40	incorrect statement of fact, 17:99
specific vs. general, 1:34	insanity verdict, consequences of,
specified, 1:33	17:102
statutory vs. judicial, 1:32	legal principles, reference to, 17:96
summary conviction offences	limitations on, 17:90
generally, 1:35	order of
as included offence, 1:45	accused not calling witnesses,
where time is essential, 1:37	17:85
Types of, 1:2	Charter consideration, 17:88
JURY	Crown's right to go last, 17:88
See JURY TRIAL	multiple accused, where, 17:86
	penalty, comment re, 17:101
JURY CHARGE	powerpoint presentation, use of,
See also JURY TRIAL — Instructions by	17:83
judge	premature instructions by judge,
Alibi, re, 16:398	17:82
Conviction appeal court review of, 23:197	right of reply, 17:89
Disease of the mind, 22:20	unrepresented accused, 17:87
E-mails between judge and counsel,	visual aids, use of, 7:21
17:105	instructions by judge
Expert witness, 16:666	see also JURY CHARGE
Included offences, 16:300	accused's testimony, re, 17:117
Insanity	alternative bases for liability, 17:122
see INSANITY — Procedure	assumption that jury understands,
Judge's certification of, 23:129	17:109
Jury's entitlement to, 17:155	biases and stereotypes, 17:119.30
Prior conviction, 16:126	content of, 17:112

JURY TRIAL—Cont'd	JURY TRIAL—Cont'd
Addressing jury, 17:82—Cont'd	Addressing jury, 17:82—Cont'd
instructions by judge—Cont'd	unrepresented accused, 17:100
contrary evidence as between voir	Allegations of misconduct against
dire and trial, 17:127	counsel, 17:72
counsel not making submission, where, 17:113	Attorney General requiring, 8:69, 31:1082
defences	Challenges re petit jury
deliberately rejected by accused,	array, challenging, 17:8
17:125	for cause
invalid but insisted on by accused,	acceptance/withdrawal of, 17:37
17:131	grounds for, 17:24
delay between jury addresses and, 17:108	impartiality, 17:25
	improper question on, 17:33
direction to convict, 17:131 duty of counsel to assist court,	pre-screening by judge, 17:36
17:125	procedure on, 17:34
errors in, counsel duty to object,	questions
17:115	put by counsel, 17:35
failure of accused/spouse to testify,	re pre-trial publicity, 17:29
17:135	racial bias, 17:31
failure to call witness/tender evi-	tentative opinion or belief, 17:32
dence, 17:122	vetting by trial judge, 17:26
finding of fact constituting offence,	multiple accused, re, 17:20
17:138	peremptory
immediate instruction, 17:110	abolition of, 31:1068 , 31:1131
judge's opinions, 17:129	by accused, 17:22
law, explanation of, 17:136	historical basis for, 17:21
mandatory, 17:116	procedures re, 17:19
natural consequences of act, presumption re, 17:138	separate polls, challenging, 17:7 , 17:18 , 17:20
non-accused witness incriminates self, where, 31:1237	stand asides by Crown, 17:23, 31:1069, 31:1081
objection to charge, 17:181	timing, 17:18
out-of-court statement, re, 17:121	types of, 17:7
pre-charge conference, 17:104	Co-accused, rules re, 17:118
premature, 17:82	Common law powers re, 17:81
purpose of, 17:112	Conversion to non-jury trial, 17:63
re-charge, 17:139	Deliberations by jury, 17:141
rejection of defence by accused, re,	aids, 17:148
17:126	copies of Code provisions to jury,
rhetorical questions, use of denigrat-	17:146
ing, 17:130	disclosure of, 17:188
right to disagree, 17:179	evidence read to jury, 17:152
special instructions, 17:120	exhibits in jury room, 17:157
standard of perfection, 17:116	interview in judge's chambers, 17:156
voluntariness of accused's state-	judge's aids to jury, 17:147
ments, 17:137	juror's notes and counsel's summaries,
written theories of counsel, 17:108	17:148
opening statement, content of, 17:87	jury addresses, reading back of, 17:153
parole ineligibility, 18:174	missing exhibits, 17:149

JURY TRIAL—Cont'd
Jurors
additional, 17:42
adherence to oath, presumption re,
17:30
alternate, two forms of, 17:41
available, 17:38
background checks on, 17:11
challenges
see Challenges re petit jury communication with
generally, 17:59
out-of-court communication, 17:58
discharge of
cause for, 17:62
timing of, 17:65
disqualified, effect on jury, 17:46
drawing by clerk, 17:14
excusing of by judge, 17:16
impartiality of
after verdict, 17:70
in camera inquiry re, 17:66
partiality vs. accused, 17:28
partiality vs. bias, 17:27
partiality vs. hardship, 17:69
proper inquiry, 17:67
real danger test, 17:68
tests re, 17:68
judge's direction to stand by, 17:17
jury roll, representative, 17:9, 31:1103
misconduct by, 29:54
oath/affirmation, presumption of adher-
ence to, 17:64
omission of names, 17:54
omissions re processing, 17:47
physically disabled, 17:50
previous, 17:39
qualifications
federal, 17:4, 17:5
provincial, 17:4
screening
for exemptions, 17:12
for prejudice, 17:13
separation of, 17:51
sequestration of, 17:52
talesmen, 17:4
methods of summoning, 17:42
number of, 17:43
tampering with, 17:59

URY TRIAL—Cont'd	JURY TRIAL—Cont'd
Jury	Jury verdicts, 17:170—Cont'd
addressing	multiple, 18:227
see Addressing jury	partial verdicts, 17:177
deliberations by	particulars, absence of, 17:176
see Deliberations by jury	polling of jury, 17:184
discharge of before verdict, 1:129	Sunday or holiday, on, 17:172
discrimination issues re	trial judge's report, 23:136
see CHARTER OF RIGHTS —	unanimity
Equality rights — Discrimina-	alternative theories of guilt/
tion	innocence, re, 17:174
fundamental justice and	requirement re, 17:173
see CHARTER OF RIGHTS —	verdict sheet, 17:175
Principles of fundamental	Mistrial
justice	inadmissible evidence before jury,
hung, 14:104, 17:185, 31:1168	17:76
non-compliance by trial judge, 17:45	judge's power to declare, 17:74
note taking by, 17:78	necessity for, 17:76
parole ineligibility recommendation of, 18:181	prejudicial evidence, 17:76
	prior rulings, application of, 17:75
putting accused in charge of, 17:44 questions by, 17:79	Pleading, 14:17
secrecy not contravening s. 7 of	Protection order, 17:54
Charter, 31:605	Publication restriction, 17:53
selection process, 17:3	Right to
summaries to assist, 17:77	see CHARTER OF RIGHTS —
verdicts	Offence, person charged with
	Right to properly constituted jury, 17:40
see Jury verdicts	Substitution of judge during, 1:131
viewing by, 16:66	Verdicts
Jury instruction, immediate, 17:110	see Jury verdicts
Jury management, 17:49	Voir dire
Jury room, exhibits in, 17:157	need for, 17:127
Jury tampering, appearance of, 17:60	Waiver of, 7:44
Jury verdicts, 17:170	Written materials given to jury, 17:83
ambiguous, 17:182	LANGUAGE
completion of, 17:183	Charge, used in, 9:58
disagreement	Complementary language rights, three,
instruction re right to, 17:179	31:1298
on greater but not lesser offence,	Disclosure in trial language, 31:1383
17:178	Equality rights and, 31:1346
exhortation by judge, 17:180	Forms, of, 16:509
finality of, 17:186	Information, of, 10:30
functions of trial judge and jury re,	Language of choice, 31:243
17:170	Language of trial, 2:20, 31:1376, 31:142
general verdict, 17:171	Legal vs. language rights, 31:68
hung jury	Minority
see Jury	see CHARTER OF RIGHTS — Minor
improprieties, 17:187	ity language educational rights
judge' discretion to delcare mistrial	Official languages, use of, 31:1277,
after, 16:483	31:1359

LANGUAGE—Cont'd Statutory interpretation and see STATUTORY INTERPRETATION Trial, of. 16:68 LAWYER Contempt of court by, 29:52 Legal aid lawyer, 31:1354 Presence of during police interview, 31:930 Right to retain counsel, 31:850 **LEGAL AID** Equality rights, 31:1354 Information re on arrest, 31:860 Legal aid lawyer, 31:1354 LIBERTY See CHARTER OF RIGHTS LIFE, LIBERTY AND SECURITY OF THE PERSON See CHARTER OF RIGHTS **LIMITATIONS** Generally see JURISDICTION Crown option offences, 1:38, 7:39 Indictment and information amendments to, 9:219 Information limitation re laying, 10:31 Insanity, assessment order, 22:53 Intermittent sentence, 18:355 Young person, 30:24 **MANDAMUS** Generally see EXTRAORDINARY REMEDIES Discharge and, 26:99 Judicial review and, 31:1503 Power to order, **31:1446** Summary conviction appeals and, 24:50

MANDATORY PROVISIONS

Hunting equipment, mandatory forfeiture of, 31:1242

Jail sentence, 31:571, 31:809

Jury trial, 8:20

Jury trial instructions, 17:116

Minimum sentence, 18:107, 31:809, 31:1216, 31:1218

Presumptions, 16:691

Prohibition order, 31:575, 31:1220

```
MANDATORY PROVISIONS—Cont'd
  Reception of information, 10:26
  Seatbelts, 31:650
  Sentences, 18:104
  Supervision
    revocation of, 31:1162
     withholding, 31:627
  Verdict on finding of provocation, 27:179
MANSLAUGHTER
  Aiding or abetting, 15:47
  Attempted, 20:14
  Charge re
    identification of unlawful act, 27:118
    unlawful act vs. criminal negligence,
         27:117
  Co-accused, 27:135
  Criminal negligence, 27:126, 28:4, 28:32
  Drunken automatism, 27:132
  Fundamental justice and, 31:551
  Involuntary
    definition of, 27:116
  Joint principal offender, liability as,
       27:133
  Liability, levels of, 27:135
  Provocation for, 27:136
    accused's state of mind, 27:136
    attempted murder, unavailable for,
         27:149
    British definition, 27:145
    burden of proof, 27:139
    common law, factors considered at,
         27:143
    consensual fight, provocation during,
         27:155
    cumulative provocation, 27:172
    evidence of, 27:160
    excessive force in self-defence, 27:156
    fight, involvement in, 27:157
    forms of, 27:141
    historical development of defence,
         27:138
    illegal arrest, 27:162
    insult
       and retaliation, 27:150
       ordinary person test, 27:163, 27:166
    jury instruction re, 27:165, 27:168
    killing before passions cool, 27:153
    legal rights, exercising, 27:158
    loss of self-control
       revenge, vs., 27:151
```

MANSLAUGHTER—Cont'd MANSLAUGHTER—Cont'd Provocation for, 27:136—Cont'd Voluntary vs. involuntary, 27:115 loss of self-control—Cont'd MAXIMUM SENTENCES subjective test re, 27:170 See SENTENCING mandatory verdict on finding of provocation, 27:180 MENS REA mistake of fact, 27:178 See also INTENT ordinary person standard, 27:163, Attempts, **20:10** 27:166 Breach of probation, 18:321 partial defence, as, 27:142 Concurrence of actus reus and mens rea, predictable result of accused's wrong-21:323 ful conduct, **27:161** Conduct and result, causal relationship proportionality of retaliation, 27:154 between, 21:319 questions of law and fact, 27:175 Conspiracy and, 19:47 reasonable doubt, specific direction re, Crime, definition of, 21:317 27:181 Criminal contempt, 29:45 revenge killings, avoidance of, 27:169 Culpability, requirements of, 21:338 self-defence, rejected evidence of Disobedience of court order, 29:47 constituting provocation, 27:179 Drinking and driving offences, 21:48 self-induced, 27:159 External elements of offences and, 21:318 statutory form of, 27:140 Fault, requirements of suddenness of, 27:150, 27:171 A.L.I. Model Penal Code, 21:338 sudden provocation, 27:150, 27:152, British draft Criminal Code, 21:339 27:174 Fraudulent, 21:332 third party, from, 27:177 Fundamental justice and, 31:495 traditional causes of, 27:146 General criminal theory, 21:316 transferred provocation, 27:176 Infanticide, 27:107 unavailable in absence of evidential Insanity, 22:18 foundation, 27:147 Intention, 21:337 victim's criminal conduct, 27:148, Knowledge element 27:150 generally, 21:333 voluntary vs. involuntary manslaughter, evidence of general knowledge, 21:334 27:137 intention vs. knowledge, 21:335 wrongful act or insult, 27:163 Lack of Secondary offender, liability as, 27:134 defence, as, 21:315 Sentencing re onus on Crown, 21:325 see SENTENCING Meaning of, 21:324 Unlawful act Mistake of law, 21:251 accidental, 27:130 Motive, 21:337 cause of death requirement, 27:120 Negligence, meaning of, 21:331 consensual fight, 27:124 Objective fault offences, 21:326 essential elements, 27:118 Presumption re, 33:30 insufficient intent for murder, 27:121 Purpose, 21:337 non-criminal, 27:131 Reasonable or lawful excuse, 21:327 omission of legal duty, 27:122 Recklessness, 21:333 regulatory offence, commission of, Reverse onus and, 31:1037 27:123 "rolled-up instruction" to jury, 27:121 "Unlawful act," meaning of, 21:329 unlawful dangerous act Volition relating to act and intent, 21:322 meaning of, 27:125 Wilful blindness, 21:333 Wilfulness, 21:336 objective test, 27:127

MENTAL DISORDER

Immaterial mistake, 21:234 See INSANITY: MENTAL ILLNESS Mistake of law vs., 21:243 **MENTAL ILLNESS** Mixed law and fact, 21:237 See also INSANITY Nature of defence, 21:232 Hospital orders Provocation for manslaughter, 27:178 Britain, 22:140 Public welfare offence, 21:215, 21:221 Indefinite civil detention, 22:138 Reasonable grounds Involuntary detention under provincial absence of, 21:220 legislation, 22:141 public welfare offences and, 21:221 Mentally disordered witness, 22:136 Recklessness, 21:229, 21:231 Provincial legislation re accused, 22:137 Self-defence, 21:175 Psychiatrist's assessment, 22:85 Sexual offences and Sentence to prison, 22:139 air of reality re consent, 21:225 Statements by mentally ill offenders, belief as to complainant's age, 21:226 22:135 statutory definition, 21:224 MINIMUM SENTENCES Strict liability offence, 21:214 See MANDATORY PROVISIONS Transferred, 21:236 MINISTER OF JUSTICE Value judgment element, 21:218 Appeal powers of, 23:294 Wilful blindness, 21:230 Extradition MISTAKE OF LAW decisions of, 32:27 British draft Criminal Code, re, 21:239 duties, 32:37 Civil law report to, 32:76 mistake re negating mens rea, 21:251 Review applications, 23:289 Colour of right defence, 21:268 MINISTERIAL REVIEW Constitutional validity, mistake re, 21:244 APPLICATION Court rulings, reliance on, 21:262 Crown disclosure. 13:102, 23:290 Custom, reliance on, 21:263 MISTAKE OF FACT Deficient legal advice, 21:246 Absolute liability offence and, 21:214 Detention, not basis for, 31:824 Age, re, 31:606 Due diligence and, 21:256, 21:264 American Law Institute definition, 21:238 Fraud and (s. 380), 21:271 Assault, 21:227 General rule re. 21:240 British draft Criminal Code, re, 21:239 Ignorance and, 21:242 Burden of proof on Crown, 21:233 Ignorance of foreigner, 21:260 Charter validity of Code re, 21:235 Immaterial mistakes, 21:267 Classification of offence and, 21:213 Impossibility of knowledge, 21:259 Consent, re, 21:313 Legal advice, reliance on, 21:261 Correction of child and, 21:219 Legal obligations, re, 21:249 Criminal negligence and (s. 219), 21:222 Legal question, based on, 21:245 Definition of, 21:216 Mens rea and, 21:251 Drunkenness, 21:59 Mistake of fact vs., 21:243 consent in general intent crimes, Money paid under, 21:250 21:228 Officially induced error, 21:265 specific and general intent crimes, Private rights, based on, 21:247 21:227 Probation order, wilful breach of, 21:253 Exculpatory defence, as supporting, 21:216 Prohibited weapon, re, 21:240 General rule re, 21:212 Public law, based on, 21:248

MISTAKE OF FACT—Cont'd

distinguished from planned, 27:68

MISTAKE OF LAW—Cont'd MULTIPLE CONVICTIONS, RULE AGAINST—Cont'd Rationale for exclusion of defence of, 21:241 Alternative offences, 16:344 Scope of law, re, **21:252** stay at trial, 16:350 Silence as consent to sexual conduct, Application of 21:255 generally, 16:339 Statutory law, reliance on, 21:266 examples of improper application, Subordinate legislation 16:355 reasonable notice requirement, 21:257 examples of proper application, 16:356 unpublished, 21:258 where essential factual elements are same (s. 85), 16:354 MISTRIAL Conspiracy and substantive convictions, By judge without jury, 1:138 16:348 Double jeopardy and, 31:1168 Conviction for most serious offence, Inadmissible evidence before jury, 17:76 16:351 Judge's power to declare, 17:74 Different Necessity for, 17:76 acts from same circumstances, 16:346 Prejudicial evidence, 17:76 time periods, 16:349 victims, 16:347 MOBILITY RIGHTS Disposition on appeal where applied at See CHARTER OF RIGHTS trial, 16:352 **MOTIONS** Same delict, 16:337 Action vs., 31:1453 Statutorily displaced, 16:353 Admission on criminal motions, 31:1454 Substantially different offences, 16:345 Authorized intercepted communications Substantially similar elements, 16:342 motion to quash Sufficient proximity see AUTHORIZED INTERCEPTED re facts, 16:340 **COMMUNICATIONS** re offences, 16:341 Charter remedy, for MULTIPLE PROCEEDINGS see CHARTER OF RIGHTS - Reme-See INDICTMENTS AND INFORMAdies - Procedure **TIONS** Directed verdict, for, 19:57 Discharge, re, 13:49 **MURDER** Indictment, to quash Accused's state of mind. 27:136 see INDICTMENTS AND INFORMA-Appeals, 23:18 **TIONS** Attempted, 27:149, 31:549 Information, to quash, 10:49 Common law, at, 27:35 Nonsuit, for Constructive murder see NONSUIT, MOTION FOR see Second degree Nullity, to quash, 9:192 Drunkenness and Pre-trial, 16:69 see DRUNKENNESS Search warrant, to quash, 3:133 Duress defence, 21:123 Subpoena, to quash, 1:192 First degree aiding or abetting, 27:80 MULTIPLE CONVICTIONS, RULE AGAINST charging requirement, 27:65 See also AUTREFOIS ACQUIT AND continuous sequence requirement, 27:97 **CONVICT** deliberate murder Alternative conviction quashing on appeal, 16:350 described, 27:70

Alternative counts permissible, 16:343

IURDER—Cont'd	MURDER—Cont'd
First degree—Cont'd	First degree—Cont'd
deliberation	underlying offences—Cont'd
disease of mind and, 27:77	unlawful confinement, 27:92
state of mind re, 27:76	Fundamental justice and
historical background, 27:64	see CHARTER OF RIGHTS —
joint principal parties, 27:79	Principles of fundamental justice
party provisions, non-application, 15:9	Included offences, 16:303 , 16:304
planned murder	manslaughter, 23:219
described, 27:69	Intent re
distinguished from deliberate, 27:68	see Second degree; INTENT
planning and deliberation	Joinder of counts
bodily harm, re, 27:73	see INDICTMENTS AND INFORMA-
drunkenness and, 27:78	TIONS
prior to murder, 27:75	Joint principal offender, liabibility as,
relation to murder requirement,	27:45
27:71	Multiple murders, parole ineligibility,
police officer, murder of	31:1196.50
acting in course of duties	Offence of
evidentiary burden, 27:86	first and second degree same offence,
knowledge of fact, 27:83	27:3
objective fact re, 27:84	Parole ineligibility re
proof re, 27:85	see SENTENCING — Parole
knowledge of status, 27:82	Parties to
previous conviction for murder, 27:98	aiding offence
principal and secondary parties to,	see PARTIES TO OFFENCE — Aid-
27:88	ing offence,
principled approach to, 27:89	common intention, parties to, 15:87
punishment for, 31:1199	Pleadings, sufficiency of
s. 229(c), incompatibility with s.	see CRIMINAL PLEADINGS
231(2), 27:74	
s. 231 dependence on ss. 229 and 230,	Previous conviction for, 18:258
27:67	Second degree
three types of, 27:66	accident as defence, 27:62
transferred intent, 27:81	Britain, in
underlying offences	common law, 27:35
accused acting together causing	definition of murder, 27:36
death, 27:90	Canada, definition in, 27:37
contributing causes of death, 27:95	constructive murder (s. 230)
criminal harassment as, 27:94	accident, 21:11
kidnapping/forcible seizure/unlawful	felony murder rule, 27:63
confinement as, 27:91	express intent to murder (s. 229(a)(i))
liability for murder during commis-	causation and, 27:40
sion of, 27:87	excessive force in self-defence,
murder committed after, 27:96	27:44
non-underlying offences, 27:91	form of, 27:39
robbery, 27:91	natural consequences of act, 27:43
Sections 231(5), (6), (6.01), (6.1) and	proof by Crown, 27:42
(6.2), 27:89	secondary party, liability of, 27:46
sexual assault, 27:93	suicide pact, 27:41
•	±

MURDER—Cont'd	NONSUIT, MOTION FOR—Cont'd
Second degree—Cont'd	After defence evidence, 16:264
implied intent to murder (s. 229(a)(ii))	Civil case, in, 16:244
consequences of act, ability to see,	Conspiracy trial, 16:265
27:48	Directed verdict
discussed, 27:47	appeal of, 16:267
objective recklessness, 27:53	conspiracy trial, at, 16:265
provocative acts, 27:49	jury trial, 16:260
reckless murder (s. 229(c))	re included offences, 16:254
dangerous act and unlawful purpose,	voir dire, after, 16:259
27:59	Effect of, 16:243
essential elements, 27:57	Election of accused re calling evidence
knowledge re likelihood of death,	hearing motion before, 16:256
27:61	English procedure, 16:251
separate act and purpose, 27:60	Evidence
unlawful object likely to cause death,	judge's weighing of, 16:247 , 16:248
27:58	on appeal, 16:255
substituted verdict re, 23:218	quality of, 16:249
transferred intent in murder (s. 229(b))	Hodge's Case, 16:266
accident or mistake, 27:55 discussed, 27:54	Joint trial, 16:257
	Judge's function, 16:262
transferred from suicide, 27:56 Sentencing for, 18:167, 18:168	Jury's function, 16:262
•	"No case," as, 16:251
Young person, 30:81, 30:84	Premature before hearing evidence,
NECESSITY	16:252
American Law Institute definition of,	Question of law, as, 16:250
21:95	Reasonable doubt only at end of case,
Availability as defence, 21:88	16:245
British draft Criminal Code definition of	Reopening case subsequent to, 16:263
duress of circumstances, 21:96	Test, 16:246
Canadian position, 21:86	Wrongful dismissal of application, 16:255
Common law, at, 21:85	NOTICE
Compulsion and, 21:87	Abandonment, rescinding, 24:10
Elements of defence, 21:89	Admissibility of evidence, 16:498 , 16:500
Examples of	Appeal, of, 23:27, 23:121, 23:268, 24:18
successful defence of, 21:97	Appearance, 1:168, 6:19, 6:96
unsuccessful defence of, 21:98	Authorized intercepted communications
Illegal act not disqualifying defence of,	notice of intention to adduce evidence
21:93	see AUTHORIZED INTERCEPTED
Nature of necessitous act, 21:91	COMMUNICATIONS — Trial
Onus of proof re, 21:94	issues
Reasonable belief, requirement of, 21:90 Self-defence and, 21:87	Constitutional challenges, notice to
	Attorney General, 31:101
Strict or absolute offence, as defence to,	Contempt of court charge, notice re basis
21:92	of, 29:37
NEGLIGENCE	Fair, 31:511
See CRIMINAL NEGLIGENCE	Greater penalty, re seeking
	see SENTENCING
NONSUIT, MOTION FOR	Intention to adduce evidence, waiver of,

NOTICE—Cont'd	OPINION EVIDENCE—Cont'd
Interception of private communications,	Expert opinion—Cont'd
of, 4:170	jury rejection of, 16:667
Judicial see JUDICIAL NOTICE	mental disorder, rejection of evidence, 22:19.50
Municipality re discrimination, to,	range permitted, 16:674
31:1349	re disposition of accused, 16:671
Preliminary inquiry, 16:498	review of in non-jury trial, 16:647.30
Recommencement of proceedings, of,	standard of review of, 16:661
12:104, 12:105	ultimate issue, re, 16:674
Subordinate legislation, of, 21:257	Expert witness
Young person adult sentence application, 30:119 ,	credibility of, 16:673
30:122	cross-examination of, 16:668
to parents, 30:36	hearsay evidence, reliance on by, 16:670
NULLITY	jury direction re, 16:666
Absolute vs. relative, 1:144	notice of intended use of, 16:664
Appeal from, 23:72	qualification of, 16:662
Consent of Attorney General re prosecu-	report, of, 16:665
tion, lack of, 12:80	Non-expert opinion, 16:656
Defective information vs., 9:240	Trial judge's independent research,
Motion to quash re, 9:192	16:672
Order for new trial on appeal, 23:240	PARDON
Prior, 14:115	Effect of on sentencing, 18:195
Wrong oath not, 9:240	Pleadings re
OBSCENITY	see PLEADINGS
Fundamental justice and, 31:503, 31:612	Remission of fine on, 14:130
OBSTRUCT JUSTICE	PAROLE SENTENCING Conditional
Attempt, 20:26	See also SENTENCING — Conditional release
OFFENCES	Appeal against sentence
See CLASSIFICATION OF OFFENCES	parole ineligibility period, 25:23
OPINION EVIDENCE Generally, 16:655	Arbitrary arrest and detention and, 31:819, 31:823
Defence expert's report, production of,	Civil Contempt, no parole for, 29:64
16:669	Committing offence while on, 18:122
DNA evidence	Day (PED — parole eligibility date),
admissibility of, 3:51, 16:676	18:470
expert's opinion re typing, 16:676	Eligibility
national DNA data bank, 3:54	application to accelerate, 31:945
Expert opinion	discretion re, 18:94
admissibility of, 16:657	Forfeiture of as double jeopardy, 31:1169
admissible areas of, examples, 16:676	Ineligibility
fact-in-issue, re, 16:675	appeal, 25:23
forensic pathologist, 16:658	habeus corpus application as review of
hypothetical question, re, 16:675	26:43
inadmissible opinions, example,	jury recommendation, 18:181
16:663.50	multiple murders, 31:1196.50
judge's duty to explain to jury, 16:660	Review hearing for release, 18:471

omitting to act re legal duty, 15:36

PARTIES TO OFFENCE—Cont'd PAROLE—Cont'd Sentence continues during, **18:459.50** Actually commits offence, 15:16—Cont'd corporate criminal liability—Cont'd Sentencing and corporation vs. corporate directors, see SENTENCING Violent offenders, 18:472 director, of, 15:33 **PAROLEES** organizations.see organization Fundamental justice and innocent agent, doctrine of, 15:24 see CHARTER OF RIGHTS joint principal parties (offenders), Principles of fundamental justice 15:17 Right to counsel, 31:625 joint principals not acting together during crime, 12:22 PAROLE INELIGIBILITY omission of legal duty, 15:20 See PAROLE organization **PARTICULARS** criminal liability, 15:26 See CRIMINAL PLEADINGS defined, 15:28 fault requirements, 15:25 PARTIES TO OFFENCE regulatory liability, 15:27 See also AIDING AND ABETTING "representative" defined, 15:29 Abetting offence, 15:57 "senior officer" defined, 15:31 "abetting," meaning of, 15:57 statutory liability, 15:27 act of encouragement, 15:57 trials and preliminary inquiries, conspiracy, of, 15:65 15:31 failure to act, by, 15:64 positive act requirement, 15:19 intent to encourage principal, 15:63 principal assisting other principal, legal duty to act, 15:59 15:21 mere presence, 15:61 principals to offence, 15:16 non-accidental presence, 15:62 Aiding offence, 15:35 preparatory stages of offence, 15:60 abetting offence, vs., 15:35 Accessory after fact, 15:122 accomplishment of offence, requireaid in apprehension of offender, 15:123 ment. 15:37 assistance to offender "aid," meaning of, 15:39 conscious purpose of, 15:124 aid/abet conspiracy, 15:44 charge specification, 15:129 directing mind, 15:51 disclosure of offence. 15:122 drugs discrete offence, as, 15:121 importation into Canada, 15:48 escape apprehension, 15:128 sale/purchase of. 15:49 examples of, 15:135 drunkenness as defence to, 15:41 guilty plea of principal, 15:132 knowledge of details, 15:43 knowledge of committed offence. knowledge of facts, 15:42 15:125 manslaughter, 15:47 married person, 15:135 murder proof of underlying offence, 15:130 aiding/abetting first degree murder, time of trial of, 15:131 15:46 to another accessory, 15:127 aiding/abetting second degree murtrial of, 15:133 der (s. 229), **15:45** Actually commits offence, **15:16** s. 229(a), 15:45 constructive presence, 15:23 non-particularization of aider or abettor corporate criminal liability in charge, **15:38**

company, of, 15:32

PARTIES TO OFFENCE—Cont'd	PARTIES TO OFFENCE—Cont'd
Aiding offence, 15:35—Cont'd	Common intention, parties to, 15:66
passive acquiescence	—Cont'd
discussed, 15:52	unlawful purpose—Cont'd
unlawful assembly, no defence to, 15:53	offence committed differing from,
physical presence, 15:52 , 15:56	requirement, 15:72, 15:76
principal and secondary offenders	Corporate criminal, regulatory and civil
acquittal of principal, 15:55	liability, 15:34
liability of, 15:54	Counselling
purpose of aiding, 15:40	actus reus of, 15:109
unidentified person, aiding, 15:50	mens rea of, 15:110
Code provisions re, 15:8	offence committed
Common intention, parties to, 15:66	generally, 15:91
aider, presence of, 15:78	consequence of offence counselled,
assistance in preparation, 15:81	15:97
common intention to assist, 15:74	"counsel," meaning of, 15:91
common law rule, 15:69	"counselling," meaning of, 15:98
	counselling vs.
common participation vs., 15:18	attempting, 15:104
common purpose	conspiracy, 15:105
abandonment of, 15:83	counsellor's liability, 15:92
termination of, 15:82	counselor not originating/initiating
drunkenness, defence of, 15:90	transaction, 15:102
duress, defence of, 15:89	different offence, 15:96
elements of, 15:70	direction at particular person, 15:93
events before and after crime, 15:80	foreign jurisdiction, in, 15:106
evidentiary rule re, 15:71	"inciting," meaning of, 15:101 in different way, 15:95
knowledge of contemplated crime, 15:88	not present at offence, 15:104
murder	"procuring," meaning of, 15:99
attempt requirement, 15:88	"solicit," meaning of, 15:100
Charter invalidity, 15:87	offence not committed
objective liability, invalidity of,	generally, 15:107
15:68	counselling
objective liability, 15:68	as offence itself, 15:107
"ought to have known"	completion of, 15:119
meaning of, 15:85	direction of, 15:116
murder, 15:87	· ·
possession offence, 15:84	originator of, 15:111
principal and secondary offenders	particularize counseling, 15:102
separate liability of, 15:67	secondary party, to become, 15:118
probability that greater or included	inciting to conspire, 15:120
offence will be committed, 15:86	influence
scope of Code provision, 15:66	on counselled person, 15:113
time factor, 15:79	on procured person, 15:114
unlawful purpose	merger with completed offence,
common intention to assist re, 15:74	15:108
consent to, 15:73	procuring
knowledge of further offence, 15:77	attempt, 15:117

PERPETUATED EVIDENCE—Cont'd PARTIES TO OFFENCE—Cont'd Counselling—Cont'd Cross-examination—Cont'd offence not committed—Cont'd opportunity at previous proceedings, procuring—Cont'd 16:237 influence on person procured, Described, 16:222 15:114 Discretion re, 16:230 instigation of, 15:115 Discretion to adjourn trial. 16:242 punishment, 15:112 Excluded types of evidence, 16:238 Criminal liability, alternative bases of, Same accused, 16:225 15:4 "Same charge," meaning of, 16:233 Duty to victim, accused with, 15:6 Section 715 Joint and several liability. 15:5 as complete code, 16:226 "Joint criminal enterprise," meaning of, not a complete code, 16:223 15:14 Trial fairness, conditions to ensure, Legal duty, principal omitting to perform, 16:231 15:20 Witness Manner of charging parties to offence, changing mind, 16:236 15:7 non-permanent absence of, 16:241 Murder, first degree, 15:9 reasonable diligence to find, 16:240 Primary liability vs. vicarious liability, refusing to testify, 16:234 15:3 unavailability of, 16:239 Principals and accessories abolition of distinction, 15:2 **PHOTOGRAPHS** See IDENTIFICATION; YOUNG at common law, 15:1 PERSON different level of convictions, 15:12 immunity re principals, 15:11 PLEA AND SENTENCE BARGAINING principal vs. secondary party, accused See SENTENCING as, 15:13 **PLEADING** Transferred intent, 15:15 Absence of plea, 14:15 Victim cannot be party, 15:10 Failure to give accused in charge of jury, PEACEFUL ASSEMBLY 14:17 See CHARTER OF RIGHTS General plea, 14:11 General plea of not guilty, 14:11 PEACE OFFICER Guilty plea, 14:20 See also ARREST — Without warrant; accomplice, of, 14:31 **POLICE** Ancillary powers of, **5:89** accused's presence in court, 14:20 admission against interest, as, 14:58, Assault of, 5:23 14:68 Delivery of arrested person to, 5:46 after evidence, 14:64 Intercepted communications emergency designation of peace officer, appeal consequences Crown option offence, 14:72 4:79 remedy on appeal, 14:73 **PERJURY** awareness of collateral consequences, Following convictions, 31:1174 14:38 Issue estoppel, application to, 14:154 change of Testimonial self-incrimination, 31:1238 after sentence, 14:42, 14:46 PERPETUATED EVIDENCE judge's discretion, 14:41 Charter issue, 16:229 onus re. 14:43 Cross-examination Charter rights, as waiver of, 14:60 burden on accused re, 16:232 co-accused, by, 14:32

PLEADING—Cont'd	PLEADING—Cont'd
Guilty plea, 14:20—Cont'd	Jury, plea to, 14:18
conditions for acceptance of, 14:25	Multiple offences in information, where,
counsel, by, 14:56	13:13
defence counsel's conflict of interest,	New trial, no plea at, 14:19
14:45	Pardon
denial of alleged facts, 14:54	administrative pardon, 14:125
included offence, to	anticipatory pardon, no, 14:121
consent required, 14:65	described, 14:120
Crown option offence, 14:70	disabilities removed by, 14:128
non-acceptance of, 14:66 ineffective counsel, 14:39	effects of, 14:124
inquiry even if counsel present, 14:37	expungement of historically unjust
knowledge of consequences of, 14:30	offences, 14:126
knowledge of relevant facts, 14:29	foreign, 14:132
legal effect of, 14:52	free pardon, 14:131
mental disorder, where, 14:47	manner of pleading, 14:122
mental health concerns re, 14:42	record suspension, 14:125
NCRMD verdict vs., 14:29	remission of fines, 14:130
non-included offence, to, 14:33	royal prerogative of mercy, 14:129
one of several accused, by	subsequent conviction after, 14:127
consequence of, 14:62	types of, 14:123
inadmissibility against other accused,	Refusal to plead, 14:13
14:63	Res judicata, 14:133
personal plea, at common law, 14:57	see also AUTREFOIS ACQUIT AND
plea agreement	CONVICT; MULTIPLE CONVICTIONS, RULE
indictable offence, 14:23	AGAINST
serious personal injury offence, 14:21	abuse of process vs. issue estoppel vs.,
young person, 14:22	14:134
plea negotiations, involvement of judge	civil judgments, 14:140
in, 14:50	civil trial following criminal trial,
qualified/equivocal, 14:61	14:139
sentence hearing, onus on Crown at,	estoppel by convention, 14:136
14:55	finality to litigation, 14:137
statement of facts after, 14:53	issue estoppel
struck by court, 14:69	availability of, 14:143
third party, by, 14:59	co-accused, unavailable to, 14:151
to judge	Crown, not available to, 14:157
acceptance by, 14:24	determination by trial judge, 14:148
discretion to accept, 14:34	effect of, 14:142
discretion to reject, 14:35	English practice, 14:158
validity requirements, 14:27	interlocutory rulings, 14:146
"voluntary plea," meaning of, 14:47	multiple counts, applicability to,
withdrawal of	14:152
co-accused's acquittal, 14:51	onus on accused, 14:150
dissatisfaction with sentence, 14:46	perjury, application to, 14:154
intoxication at time of plea, 14:49	premature application, 14:149
irregularities, based on, 14:44	prior Charter ruling, 14:156
no offence disclosed, where, 14:48	prior jury trial, 14:144

PLEADING—Cont'd	POLICE—Cont'd
Res judicata, 14:133—Cont'd	Interview, presence of lawyer during,
issue estoppel—Cont'd	31:930
prior rulings in mistrials and	Lineups, practice re, 16:388
continued trials, 14:147	Military, 5:32
raised by plea of not guilty, 14:141	Misconduct, 5:64, 18:54
res judicata vs. abuse of process vs.,	Murder of
14:134	see MURDER — First degree
sole isolated issue, 14:145	Police demand, compliance with, 31:857
meaning of, 14:133 prior conviction, 14:139	Police statement, cross-examination on,
prior determination of cause or issue,	31:932
14:138	Powers, generally, 5:5 Prosecutor, 12:53, 31:1083
promissory estoppel, 14:135	Provision of drugs to accused by, 21:285
restitution orders, 14:140	Questioning by, 31:481, 31:868
Separate pleas, 14:16	Records re young person, 30:169, 30:174
Special pleas, 14:74	Release from custody by
autrefois acquit and convict	see RELEASE FROM CUSTODY —
see AUTREFOIS ACQUIT AND	Bail Reform Act, release under
CONVICT	Right to retain counsel and, 31:920,
disposal of by judge without jury,	31:923
14:74	Tainting of Crown witness by, 31:601
double jeopardy	POSSESSION
see AUTREFOIS ACQUIT AND CONVICT	Admission of theft, 16:445
new trial, on, 14:75	Admission of theft conviction of trial,
onus re, 14:43	16:446
premature, 14:111	Alternative charges to, 16:437
procedure on, 14:112	Bailee, 16:479
sentencing discharge, 14:76	Completion of, 16:439
Standing mute at common law, 14:14	Computer images, 16:449
Types of, 14:10	Constructive
Written statement of facts, guilty finding	elements of, 16:463
on basis of, 14:12	exclusive possession, 16:467
	forms of, 16:465 knowledge and control, 16:466
PLEADINGS	knowledge requirement, 16:464
See CRIMINAL PLEADINGS	physical possession and, 16:468
POLICE	Continuity of items to prove possession,
See also ARREST; PEACE OFFICER	16:476
Detainee's re-consultation with counsel,	Continuous, 16:441
31:922	Conversion, by, 16:438
Duties on arrest, 31:862	Doctrine of recent possession
Duty re contact of counsel, 31:921	application of, 16:433
Exclusion of evidence and	described, 16:432
duty to preserve evidence, 31:1560	Explanation for
lack of good faith on part of, 31:1559	failure to give, 16:436
misconduct, deterrence of, 31:1558	reasonableness of, 16:434
Flight from, 16:416	res gestae, as part of, 16:435
Informal agreement with, breach of,	Fingerprint evidence, 16:474
12:146	Forgetfulness as defence, 16:444

POSSESSION—Cont'd	PREFERRING INDICTMENTS
Forms of (s. 4(3)), 16:447	—Cont'd
Handwriting comparison, 16:475	Adding offence disclosed from discharged
Husband and wife sharing premises,	offence, 11:13
presumption re, 16:451	Arraignment, by, 11:28
Interruption of, by police, 16:440	Attorney General
Joint	consent by, 11:19
control, 16:469 , 16:473	former, signed by, 11:18
joint venture, 16:472	limited powers of, 11:17
knowledge, 16:471	Committals from separate preliminary
knowledge, consent and control	inquiries, joinder of, 11:22
requirements, 16:469, 16:471	Common law power, 11:2
passive acquiescence re consent,	Consent committal, 11:25
16:470	Corporate accused, 11:6
Knowledge of presence of matter, 16:442	Dropping of charge, 11:7
Knowledge re, 16:443	Failure to file indictment, 11:27
Knowledge vs. possession, 16:430	Indictable offences only, 11:5
Meaning of	Invalid committal, 11:16
common law, at, 16:428	Joinder of offences, 11:21
s. 4(3) exclusive definition, 16:429	"Judge alone" indictment, 11:58
Motor vehicles, 16:478	Jurisdictional starting point, 11:31
Occupancy of house/room/vehicle,	Loss of information underlying indict-
16:453	ment, 11:26
Offences, 16:430	Motion to quash indictment, 11:23
Personal	New trial, no new indictment at, 11:24
control, measure/right of, 16:460	Other charges, 11:8
elements constituting, 16:454	Post-1969, 11:4
knowledge required	Pre-1969, 11:3
character of substance, of, 16:456	Preliminary inquiry request
narcotics/drugs, 16:459	where no opportunity to request, 11:10
recklessness/wilful blindness, 16:458	where no request, 11:9
manual handling, 16:455	Private prosecutor, by, 11:20
public duty (innocent possession),	Quashed committal, 11:15
16:461	Signing indictment as administrative act,
surrounding circumstances, 16:457	11:29
traces of prohibited substance, 16:462	Withdrawal of indictment, 11:30
Presumption of husband's possession,	
16:451	PRELIMINARY INQUIRY
Secondary participants and (s. 21), 16:452	Absence of accused, in, 13:24, 13:37
Text messages, 16:450	Abuse of process, 12:127 , 13:95
	Accused's official language, in, 31:1326
POSSESSION OF INTERCEPTION DEVICES	Agreement to limit scope of, 13:10
	Autrefois acquit and convict, 13:31,
Offence of, 4:164	14:97
POST-OFFENCE CONDUCT	Availability of, limited, 13:4
See GUILT, CONSCIOUSNESS OF	Certiorari and, 26:64
	Charge, 13:30, 13:64, 13:66, 13:69
PREFERRING INDICTMENTS	Charter of Rights and, 13:22 , 13:54
Abuse of process and, 12:136	court of competent jurisdiction,
Adding accused to indictment, 11:11	31:1440
Adding discharged offence, 11:12	discharge at, 31:1156

PRELIMINARY INQUIRY—Cont'd	PRELIMINARY INQUIRY—Cont'd
Charter of Rights and, 13:22, 13:54	Disclosure, 13:79—Cont'd
—Cont'd	cross-examination on, 13:111
fundamental justice, 31:618	Crown's duty to call witnesses, 13:112
sealed packet, 31:619, 31:1070	first party vs. third party, 13:83
testimonial self-incrimination, 31:1241	in camera hearing, 13:104
Commencement of, 13:5	intentional and inadvertent non-
Committal for trial, 13:58	disclosure, 13:90
absolute jurisdiction offence, 13:68	manner of disclosure, 13:92
additional charges (s. 548(1)(a)), for, 13:64	non-disclosure of destroyed or unavailable information, 13:89
assessing all evidence, 13:62	non-disclosure on appeal, 13:96
assessing quality of evidence, 13:63	personal records
committal or discharge of accused,	in camera hearing, 13:104
13:58	of complainant in acused's posses-
consent to other charges, 13:66	sion, 13:107
defective information, on, 13:75	privacy interests re third party held information, 13:101
discharge at preliminary inquiry, 13:74	production to accused, 13:105
Hodge's Case, rule in, 13:61 merger of information with indictment,	publication ban, 13:106
13:73	statutory access, 13:100
oral committal, 13:70	two-stage approach/procedure,
same transaction (s. 548(1)(a), 13:65	13:102
separate informations, on, 13:72	written application, 13:103
specific charge, 13:69	police officers, re, 13:88
specific court, to, 13:71	police witness employment file, right
summary conviction offence, 13:67	to, 13:87
test for, 13:60	prior to guilty plea, 13:94
variance, affect of, 13:76	prior to trial
Common law re, 13:1	relevant information in Crown's pos
Consent, 13:66	session, 13:83
Constitutional right to, no, 13:3	refusal to order and Charter, 31:603
Contempt of court, 29:23	statements of defence witnesses, 13:98
Cross-examination re private records,	third parties, non-disclosure to, 13:110
13:99	third party records
Crown disclosure, three regimes for,	Crown records vs., 13:109
13:82	disclosure of, 13:108
Defence disclosure, 13:81	timing of, 13:93
Described, 13:2	undertaking by defence counsel, 13:91
Direct indictment, 11:32 to 11:40, 11:48 ,	Election, 8:3 , 8:67 , 8:70
11:51	Evidence
Discharge, 11:12, 11:48, 13:49, 13:59, 13:74	non-present accused calling witnesses, 13:17
Disclosure, 13:79	rules of, 13:16
abuse of process, vs., 13:95	Evidence, rules of, 13:16
after committal	Extraordinary remedy during, 13:27
out-of-court statement by accused,	power to order reopening, 13:77
13:79	Fitness to stand trial, 22:74
Britain, in, 13:80	Full answer and defence, 13:40
civil cases, in, 13:78	Indictable offences, 13:8, 13:9

PRELIMINARY INQUIRY—Cont'd	PRELIMINARY INQUIRY—Cont'd
Jurisdiction, extended, 1:115, 1:117	Procedure—Cont'd
Justice	statutory caution—Cont'd
also acting at trial, 13:25	response to
concurrent jurisdiction, no, 13:25	Charter implication, 13:54
duty of to inquire, 13:14	unsworn statement, as, 13:55
seizing of jurisdiction, 13:23	witness
statutory jurisdiction of, 13:21	accused's right to call, 13:43
Non-s. 469 offences with 14 years/more	Crown's right to call additional,
punishment, 13:8	13:42
No request for, where, 13:6	refusal to testify, 13:41
Notice re evidence from, 16:500	Purposes of
Order to stand trial	cross-examination by accused, 13:19
see Committal for trial	former approach, 13:20
Personal information records (ss. 278.1 to	primary, 13:18
278.91), statutory access to, 5:565 ,	Re-election, 13:32, 31:620
13:100	Regulation of, 13:14
Prior hearing to identify issues and wit-	Request for, 13:7
nesses, 13:12	Severance of accused, 9:274 Severance of counts, 9:256
Prior identification of issues and wit-	S. 468 offence, 8:3
nesses, 13:11	Sufficiency of evidence, 9:126
Procedure	Transcript, 16:486
absconding accused, 13:37	Withdrawal of charges during, 12:159
absent accused, 13:38	Witnesses, forced calling of, 13:15
amendment of charge, 13:30	Young person, right to request, 30:23
defence rights, 13:39	
denial of argument, 13:46	PREROGATIVE WRITS
evidence	See EXTRAORDINARY REMEDIES
after caution, 13:57	PRESS, FREEDOM OF THE
transcript of, 13:47	See CHARTER OF RIGHTS — Thought,
unsworn, 13:48	belief, opinion and expression
exclusion of public, 13:44	PRESUMPTIONS
full answer and defence, 13:40	Adherence to oath, 17:30, 17:64
informant's grounds, inquiry re, 13:29	Constitutional validity, 31:21 , 31:181 ,
joint trial and, 13:35	34:36
motion to discharge, 13:49	Husband's possession, 16:451
motion to quash, 13:28	Inadmissibility of similar fact evidence,
out-of-court statement by accused,	16:631
13:56	Innocence
particulars, 13:33	see INNOCENCE, PRESUMPTION
publication ban, 13:45	OF
re-election during, 13:32	Judicial integrity, 26:80
separate informations, 13:34	Jury trial, 8:17
severance, 13:36	Mandatory presumptions, 16:691
statutory caution	Mens rea, 33:30
failure to give, 13:51	Natural consequences of act, presuming,
jurisdictional nature of, 13:50	17:138
one caution, 13:52	Offence
other indictable offences, re, 13:53	authority, 12:41

PRESUMPTIONS—Cont'd PRIVATE PROSECUTIONS—Cont'd Offence—Cont'd Abuse of process, 12:141 due appointment, 12:40 Charter and, 12:95 regularity, 12:39 Conduct of, 12:48 Official capacity of receiving justice, Crown stay, review of, 10:11 10:62 Intervention in, 12:57 Prerogative remedy, against, 31:1504 Withdrawal of charges Retrospectivity, 33:104, 33:106 powers re, 12:155 Return of seized items, 3:144 timing of, 12:156 Reverse onus **PRIVILEGE** see CHARTER OF RIGHTS — Generally, 16:543 Offence, person charged with Class vs. case-by-case, 16:544 Sanity, 22:10 Confidence of Queen's Privy Council, Search warrant validity, 3:114 16:553 Sobriety, **21:54** Confidential communications, 16:546 Spousal coercion, 21:102 Criminal plea negotiations, 16:563 Statutory Crown privilege see STATUTORY INTERPRETATION described, 16:550 — Special rules full answer and defence, vs., 16:554 Trial specified public interest privilege (s. see TRIALS 37, C.E.A.), 16:551 Unreasonableness of warrantless search, CSIS, 16:555 31:748 Informer, 16:556 Voluntary act, 21:29 innocence at stake, vs., 16:557 **PRISON** procedure for claiming, 16:558 See IMPRISONMENT; INMATE International relations and national defence and security privilege, **PRIVACY** 16:552 Administrative searches and, 31:785 Journalistic, 16:547, 31:301, 31:303 Life, liberty and security of the person Judicial, 16:569 and, 31:437 Litigation privilege, 16:560 Protection of. 4:2 solicitor-client privilege, vs., 16:559 see also PROTECTION OF PRIVACY work product/solicitor's brief privilege, Right to retain counsel and, 31:928 16:564 Search and seizure Marital. 16:570 see CHARTER OF RIGHTS — Search and seizure, unreasonable Mentally disordered statements, 16:574 Municipal, 16:572 Young person see YOUNG PERSON - Publication Parliamentary, 16:571, 34:20 ban re name/identity Public interest privilege see Crown privilege PRIVATE CITIZEN Qualified privilege, 16:548 Arrest by Religious communications, 16:549 generally Separate claims of, 16:545 see ARREST — Without warrant Settlement privilege, 16:562 Charter and, **31:134** Solicitor-client Direct indictment application, 11:49 conflict of interest, 16:567 PRIVATE PROSECUTIONS described, 16:560 full answer and defence, 16:565 Generally see PROSECUTING OFFENCES litigation privilege vs., 16:559

PRIVILEGE—Cont'd	PROSECUTING OFFENCES—Cont'd
Solicitor-client—Cont'd	Attorney General—Cont'd
non-use of pre-trial discovery/	generally, 12:1—Cont'd
documents, implied undertaking,	agent of attorney general
16:569	consent required to prosecute,
psychiatrist's assessment, 22:88	12:34
public safety exception, 16:566	delegation of authority to, 12:30
rule of confidentiality, 16:569	law society review of, 12:33
waiver of, 16:567	of both federal and provincial
Solicitor-client communications,	attorney general, 12:31
disqualifying access to, 16:568	private counsel, 12:32 constitutional status, 12:5
Specified public interest privilege, 16:551	deputy attorney general, 12:37
Tribunal, 16:574	federal attorney general
"Without prejudice" settlement com-	concurrent jurisdiction, 12:27
munications, 16:562	non-Code prosecutions, 12:28
PROBATION	status to prosecute, 12:27
Breach of, 18:321, 21:253, 24:24	federal vs. provincial attorney gen-
Charter and	eral, 12:25
breach of probation, 31:1155	injunction application by, 12:21
voting rights, 31:394	malicious prosecution, no immunity
Conditional discharge and, 18:310	from action for, 12:3
Intermittent sentence and, 18:353	Minister of Justice vs., 12:6
Requirement of discharge, 18:331	obligations re prosecutions, 12:14
Revocation of and double jeopardy, 18:312	prerogative vs. statutory powers of, 12:20
Sentencing and	presumptions
see SENTENCING	authority, of, 12:41
Young person	due appointment, of, 12:37
see YOUNG PERSON — Sentences	regularity, of, 12:39
DDOCEDENDO	provincial attorney general, 12:26
PROCEDENDO Generally, 26:100	solicitor general, attorney general includes, 12:36
PROCEDURAL FAIRNESS	unified criminal court, constitutional-
Generally, 26:3 , 31:492	ity of, 12:23
•	British Attorney General, 12:13 consent of
PROCEEDS OF CRIME	
See SEARCH AND SEIZURE	generally, 12:69 , 12:83 agent of Attorney General, 12:73
PROHIBITION	amending counts re offence requiring
See EXTRAORDINARY REMEDIES	consent, 12:88
PROPERTY	direct indictment, 12:90
See DEFENCE OF PROPERTY	disclosure on information, 12:74
	federal attorney general, 12:72
PROSECUTING OFFENCES	formal matter, as, 12:78
Attorney General	inchoate offences, 12:76
generally, 12:1	information 6 12 02
acting attorney general, 12:35	consent not part of, 12:82
agent and counsel of attorney gen-	same transaction as consent, 12:86
eral. 12:38	insufficiency of consent, 12:85

PROSECUTING OFFENCES—Cont'd	PROSECUTING OFFENCES—Cont'd
Attorney General—Cont'd	Private prosecutions, 12:51 —Cont'd
consent of—Cont'd	Crown stay, review of, 10:9
non-consent offences, included,	indictable offences
12:75	intervention in, 12:57
nullity if no consent, 12:80	issuance of process for, 12:50
opportunity to prove, 12:79	judge-alone trials, in, 12:59
oral consent, 12:83	Sovereign's name not required, 12:51
provincial attorney general, 12:71	summary conviction proceedings
public prosecution, 12:81	compelling personal attendance of
relaying discharged offence, re,	defendant, 12:54
12:91	interventions in, 12:56
relaying dismissed charge, 12:92	police prosecutor in, 12:53
review of, no, 12:70	private agents in, 12:52
satisfaction of justice re, 12:77	Professional rules of conduct, function of,
second consent, filing, 12:87	12:7
sufficiency, 12:89	Prosecutor
sufficiency of consent, 12:84	discretion of
time for obtaining, 12:69	generally, 12:62 , 12:148
final authority of (Shawcross doctrine), 12:8	corroboration not required, 12:64
of Canada, 12:42	determining charges, 12:63
	exercise of, 12:9
government-commenced proceed- ings, 12:45	hybrid offences, 12:66
narcotics offences, prosecution of,	limitation on, 12:65
12:42	previous convictions, re, 12:67 witnesses, 12:68
non-Code prosecutions	· ·
government-commenced proceed-	independence from police, 12:12 meaning of, 12:1
ings, 12:45	indictable offences, 12:1
intervention in, 12:49	summary conviction offences, 12:2
status re, 12:43	prosecutorial discretion, meaning of,
private prosecution, conduct of,	12:9, 12:62
12:48	prosecutorial independence, 12:11
ratification of prosecution, 12:47	prosecutorial misconduct, 12:10
rights of appeal of, 12:44	Prosecutorial immunity, 12:4
Crown, injunction/mandamus/action	Remediation agreement, 12:163
against, 12:22	court approval of, 12:165
Crown counsel, role in investigative hear-	independent monitor, appointment of,
ings (s. 83.28), 12:18	12:164
Damages for prosecutorial misconduct, 31:1413	legal effect of, 12:166
Defence counsel, obligations of, 12:15	negotiation of, 12:163
Federal Director of Public Prosecutions,	Stay of proceedings
12:29	see STAY OF PROCEEDINGS
Lawyer's duty in advising client, 12:16	Withdrawal of charges, 12:151
Private prosecutions, 12:51	Charter jurisdiction, termination of,
appeal by prosecutor	12:162
indictable offences, 12:60	common law, at, 12:151
intervention without conducting	consequence of, 12:152
prosecution, 12:58	English practice, 12:153
summary conviction offences 12:61	indictments withdrawal of 12:160

PROSECUTING OFFENCES—Cont'd

Withdrawal of charges, 12:151—Cont'd power to stay and, 12:158 practice re, 12:154 preliminary inquiry, during, 12:159 public vs. private prosecutor, by, 12:155

timing of, **12:156**, **12:157**, **12:159** "withdrawal," meaning of, **12:161**

PROSTITUTION

Association with, **31:1051**Charter validity, **31:453**Communication for purpose of, **31:240**Prostitute as victim, **18:45**

PROTECTION OF PRIVACY

See also DISCLOSURE OF PRIVATE
COMMUNICATIONS; INTERCEPTION OF PRIVATE COMMUNICATIONS; PRIVACY
Annual report to Parliament re, 4:5
Criminal Code provisions re

Criminal Code provisions re Charter validity, **4:2** compromise solution, as, **4:3** constitutional validity of, **4:2** purpose of, **4:1**

Offences created for, 4:4

PROVOCATION

Common law, at, 27:143 Drunkenness and, 21:73 Illegal arrest as, 27:162 Manslaughter, for see MANSLAUGHTER Murder, as defence to, 31:563

PSYCHIATRIC ASSESSMENT

Cross-examination on, right to, 22:85
Insanity
see INSANITY — Fitness to stand trial
Refusal to submit to, 31:524

PUBLICATION BAN

See also PUBLICITY
Change of venue
application for, 2:7
evidence, ban on publication, 31:339
Extradition, 32:54

Freedom of the press and see CHARTER OF RIGHTS — Thought, belief, opinion and expression

PUBLICATION BAN—Cont'd

Preliminary inquiry, **13:45**Young person
see YOUNG PERSON - Publication
ban re name/identity

PUBLIC INQUIRY

Generally, 29:40, 31:425, 31:512

PUBLICITY

See also PUBLICATION BAN
Bail hearing, 31:1040
Change of venue, application for, 2:12
Contemptuous press, 31:309
Excessive, 31:1078
Fundamental justice, 31:599
Pre-trial, 17:29, 31:309

PUBLIC WELFARE OFFENCES

Classification of, 7:7
Mistake of fact and, 21:215, 21:221

OUESTION OF FACT

Death or serious bodily harm, 21:187 Exclusion of evidence, 31:1533

OUESTION OF LAW

Appeal to court of appeal on, 24:65
Attempts, 20:27
Delay as, 31:1004
Entrapment, 21:290
Exclusion of evidence, 31:1533
Mental disorder, 22:19
Nonsuit, motion for, 16:250
Situs of crime, 1:108

REASONS FOR JUDGMENT

Changes to, 16:488
Failure to give, 31:561
Indictable appeals, in
see INDICTABLE APPEALS
Summary conviction appeals, in
see SUMMARY CONVICTION
APPEALS
Use of to interpret formal order, 16:485

REGULATORY OFFENCES

Due diligence re, 21:344 Fault, element of, 31:570 Unlawful act, as, 27:123

RELEASE FROM CUSTODY	RELEASE FROM CUSTODY—Cont'd
Bail	Bail Reform Act, release under, 6:17
see also CHARTER OF RIGHTS —	—Cont'd
Offence, person charged with,	judicial interim release
Principles of fundamental justice	abstention from communication
at common law, 6:1	pending hearing, 6:35
breach hearing, pending, 18:343	appearance at bail hearing, 6:32,
confidence in administration of justice,	6:34
6:11	cash deposit
extradition case, 6:16	authority for, 6:43
factors formerly considered, 6:4	excessive, 6:44
former test for, 6:3	conditions of, 6:41 , 6:42
in Britain and U.S., 6:2	custody order, duration of, 6:71
prior to 1972, 6:5	detention re another matter, 6:39
publication ban at hearing, 31:324	estreatment
purpose of, 6:7	after stay of proceedings, 6:54
right to counsel at hearing, 6:8	effect of, 6:56
Bail Reform Act, release under, 6:17	factors considered by justice, 6:33
after arrest while on interim release	forfeiture
cancellation of previous order, 6:116	amount of, 6:59
contravention of bail terms, 6:114	no appeal, 6:60
jurisdiction of issuer of warrant,	of recognizance, 6:58
6:113	standing at hearing, 6:52
reverse onus on revocation hearing,	hearing
6:112	contested hearing, principles and
subsequent summary conviction	guidelines, 6:38
offence, 6:115	evidence at, 6:77
by police	non-publication order, 6:79
Aboriginal accused/vulnerable	no questions re offence, 6:78
population, person from, 6:18	interception of, 6:6
"about to commit" arrests, 6:24	jurisdiction, 6:88
appearance notice, 6:19	levy and committal, 6:61
communication, abstention from	material change in circumstances,
pending trial, 6:28	6:81
compelling attendance, new modes	murder charge, 6:84
of, 6:19	order
fingerprinting, requirement to appear	change of, 6:75 , 6:80
for, 6:29	continuing until sentence, 6:36
issuance of summons/warrant by	direct indictment, where, 6:74
justice, 6:31	duration of, 6:71 , 6:72
officer by	foundation of spent, 6:76
without warrant, 6:26	new information not affecting,
with warrant, 6:27	6:73
police recognizance, 6:21	post-conviction to pre-sentencing,
promise to appear, 6:22	6:37
release by arresting officer, 6:20 ,	recognizance
6:25	breach of, 6:69
restraint principle, 6:17	certificate of default, 6:57
time to lay information, 6:30	consensual variance of, 6:51
undertaking, 6:23	defective, 6:62

RELEASE FROM CUSTODY—Cont'd	RELEASE FROM CUSTODY—Cont'd
Bail Reform Act, release under, 6:17	Bail Reform Act, release under, 6:17
—Cont'd	—Cont'd
judicial interim release—Cont'd	pending appeal—Cont'd
recognizance—Cont'd discharge of, 6:64	discretion to refuse release, 6:127
effect of, 6:63	extension of release, 6:134
enforcement of, 6:55	indictable conviction, from, 6:117 new trial, release pending, 6:137
entered into before another justice,	
6:70	onus on appellant
forfeiture of, 6:58	conviction and sentence appeal, 6:124
nature of, 6:40	conviction appeal, 6:123
presence in court, 6:53	establishing surrender, 6:128
render by surety, 6:66	sentence appeal, 6:125
terminated by direct indictment,	power to vary terms, 6:131
6:74	public interest, 6:129
release conditions, failure to comply	release prior to sentence, 6:133
with	release re sentence appeal, 6:120
judicial referral hearing, 6:89	revocation of appeal bail, 6:132
power to cancel release, 6:91	supreme court, to, 6:118
power to sustain release, 6:90	Supreme Court of Canada, to, 6:137
release order, arrest for breach of,	pending new trial, 6:121
6:68	pending new that, 6.121 pending reference hearing (CC, s. 690).
residual discretion (s. 522 offences),	6:122
6:85	review of release/detention order
reverse onus on accused	appearance notice, review of, 6:96
non s. 469 offences, 6:82	bail order,
s. 469 offences, 6:83	power to vary, 6:94
statutory principles applied at hear-	reviews of, 6:97
ing, 6:37	delay review
summons/warrant re indictment,	applicable despite prior review,
6:87	6:102
sureties	direction re expedition of proceed-
bail with, generally, 6:45	ings, 6:104
declaration of, 6:49	non-compliance with, 6:103
naming of by judge, 6:48	detention where trial delayed, 6:100
presence of at bail hearing, 6:47	habeas corpus application, 6:105
render by, 6:65	judge's error, 6:95
responsibility of, 6:50	justification of detention by Crown,
substitution of, 6:67	6:101
sufficient, 6:46	murder charge, 6:111
warrantless arrest re out-of-province	onus on applicant, 6:92
offence, 6:86	procedure at hearing, 6:93
pending appeal	s. 457.7 order, rehearing, 6:110
constitutionality of detention (s.	s. 469 order, etc., 6:106 , 6:109
679), 6:130	The state of the s
court martial conviction, from, 6:119	s. 522 order
decision of single judge, review of,	breach of release, 6:108
6:135	review of ss. 522 or 524 order by
denial of leave to appeal, appeal	court of appeal, 6:107
against sentence and, 6:126	s. 523 order, 6:99

RELEASE FROM CUSTODY—Cont'd **SEARCH** Bail Reform Act, release under, 6:17 See ARREST; CHARTER OF RIGHTS —Cont'd — Search and seizure, unreasonable; review of release/detention order SEARCH AND SEIZURE -Cont'd SEARCH AND SEIZURE vacating of, 6:98 See also ARREST; CHARTER OF Young person **RIGHTS** application to, 6:139 Generally, 3:1 Charged with offence (s. 515(1)), 6:9 Bank records, 3:185 Extradition, pending, 6:16 Charter protection, 3:3 Protection of public, 6:12 Common law warrant, 3:1 Strength of Crown's case, 6:10 Extradition proceedings and, 32:44 Undertaking, on Forfeiture primary duty re, **6:13** see also FORFEITURE reasonable conditions of, 6:14 appeal of order, 3:220 variation, 6:15 conveyance on narcotics conviction, of, RELIGION, FREEDOM OF 3:223 See CHARTER OF RIGHTS criminal organization, 3:208 drug offence-related property, 3:208, REMAND 3:209 See also ADJOURNMENT exemption from liability for possession, Non-compliance with, 1:147 3:206 forfeiture order and third party rights, REMEDIATION AGREEMENT 3:212 See PROSECUTING OFFENCES in rem proceedings (s. 164), 3:200 **RES JUDICATA** law office search, 3:226 See AUTREFOIS ACQUIT AND offence-related property, 3:203 CONVICT; DOUBLE JEOPARDY; proceeds of crime PLEADINGS; RULE AGAINST generally (ss. 462.3, 490(9), 490.1, MULTIPLE CONVICTIONS 491 and 491.1), **3:201** generally (ss. 462.37-.38), 3:205 RESTITUTION disclosure of, 3:232 Appellate review of order, 18:376 if accused dies/absconds (s. 462.38), Charter and, 18:375 3:211 Injunction and, 18:373 property obtained by crime (s. 491.1), Mitigating factor, as, 3:138 3:204 Orders relief from. 3:213 see SENTENCING restitution of property, 3:221 Res judicata and, 14:140 specific powers, 3:199 Search and seizure and, 3:138, 3:221 warrant re (special warrant - s. 462.32), Suspension of on appeal, 23:132 3:214 **REVERSE ONUS** weapon (s. 491), 3:202 Income tax information, order for Charter of Rights disclosure, 3:233 see CHARTER OF RIGHTS — Management order, 3:216 Offence, person charged with bail, reasonable — reverse onus Personal property Counterfeit cases. 16:659 cell phone, 3:11 Judicial interim release, on, 6:82 warrant not required re, 3:13 Revocation of bail hearing, 6:112 Postal search, overbroad, 31:807

SEARCH AND SEIZURE—Cont'd	SEARCH AND SEIZURE—Cont'd
Premises	Seized items—Cont'd
computer, 3:10	forfeiture at trial, 3:182
garage vs. shop, 3:9	illicit things, retention of, 3:170
home vs. other premises, 3:7	items seized without warrant, 3:148
media premises, 3:8	monetary proceeds to lawful owner,
suspects and non-suspects, of, 3:12	3:159
Proceeds of crime	Narcotic Control Act application
crimes re, 3:222	no civil remedy after dismissal, 3:168
disclosure of, 3:232	procedure, 3:171
law office search, 3:226	no Charter remedy, 3:149
money laundering/terrorist financing	no return pending application/appeal,
act, 3:223 , 3:231 special search warrant, 3:79 , 3:219	3:160
subsequent assignment of property,	perishable items, 3:163
3:218	presumption re return, 3:144
Reasonable suspicion as basis for, 5:73	proceeds of crime items, return of,
Relief from seizure/forfeiture, 3:211	3:165
Residence	reasonable expenses, 3:165
basic premise re, 3:6	report to justice
computer, 3:10	when item not returned, 3:140
garage vs. shop, 3:9	when item returned, 3:139
home vs. other premises, 3:7	restitution of, 3:138
Restitution of property, 3:221	return of
Restraining order (s. 462.33), 3:215 ,	duplicates, 3:179
3:216	entitlement dispute, 3:172
Search warrant	exhibits and non-exhibits, 3:175
see SEARCH WARRANT	factors considered, 3:168
Seized items	items already in possession of police,
appeal from order re, 3:164	3:177
application by person from whom item was not seized, 3:158	items seized without authority, 3:169
copies made of, 3:161	money
detention order	following acquittal, 3:174
hearing	obtained illegally but not through
after expiry of order, 3:156	drugs, 3:173 on quashing of warrant, 3:166
before expiry of order, 3:157	person in lawful possession at trial,
justification for, 3:146	to, 3:181
length of, 3:150	prior to proceedings, 3:142
multiple detentions, 3:152	property not required as evidence,
no notice or affidavit requirement,	3:180
3:147	unlawfully seized items, 3:143
return of item	seizure by non-peace officer, 3:141
after expiry of order, 3:155	Seizure powers, specific, 3:198
before expiry of order, 3:154	Solicitor's documents
test for, 3:145	alternative methods, 3:189
documents, impounding, 3:184	privilege re (s. 488.1), 3:188
drug-related, restoration procedure,	sealing of documents pending appeal,
3:171	3:190
examination of, 3:162	Statutory powers, 3:2

SEARCH AND SEIZURE—Cont'd	SEARCH WARRANT—Cont'd
Subsequent assignment of property	Charter and
seized, 3:217	see CHARTER OF RIGHTS — Search
Wiretap evidence, admissibility, 4:84	and seizure, unreasonable
Without warrant	Criminal Code authorizations, re, 3:79
see WARRANTLESS SEARCH OR	Disorderly houses, re
SEIZURE	additional powers, 3:194
SEARCH WARRANT	Charter contravention, 31:731
See also ARREST	forfeiture hearing, 3:197
Application for	forfeiture of items seized, 3:196
alternative procedures to search war-	procedure, 3:193 s. 199 (revised), 3:192
rant, 3:19	DNA evidence, re, 3:27, 3:53, 3:99
anticipated/past offence, 3:17	national DNA data bank, 3:54
conclusory statement of applicant,	Execution of
insufficiency of, 4:117	computer system, 3:97
exclusionary evidence, inclusion of,	control of premises, 3:103
3:14	dispensing with proper announcement,
in camera proceedings, 3:18	3:100
information	DNA bodily substances warrant (s.
based on quashed warrant, 3:187	487.05), 3:99
difference between s. 487 and Form	entitlement to execute, 3:96
1, 3:28	exigent circumstances, 3:112
DNA bodily substances warrant (s.	manner of, 3:98
487.05), 3:27, 3:54	postponing, 10:40
drugs warrant, 3:25	reasonable force, use of, 3:107
full and frank disclosure, duty of,	searches
3:21	of persons on premises, 3:105
general warrant (s. 487.01), 3:26	of vehicle on property named in warrant, 3:106
particulars required, 3:32	security check of near buildings, 3:104
requirement (s. 487), 3:20	seizures
satisfaction of justice, 3:29	of items by categories, 3:109
tips from various sources, 3:22	of things in lawful execution of
intangibles and financial records,	duties, 3:111
seizure of, 3:16	of things not specified in warrant,
journalistic communications, 3:40	3:110
material to be searched for, 3:15	view of items, 3:108
reasonable and probable grounds, 3:30	timing and, 3:102
specificity requirement	Exigent circumstances, 3:66
re grounds of belief, 3:36	General search warrant, 3:42
re material to be searched for, 3:35	Interprovincial, 1:118
re offence, 3:33	Invalid, examples of, 3:191
re premises to be searched, 3:34	Issuance of
re sources of belief, 3:37	access to information prohibition, 3:66
time factor, 3:31	after charges laid, 3:186
Blood samples, re, 3:62 , 31:738	amendment of warrant under oath, 3:75
Bodily impression, 3:60	assistance order (487.02), 3:59
Challenging warrant and searches, ele-	blood samples warrant (s. 256), 3:64
ments of, 3:118, 3:119	bodly impression warrant, 3:61

SEARCH WARRANT—Cont'd
Issuance of—Cont'd
specification—Cont'd
of offence, 3:50
of premises, 3:72
telephone records order (s. 492.2(2)), 3:58
tracking warrant (s. 492.1), 3:55
transmission data recorder warrant
(s.492.2(1)), 3:56 warrant wider than information, 3:71
Media premises, re, 31:305
Nature of, 3:4
Presumption re validity, 3:114
Proceeds of crime, special search warrant
3:79
Publication or broadcast re, 3:67 , 3:338
Quashing
access to information, 3:116, 3:117
certiorari, use of, 3:115
Charter (s. 8) motion at trial
admissibility determined at trial,
3:133
excision of tainted information,
3:135
hearsay evidence, 3:136
reasonableness of issuance, 3:134
voir dire on, 3:137
collateral attack, 3:126
cross-examination of informant, 3:128
no appeal from refusal of, 3:129
falsehood in information, 3:131
filing of report of execution, 3:113
judge of co-ordinate jurisdiction, 3:125
material non-disclosure, 3:132
no appeal from superior court warrant,
3:130
presumption of validity, 3:114
redaction of confidential information from ITO, 3:123
standing re text messages, 3:121
standing re USB key, 3:122
standing to attack seizure, 3:120
third party search, 3:124
validity/reasonableness of warrant,
attacking, 3:115
warrant to be read in its entirety, 3:127
Rebut defence, warrant not available,
3:65
Subpoena duces tecum vs., 1:187, 3:43
Successive, 3:178

SEARCH WARRANT—Cont'd	SELF-DEFENCE, DEFENCE OF
Telewarrants	—Cont'd
availability of, 3:85	Unlicenced firearm, right to bear in self-
contents of information, 3:87	defence, 21:145
legal effect of, 3:89	Unprovoked assault
presumption of issuance, 3:95	death or serious bodily harm (s. 34(2))
procedure	anticipation of attack, 21:182
on execution of, 3:91	burden of proof, 21:186
on issuance of, 3:90	calculated retaliation, 21:183
to obtain, 3:86	death of victim, 21:192
return of documents to justice, 3:94	excessive force, 21:190
satisfaction of justice, 3:88	express direction re reasonable
written report from informant	doubt, 21:188
contents of, 3:93	imminent danger, 21:177
requirement, 3:92	mistake re being attacked, 21:176
Weapons, etc., 31:732	no air of reality, 21:173
•	opportunity to avoid attack, 21:178
SECURITY OF THE PERSON	proportionality rule, 21:174
See CHARTER OF RIGHTS — Life,	question of fact, 21:187
liberty and security of the person	reasonable apprehension
SELF-DEFENCE, DEFENCE OF	drunkenness and, 21:180
Generally, 21:139	reasonable in the circumstances,
Accused's motive in using force, 21:152	meaning of, 21:169
Accused's response to victim's conduct,	unlawful homicide direction, 21:189
21:153	victim
Accused's role in incident, 21:160	disposition for violence of, 21:184
Accused's subjective state of mind,	peaceful disposition of, 21:185
21:151	previous attacks/threats by, 21:181
Aggressor, self-defence by (s. 35)	no death or serious bodily harm (s.
definitional elements, 21:193	34(1))
A.L.I. use of force, 21:195	accident vs. self-defence, 21:148
Arrest, excessively forceful, 21:191	accused committing crime, 21:157
British draft Criminal Code defence of	alternative course of action assess-
use of private or public force, 21:196	ment, 21:168
Described, 21:137	assault not in progress, 21:156
Different forms of, 21:140	consensual fight, 21:160
Excessive force, 21:149	definitional elements, 21:146
Functional approach, 21:144	first blow, 21:165
Imminent attack requirement, 21:156	hockey violence, 21:161
Justifiable self-defence, meaning of,	illegal search and assault, 21:158
21:142	justifiable conduct, 21:149
Mistake of fact, 21:175	necessary force
Onus of proof, 21:141	measure of, 21:167, 21:171
Rationale of, 21:144	non-excessive (s. 34(1)), 21:166
Reasonable belief, expert evidence re	proportionality, 21:166
psychological disorder, 21:179	relief re, 21:172
Reasonable in the circumstances, 21:142,	provocation
21:157	from more than one person,
Related defences, 21:137	21:163
Repelling force/threatened force, 21:150	provoking attack, 21:164
repenning force/unreatened force, 21.130	provoking attack, 21.107

SELF-DEFENCE, DEFENCE OF SENTENCING—Cont'd —Cont'd Charter contravention by prosecutor, Unprovoked assault—Cont'd 18:260 no death or serious bodily harm (s. Civil suit outstanding, effect of, 18:194 34(1))—Cont'd Collateral purpose, 18:135 retreat, no duty re, 21:170 Commencement of sentence, 18:432 single ongoing transaction, 21:159 Concurrent sentences unlawful assault requirement, 21:150 escape, re, 18:121 warding off blows, 21:162 grouped offences, 18:126 Use of force in self-defence, definition of, life imprisonment/indeterminate 21:194 sentence, restrictions re, 18:431 multiple offences, 18:110 **SELF-INCRIMINATION** one transaction, 18:124 Fundamental justice and proportionality principle, 18:128 see CHARTER OF RIGHTS — Conditional release Principles of fundamental justice see also Parole Testimonial see CHARTER OF RIGHTS conditions of release, 18:464 Testimonial self-incrimination day parole, 18:468 early release near expiry of sentence, SELF-SERVING EVIDENCE 18:477 Generally, 16:677 full parole, 18:470 Exceptions to exclusion, **16:677** long time supervision, 18:474 Rationale for excluding, 16:677 purpose and principles of, 18:458, Recent complaint (s. 275), 16:678 18:459 Res gestae of crime, 16:679 recognizance for fear of serious bodily Spontaneous utterance, 16:679 harm, 18:479 sentence continues during, 18:467.50 SENTENCE, APPEALS AGAINST statutory release See APPEALS date (STR), 18:473 SENTENCE BARGAINING described, 18:473 See SENTENCING revocation of, 18:476 suspension of parole or release, 18:475 SENTENCING temporary absence Aboriginal peoples, equality sentencing escorted (ETA), 18:465 rights, 31:1348 unescorted (UTA), 18:467 Abuse of trust terminology and concepts, 18:463 breach of public trust, 18:148 warrant expiry date (WED), 18:478 position of trust, 18:147 work release, 18:466 Alternative measures Conditional sentencing order availability of, 18:1 availability, 18:335 disclosure of record of, 18:3 bail pending breach hearing, 18:343 meaning of, 18:1 breach of order no disclosure after two years, 18:3 hearing re, 18:344 not bar to subsequent proceedings, 18:2 powers of court at hearing, 18:345 Amendments reducing penalty, **18:443** combined with imprisonment, 18:337 Antedating sentence, 18:434 compulsory conditions, 18:338 Appellate courts and sentencing courts, earned remission during, 18:346 25:13 effect of further offence during, 18:347 Appellate review principles, starting points and ranges, 18:104 hearing re changes in order, 18:341

SENTENCING—Cont'd SENTENCING—Cont'd Conditional sentencing order—Cont'd Dangerous and long-term offenders informational obligations of court, -Cont'd 18:340 later conviction of dangerous offender, 18:401 intermittent sentence and, 18:354 later conviction of long-term offender, optional conditions, 18:339 18:402 principled approach, 18:336 legislation re reversal of, credit where, 18:349 Charter validity, 18:379 transfer of order, 18:342 current (Part XXIV), 18:378 Consecutive sentences history of, 18:377 generally, 18:112 purpose of, 18:380 assault of law enforcement officer, long-term offender, 18:396 18:115 presumption, 18:386 availability of (s. 718.3), 18:109 release of, 18:408 crime sprees, 18:113 criminal organizations offences, re, sentence for dangerous offender, 18:394 18:118 escape, re, 18:121 sentence for long-term offender, 18:397 sentence where offender not found to failure to designate as, 18:111 be dangerous, 18:382 global sentencing principle, 18:128 serious personal iniury offence, 18:385 grouped offences, 18:126 sexual offender on parole at time of offence, 18:122 discretion not to declare offender participation in criminal organization, dangerous, removal of, 18:393 18:118 failure to control sexual impulses, possession of explosive substance, 18:391 18:116 likelihood of causing future injury, sexual offences against child, 18:117 18:392 terrorism offence, 18:119 underlying offence re, 18:390 totality of offending behaviour, 18:114 statements by accused, 18:404 totality principle, 18:127 substitute finding, 16:308, 18:395 trafficking in a person, 18:120 supervision. 18:398 to 18:400 Corporations victim's evidence, 18:405 general deterrence as purpose, 18:88 violent offender, 18:389 liability for predecessor, 18:89 Delay following offence Criminal record, 18:143 due to flight, 18:142 Dangerous and long-term offenders lengthy delay before trial, 18:140 appeal Delay for treatment, 18:141 against finding, 18:407 Discharge application for declaration availability (s. 730(1)), 18:327 conditions precedent to, 18:388 avoidance of disproportionate conseprocedure on, 18:384 quences, 18:329 assessment remand, 18:387 conditions for, 18:328 character evidence, 18:406 effect of, 18:330 hearing re fine/imprisonment prohibition, 18:331 adjournment to appeal conviction, guilt not charge determining, 18:332 18:383 previous, **18:333** hearsay evidence, 18:403 probation requirement, 18:331 indeterminate sentence, discretion re, 18:380 young person, 18:334

SENTENCING—Cont'd	SENTENCING—Cont'd
Discretion	Fines—Cont'd
categorization of offences, 18:97	imprisonment in default of payment,
exceptional circumstances, principle of,	18:203
18:102	licences/permits, refusal to renew for
guidelines, 18:100	default, 18:217
individualized sentencing, 18:96	means of accused, 18:201
non-communication order, 18:93	option program, 18:211 procedure on making order, 18:199
parole eligibility, re, 18:94	stripping profits, re, 18:212
punishment, re, 18:92	suspension of by court of appeal,
range, 18:95	18:209
range guidelines, 18:100	terms of order, 18:198
second trial, sentence at, 18:103 sentencing tariff, 18:95	time to pay, 18:206
starting point, 18:101	victim fine surcharge, 18:216
Disparity of sentence	warrant of committal re default, 18:205
co-accused, among, 18:130	wealth of accused, 18:202
equality of treatment, 18:134	Firearms, possession of
multiple accused, 18:132	prohibition order, 18:425
offences and offenders, re, 18:129	Firearms, use of
post-sentence action re co-accused,	Charter validity, 18:417
18:133	during indictable offence, 18:409
rich and poor offenders, 18:134	"firearm" defined, 18:422
similar offences, re, 18:129	firing not required, 18:411
Drug offences	Kienapple, rule in
drug trafficking (examples), 18:158	application of, 18:420
hard drugs, 18:160	statutory displacement of, 18:419
levels of trafficking, 18:159	life imprisonment, concurrent to,
mandatory sentences, 31:1217	18:423
Environmental offences, 18:215	mere possession, 18:412
Evidence, counsel's submissions as, 16:515	minimum sentence re, 18:105, 18:107, 31:1218
Extended sentence, 18:135	multiple convictions for, 18:424
Factors	parties to offence, 18:421
aggravating factors, 18:17	prohibition order, 18:425
improper considerations (list), 18:15	retrospective application, 18:418
nature of offence, 18:17	substantive offence requirement,
non-violent offences, 18:16	18:414
post-sentencing, 18:76	totality of sentences, 18:410
proper considerations (list), 18:14	underlying offence
Fines	conviction required re, 18:413
availability of, 18:197	specification by court, 18:416
civil enforcement of, 18:218	First offender, 18:60 , 18:138
concurrent, 18:208	Fit sentence, 18:13
conditional sentences and, 18:204	Guidelines, 18:98
corporations, on, 18:214	Hybrid/mixed offence, for, 7:40, 18:151
default, imprisonment in, 18:200	Impaired driving offences, mandatory
defined, 18:196	prohibition order, 18:426
forfeiture order (s. 462.37), in lieu of,	Imprisonment, conditional
18:210	see Conditional sentencing order

SENTENCING—Cont'd	SENTENCING—Cont'd
Inchoate offence, minimum sentence, re,	Models, 18:19
18:108 Indictable offence	Multiple sentences
where no punishment provided, 18:441	as single merged sentence, 18:125, 18:433
Indigenous offenders, 18:460	
Information re offender, duty re accuracy,	Murder for
18:461	information provided to accused, re, 18:167
Injunction	pre-trial custody, 18:168
civil, 18:91	Offence and offender, 18:13
disposition of assets, re, 18:90	Other charges, effect of
Mareva, 18:91	acquittals, pardons, etc., 18:195
Intermittent sentence	evidence of other crimes, 18:192
availability, 18:351	same victim, re, 18:193
conditional sentence and, 18:354	taking into consideration, 18:191
consecutive sentences not authorized, 18:357	Parole
ninety-day limitation, 18:355	see also Conditional release
pre-sentence custody and, 18:352	day, 18:468
probation and, 18:353	effects on sentencing, 18:161
purpose of, 18:350	full, 18:470
unavailability of facilities, 18:356	ineligibility
Juvenile antecedents, 18:137	addressing jury re, 18:174
Life sentence	appeal court consideration of, 18:184
sentence need not be consecutive to, 18:431	criminal organization offence, re, 18:166
Long-term offender	discretionary nature of, 18:172
see Dangerous and long-term offenders	increased
Mandatory drug sentences, 31:1217	jury recommendation, 18:181
Mandatory minimum sentences,	notification of accused re, 18:179
constitutional vulnerability of, 31:1215	opportunity to present background information, 18:180
Mandatory sentences, 18:104, 18:105	reasons required for, 18:179
Manslaughter	jury hearing to reduce, 18:188
use of weapon, 18:146	murder, re
varying sentences for, 18:144	generally, 18:169
Maximum sentence	accused under 18/16 at time of
artificial inflation of, 18:154	offence, 18:171
determination of, 18:149	challenged for cause at review,
hybrid/mixed offence, 18:151	18:189
intimate partner context, 18:157	furtherance of another crime, in,
pre-sentence detention, consideration of, 18:153	18:177 multiple murders, 18:170, 18:176,
preventive detention, 18:155	18:186
summary conviction offence, 18:152 use of, 18:150	previous murder conviction, 18:175
worst offence but not worst offender,	principles and factors re, 18:173
18:156	reformatory sentence, 18:163
Mental disorder/retardation, 18:136	review, written application for,
Minimum contanges 19.104 19.109	10.105

SENTENCING—Cont'd	SENTENCING—Cont'd
Parole—Cont'd	Previous convictions, greater punishment
ineligibility—Cont'd	because of, 18:251—Cont'd
review hearing	liability to, 18:252
challenge for cause at, 18:189	murder, previous conviction for, 18:258
jury challenge, 18:189	notice of intention to seek
scheduled offences, re, 18:164	lack of not bar, 18:278
terrorism offence, 18:165	proof of service of notice, 18:277
time in custody prior to life sentence,	requirement for, 18:254
18:183	service of notice, 18:275
judicial order re date of eligibility re	sufficiency of notice, 18:274
"adult offender," 18:469	time of service, 18:276
judicial screening, 18:187	previous convictions
revocation of, 18:476	meaning of, 18:261
Place of imprisonment, 18:439 Plea bargaining	proving
see also Sentence bargaining	adjournment re, 18:265
after retention of counsel, 31:870	admission during trial, 18:270
agreed statement of facts, 18:446	burden of, 18:255
Crown counsel recommendation,	different methods of, 18:266
18:453	interrogation by court, 18:271
definition of, 18:444	judicial notice of court records, 18:267
judge's participation, 18:454	oral evidence re, 18:268
normal practice, 18:445	similarity of names, 18:272
Plea resolution agreement vs. undertak-	sufficiency of, 18:269
ing, 18:455	strict construction re, 18:262
Policy and theory, trends in, 18:18	two convictions from same transac-
Pre-sentence custody	tion, 18:263
as mitigating factor, 18:436	prosecutor's discretion, review of,
credit for young persons, 18:437	18:260
intermittent sentence and, 18:352	Principles of sentencing, 18:1
maximum sentence, re, 18:153	aboriginal (indigenous) offenders,
minimum sentence, re, 18:106	18:33, 31:615
"time served," sentence to, 18:435	accused
Pre-sentence reports	attitude of, 18:67
challenge of, 18:430	character of, 18:60
contents of, 18:429	deportation, facing, 18:81
need for, 18:428	disadvantaged recidivist, 18:78
Pre-trial custody	first offender, 18:60, 18:139
as mitigating factor, 18:436	loss of employment, 18:61
"global" sentence and, 18:438	mentally/physically impaired, 18:77
Previous convictions, greater punishment	multiple offences, 18:72
because of, 18:251	multiple offenders (group or gang),
burden of proving previous conviction,	18:73
18:255	on bail, probation, etc., 18:75
Charter and, 31:521	repeat offender, 18:69
impaired driving causing bodily harm,	alcohol/drugs, use of, 18:66
18:253	appropriateness, judge's discretion in
insanity verdict, 18:257	finding, 18:23
invocation of, 18:261	basic principles, 18:11

SENTENCING—Cont'd	SENTENCING—Cont'd
Principles of sentencing, 18:1—Cont'd	Principles of sentencing, 18:1 —Cont'd
black offenders, 18:36	post-sentencing factors, 18:76
blending imperative, 18:24	potential harm in penitentiary, 18:84
categories of punishment, consideration	prior or subsequent offences, 18:70
of all, 18:74	proportionality, 18:7, 18:13
charge, sentence only on, 18:55	protection of society, 18:11, 18:42
collateral consequences, examination	provincial disqualification as part of
of, 18:59	sentence, 18:46
community	purposes of sentencing, 18:4, 18:11
abhorrence of particular crime, 18:37	rehabilitation, 18:31
prevalence of crime in, 18:48	reincarceration on Crown appeal, 18:86
compassion, measure of, 18:68	reparation, 18:38
constitutional status, no, 18:5	responsibility, 18:39
co-operation with authorities, 18:52	retribution, 18:40
corporate offender, 18:88	sentence, frustrating intent of Parlia-
cultural differences, 18:82	ment re, 18:50
delay in imposing sentence, 18:79	statutory
denunciation of crime, 18:35, 18:41	objectives of sentencing, 18:6
deterrence	principles, 18:8
general, 18:25, 18:26	"step-up," theory of, 18:64
individual, 18:28	unintended consequences of crime,
qualified, 18:27	18:58
to others, 18:27	Prior curative discharge for driving
disadvantaged offenders, 18:34	offence, 18:253
exceptional circumstances, 18:32	Prior practice, 18:256
exemplary sentence, 18:25	Prison, type of, 18:439
false testimony, 18:84	Probation
gap principle, 18:65	additional punishments
goals, 18:12	fine and imprisonment, 18:306
gravity of offence, 18:29	plus imprisonment, 18:307
guilty plea, 18:83	administrative duties re order, 18:301
harmful effects of crime, 18:56	aggregate sentence exceeding two
imprisonment, restraint against use of,	years, 18:284
18:63	as punishment, 18:280
imprisonment threshold guidelines,	breach of
18:62	means to comply with terms of order
individualizing sentences	18:329
principle re, 18:51	mens rea for breach of probation, 18:323
repeat offender, 18:71	outside Canada, 18:299
intended consequences of crime, 18:57	pending appeal, 18:326
judicial, 18:9	situations re, 18:321
"jump principle," 18:64	coming into force of order, 18:288
moral culpability, 18:53	community service order, 18:297
motive, 18:53	
organizational offender, 18:87	conditional discharge and, 18:310 conditions of
parity of sentences, 18:30	
passage of time between offence and	banishment from place of crime, 18:296
sentence, 18:80	bodily sample, provision on demand,
police misconduct, 18:54	18:294

SENTENCING—Cont'd	SENTENCING—Cont'd
Probation—Cont'd	Procedure—Cont'd
conditions of—Cont'd	facts—Cont'd
compulsory and optional, 18:286	opportunity to deny on guilty plea,
electronic monitoring, 18:292	18:230
keeping peace and being of good	guilty plea
behaviour, 18:290	disputed facts, 18:231
reasonableness of, 18:291	mitigating factor, as, 18:235
residence at training facility, 18:293	opportunity to deny facts, 18:230
consecutive terms, 18:320	multiple jury verdicts, 18:227
court of appeal order, variation of, 18:319	outstanding charges, where plea/ consent, 18:225
delegation of conditions to prohibition	postponement
officer, 18:289	aid police, to, 18:249
house confinement, 18:292	lengthy, 18:248
judge unable to act, 18:318	pending appeal, 18:250
length of order	treatment program, for, 18:247
duration, 18:303	until all charges disposed of, 18:246
specification, 18:302	post-sentence
minimum penalty offence, 18:285	±
pre-sentence custody, where considered, 18:283	court being functus officio, 18:251, 18:442
probation officer	pre-sentence report, 18:222
delegation to, 18:300	private inquiries by judge, 18:236
supervision order, 18:295	reasons for sentence, 18:244
probation order, collateral attack on,	restitution as mitigating factor, 3:138
18:322	sentencing circle, 18:221
rehabilitation, as, 18:280	sentencing hearing
revocation of	allocutus, 18:229
double jeopardy, 18:312	Crown's submissions, 18:228 ,
judge required to hear application,	18:239
18:317	Crown's view of facts, 18:232
punishment on, 18:311	joint submissions
time re, 18:313	admissibility of rejected, 18:243
subsequent sentence of imprisonment,	rejection of, 18:242
18:308	specific sentence, re, 18:240
suspension of passing of sentence,	weight attached to, 18:241
18:282, 18:304, 18:309	nature of, 18:219
territorial jurisdiction of court, 18:298	onus on Crown at, 18:224
types of orders re, 18:281	procedure at, 18:223
variation of terms	questioning of accused, 18:237
Crown application requirement, 18:316	speaking to sentence by accused,
ex parte application re, 18:315	18:229
procedure, 18:314	treatment program, attendance at,
Procedure	18:220
absence of accused, 18:245	victim impact statement, 18:233
community impact statement, 18:234	Prohibition order for fraud, 18:213
facts	Prohibition order for impaired driving
Crown's view of, 18:232	offences, 18:426
determination by judge, 18:226	Prohibition orders, miscellaneous, 18:427

SENTENCING—Cont'd SENTENCING—Cont'd Prosecutor's decision re Victim—Cont'd Charter contravention by prosecutor, prostitute as. 18:45 18:260 vulnerability of, 18:44 non-interference with, 18:259 Youthful offenders non-reviewability, 18:264 credit for pre-sentence custody, 18:437 Remission first offender, 18:138 effects of on sentencing, 18:162 juvenile antecedents, 18:137 Restitution orders **SEVERANCE** amount not in dispute, where, 18:366 Accused, of application for, 18:365 see INDICTMENTS AND INFORMAauthorization for, 18:359 **TIONS** availability of, 18:363 Application for bankrupt accused, 18:368 see INDICTMENTS AND INFORMA-Charter validity, 18:375 **TIONS** enforcement of, 18:372 Conspiracy charge and, 9:285, 19:107 full payment under, 18:370 Constitutional doctrine re, 31:93 individual vs. global orders, 18:361 Counts, of injunction see INDICTMENTS AND INFORMAafter appeal, 18:374 TIONS funds not in court. 18:373 Defective search warrant, 3:76 means of accused, 18:367 Override of severance order, 11:44 mitigating factor, not considered, Preliminary inquiry, at, 9:256, 9:259 18:362 payment to more than one person, SEXUAL ABUSE SYNDROME 18:371 Generally, 16:138 person without notice of offence, SEXUAL ASSAULT 18:369 See also ASSAULT principles applied to, 18:360 rationale for, 18:364 Consent defence see CONSENT, Defence, as Restorative justice, 18:43 Drunkenness and. 21:75 Sentence bargaining Mistake of fact and see also Plea bargaining see MISTAKE OF FACT Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 SEXUAL COMPLAINANT failure to arrive at joint submission, Character evidence 18:449 see CHARACTER EVIDENCE ioint recommendation, 18:452 Victim joint submission, 18:450 Charter application, 31:336, 31:1338, joint submission in absence of negotia-31:1358 tions, 18:448 judge's participation, 18:454 SEXUAL OFFENDER rejection of joint submission, See SENTENCING — Dangerous offendguidelines, 18:451 specific submissions, 18:447 SEXUAL OFFENDER INFORMATION Treatment/training, 18:135 **REGISTER (SOIRA)** U.K. guidelines, 18:22 Order re, 16:654 U.S. Federal, 18:21 Victim SEXUAL ORIENTATION child victim, 18:46, 18:47 Generally, 31:1319

SILENCE, RIGHT TO	STATUTORY INTERPRETATION
See also SELF-INCRIMINATION	—Cont'd
Charter right, 31:518	Evidence, creation of new rules of,
On arrest, 16:87	33:108
Voluntariness of accused's statement vs.,	Extrinsic aids to, 33:113
16:601	Forms, 33:86
SOVEREIGN	Gender, 33:87
Compellability, 16:542	General rules, 33:1
Demise of, 33:110	ambiguity rule, 33:7
Name of	common law context of statutory inter
see INDICTMENTS AND INFORMA-	pretation, 33:8
TIONS — Information	contextual method, 33:2
	exception to, 33:48
SPECIAL PLEAS	"exhaustive statutory code," meaning of, 33:9
See PLEADING	golden rule, 33:4
SPEEDY TRIAL	grammatical method, 33:2
See ELECTION	literal meaning, departure from, 33:4
SPOUSES	literal method, 33:2
	meaning and effect of provision, 33:1
Compellability of	mischief rule, 33:5
privileged communications, 16:537	ordinary meaning rule, 33:3
Equality rights and, 31:1319, 31:1323	purposive rule, 33:6
Failure to testify, 17:135	teleological method, 33:6
Hearsay utterances of, 16:589	Grammatical meanings, corresponding,
STANDING	33:86
Charter remedy	Guidelines, 33:119
see CHARTER OF RIGHTS — Rem-	"Includes," meaning of, 33:60
edy, Charter	Incorporation by reference, 33:111
Constitutional law, in, 34:2	Indictable offences, 33:90
Court martial, at, 31:1102	"Individual," meaning of, 33:55
Judicial interim release hearing, 6:52	Judicial change in law, 33:102
Search and seizure, to attack, 3:120,	Language rules, 33:46
31:673	acting legally, 33:52
STATUTES	"and" or "or," 33:57
See STATUTORY INTERPRETATION	associated words, 33:47
	class words, 33:46
STATUTORY INTERPRETATION	deeming provision, purpose of, 33:62
Amendments, 33:96, 33:100	dictionaries, use of, 33:64
"And," meaning of, 33:57	ejusdem generis, 33:46
"Any," meaning of, 33:58	expressio unius est exclusio alterius,
Common names, 33:94	33:48
Corporations, words deemed to include,	failure to mention, 33:48
33:87	in bonam partem, 33:52
Crown, demise of, 33:110	"includes," 33:60
Declaratory legislation, retrospective	"in respect of," 33:61
application, 33:107	mutatis mutandis, 33:54
Documentary evidence, provision for, 33:80	noscitur a sociis, 33:47
	· ·
Errors, correction of obvious, 33:114 Estoppel by interpretation, 33:54	punctuation, 33:63 rule of last antecedent, 33:49
estoddel by interpretation, 33:54	Tute of fast afficedent. 33:49

STATUTORY INTERPRETATION STATUTORY INTERPRETATION —Cont'd —Cont'd "Means," meaning of, 33:60 Special rules, 33:10—Cont'd Charter values in statutory interpreta-Minister's representatives, words directtion, 33:19 ing, 33:79 Number, 33:88 commercial documents (contracts), 33:24 "Or," meaning of, 33:57 consistency in meaning of same words, "Person," meaning of, 33:93 33:14 Powers, statutory constitutional documents read generancillary powers of functionary, 33:84 ously, presumption, 33:42 requirement of, 33:83 constitutional validity, presumption of, temporal powers of functionary, 33:85 33:43 Power to enter dwelling house to carry correct application of legal principles, out arrest, 33:91 presumption re, 33:43.50 Primary legislation, 33:115 court jurisdiction, presumption against Procedural vs. substantive amendments, ousting, **33:40** 33:103 cross-referencing criminal statutory Prospectivity, 33:100, 33:101, 33:105 provisions, 33:16 Public officers and representatives, powelectoral legislation, presumption of ers of, 33:79 enfranchising, 33:39 Re-enactments, 33:95 extraterritoriality, presumption against, Regulations, challenging, 33:117 33:39 Repeal generalia specialibus non derogant, generally, 33:96 33:51 implication of, 33:99 harmonization, principle of, 33:25 prior to charge, conviction or sentenchuman rights legislation, 33:22 ing, 33:97 inconsistent statutes, presumption substitution, and, 33:98 against, 33:26 international custom, presumption Retroactivity, 3:98, 33:30, 33:101 against ousting, 33:41 Retrospectivity judicial remedies, presumption of declaratory legislation, 33:107 retroactivity, 33:30 described, 33:100, 33:101 mens rea, presumption re, 33:30 presumption against, 33:104, 33:106 non-interference with rights, presump-Revised statutes, interpretation of, 33:112 tion of, 33:28 Rights and remedies, creation of new, penal laws, strict construction of, 33:17 33:109 principle of effectiveness, 33:36 Singular and plural, 33:88 redundancy, presumption against statu-"So," meaning of, 33:59 tory, **33:33** Sovereign, demise of, 33:110 statutory consistency and coherence, Special rules, 33:10 33:32 aboriginals, treaties and statutes re, statutory exception to common law 33:21 principle, 33:13 absurd results, presumption against, statutory terms have same meaning as 33:27 legal terms, presumption, **33:31** administrative agencies, 33:23 substantial alteration of law, presumpadministrative law principles, presumption against, 33:37 tion of adherence to, 33:36 surplusage, presumption against, 33:36 tautology, presumption against, 33:35 bilingual versions both official, 33:43 canons of legislative interpretation, taxing statutes, construction of, 33:18 33:10 technical meaning, 33:11

STATUTORY INTERPRETATION —Cont'd Special rules, 33:10—Cont'd treaties, interpretation of, 33:20 violation of international treaty, etc., presumption against, 33:41 Statutory instruments, 33:118 Statutory rules of interpretation, 33:65 commencement or repeal of Act, 33:66 common law and civil law as "equally authoritative," 33:69 Crown not generally bound by enactments, 33:77 federal Act/Regulation, territorial operation of, 33:68 fraud on Act, 33:76 headings of Act, 33:74 imperative construction ("shall" and "may"), **33:56, 33:72** Interpretation Act application of, 33:65 general definitions in, 33:92 judicial notice of proclamation/ regulation, 33:78 marginal notes of Act, 33:74 permissive construction, 33:72 preamble of Act, 33:74 present tense of law, 33:71 private Acts, applicability of, 33:70 regulations, meaning of words in, 33:75, 33:116 remedial enactments, 33:73 repeal of enactments, 33:67 title of Act, 33:74 Subordinate legislation, 33:116 Summary conviction offences, 33:90 Time attainment of age, re, 33:82 computation of, 33:81 STATUTORY POWERS

Person discharging, 31:136 Prerogative vs., 12:20 Search and seizure and, 3:2

STAY OF PROCEEDINGS

Abuse of process

see ABUSE OF PROCESS Appeal acquittal, stay of, 23:105 court power, 23:103, 23:104, 23:246

STAY OF PROCEEDINGS—Cont'd Appeal—Cont'd stay as circumventing, 12:120

Availability, 12:93 Charter remedy, as, 31:1441, 31:1477,

31:1479, 31:1495 Constitutional basis of, 12:99

Crown prerogative, 12:100

Delay caused by Crown's, 31:998

Double jeopardy and, 31:1157

Effect of, 12:96

Exceptional remedy, as, 31:1447

Fundamental justice, 31:559

General authority re, 12:95

No jeopardy on, 12:108

Nolle prosequi, 12:98

Non-disclosure, for, 31:565

Preliminary inquiry, 31:1441

Prior to judgment, 12:103

Private prosecution

not contrary to Charter, 12:95

Recognizance, terminates, 12:97

Recommencement, notice of

form of, 12:104

notice to accused, 12:105

Restitution/forfeiture order, 23:104

Review of, 12:101

Supreme Court of Canada, in, 23:247

Timing of, 12:107

Trial within reasonable time, 31:1012

Withdrawal of charges and, 12:106

STRICT LIABILITY

Absolute and strict liability offences, 19:33

Due diligence, and, 31:1056 Mistake of fact and, 21:214

SUBORDINATE LEGISLATION

Generally, 21:257, 31:109, 33:116

SUBPOENA

See JURISDICTION — Compelling attendance of witness

SUICIDE

Generally, 16:421, 27:41, 27:56, 31:467

SUMMARY CONVICTION APPEALS

1969-76 (de novo proceeding), 24:2 Acquittal/conviction, appeal re, 24:5

SUMMARY CONVICTION APPEALS —Cont'd	SUMMARY CONVICTION APPEALS —Cont'd
Appeal on transcript/agreed statement of	Pre-1969, 24:1
facts, 24:40	Private informant, by, 24:16
agreed statement of facts, 24:45	Probation breach during appeal, 24:24
Attorney General, rights of, 24:52	Provincial court of appeal, appeal to
Code provision re, 24:40	conditions for, 24:59
costs, order re, 24:57	grant of leave, no review of, 24:62
court hearing, 24:41	important question of law, 24:65
final order, 24:43	informant's appeal, 24:70
forms of appeal, 24:44	powers of court, 24:68
grounds of appeal, 24:42	review of refusal, 24:61
interlocutory order, from, 24:48	route of appeal, 24:66
mandamus, availability of, 24:50	sentence appeal, 24:67
parties, 24:53	summary conviction appeal court,
power of court	from, 24:64 , 24:66
generally, 24:56	Supreme Court of Canada, subsequent
curative provision, application of,	appeal to, 24:71
24:55	unreasonable verdict finding, 24:64
questions of law, 24:54	Reasons for judgment
remission to trial court re amendment,	facts not mentioned in, 24:14
24:58	respondent not bound by, 24:13
rules of court, 24:51	Release before appeal, 24:20
sentence, against, 24:49	Representation by agents, 24:17
time to appeal, 24:46	Sentence
transcript, 24:45	appeal against, 24:6 , 24:27
Combined indictable and summary	appeal before, 24:7
conviction appeals, 23:25, 24:60	appeal re, 24:5
Costs, 24:30	imposed by appeal court, 24:28
Costs against Crown, 24:31 , 24:35	Summary Conviction Appeal Court, con-
De novo proceeding, 24:4	stitution of, 24:3
Dismissal for non-compliance, 24:22	Suspension of order, 24:23
Extension of time	Undertaking/recognizance of prosecutor,
ex parte, 24:19	24:21
notice of appeal, re filing of, 24:18	
Final judgment prerequisite, 24:8	SUMMARY CONVICTION OFFENCES
Form of, 24:4	Appearance by agents, 1:161
Fresh evidence, 24:29	Autrefois acquit and convict
Grounds of appeal	see AUTREFOIS ACQUIT AND
generally, 24:12	CONVICT
factual error, 24:26	Committal for trial, 13:67
late objection, 24:15	Described, 7:53
Included offence	Included offence, as, 1:45
conviction on, 24:37	Insufficient charge, 9:228
substituted verdict on, 24:38	Intervention, 12:56
Inferior court bound by order, 24:39	Joinder at common law, 9:289
Interlocutory appeals not available, 24:9	Jurisdiction over person, 1:29
Notice of abandonment, rescinding, 24:10	Maximum sentence, 18:152
One appeal only, 24:11	No re-election, 8:51
Powers of court, 24:25 , 24:36	Private prosecution, 12:52 , 12:61
1 0 WOLD OI COULL, 27.22, 27.20	1 111 vacc prosecution, 12.52, 12.01

SUMMARY CONVICTION OFFENCES	SUPREME COURT OF CANADA
—Cont'd	APPEALS—Cont'd
Proceeding in absence of defendant,	Leave applications
1:163	extending time for, 23:272
Statutory interpretation, 33:90	leave granted on restricted grounds,
Sufficiency of pleadings, 9:125	23:273
Summary conviction court, 7:15	reconsideration of, 23:286
Territorial jurisdiction of court, 1:86	time for, 23:269
Time limitation on jurisdiction, 1:35, 1:45	Materials to be referred to by counsel, 23:245
Verdicts re included offences, 16:309	
see also VERDICTS	Notice of appeal service and filing, 23:268
Waiver of arraignment, 14:8	Powers of court
SUMMARY JUDGMENT	generally, 23:280
Generally, 31:541	new trial order, re-election where,
SUMMONS	23:283
Affect of on jurisdiction	no substantial miscarriage proviso, re,
see JURISDICTION	23:281
Information re specific offence, 31:965	remand matter to court below, 23:282
Irregularity of, 1:192	References, 23:296
Service of, 31:886	References, discretion on, 23:288
,	Rehearing of appeal, 23:287
SUPREME COURT OF CANADA	Restrictions on availability, 23:263
APPEALS	Section 40 appeals
By accused, as of right, 23:249	generally, 23:258
By Crown, as of right, 23:250	considerations re, 23:260
Case on appeal, 23:262	no leave at provincial level, 23:259
Consent judgments, 23:283	Stay of order/judgment pending appeal,
Constitutional questions, 23:257	23:246
Counsel, power to appoint, 23:265	Stay of proceeding pending appeal,
Court of appeal findings of fact, 23:277	23:251
Discharges, appeals of, 23:256	Stay pending application/appeal, 23:247
Discretionary order, appeal from, 23:264	Time to appeal
Dismissal for want of prosecution, 23:285 Dissent	non-indictable appeals, 23:271
	Whole record, consideration of
"all aspects of question," consideration of, 23:276	for appellant, 23:279
appeal based on, 23:275	for respondent, 23:278
In camera hearings, 23:274	Tor respondent, 23.276
Indictable appeals, restrictions re, 23:248	SURVEILLANCE
Interlocutory orders, 23:267	Electronic
Interventions	see CHARTER OF RIGHTS — Search
application for leave by intervenor,	and seizure, unreasonable
23:254	THEFT
justification for, 23:255	
Leave appeals	Admission of, 16:445
application for, 23:253	Duplicity/multiplicity and, 9:96
provincial appellate court, leave by,	Possession and, 16:307
23:266	THREATS
types of, 23:252	See COMPULSION, DEFENCE OF;
written and oral, 23:270	DURESS, DEFENCE OF

TIME	TRIALS—Cont'd
See LIMITATIONS	Cross-examination
TORTS	accused, of
Constitutional, 31:1490	alibi witnesses, re, 16:396
	bad character, on, 16:134
TREATMENT	co-accused, by, 16:124
Compulsory, 31:642	generally, 16:123
Pending insanity disposition, 22:122	good character, 16:135
Sentencing and, 18:135	improper, 16:121
TRIALS	previous testimony on voir dire,
Accused	16:131
absconding, 16:168	proper, 16:122
as non-compellable witness	refusal, 16:125
see CHARTER OF RIGHTS —	related matters, on, 16:123
Offence, person charged with	accused's failure to make statement, 16:129
character evidence	accused's statement, re, 16:130
see also CHARACTER EVIDENCE	adverse finding in prior trials, on,
accused's background, 16:136	16:128
bad, 16:134	co-accused, by, 16:110, 16:116
good, 16:135, 16:141	collateral matter rule, 16:152
denial of opportunity to call defence,	complainant/witness under 18, of,
16:492	16:110
order of testimony	demeanour and, 16:118
as defence witness, 16:166	described, 16:109
multiple accused, 16:167	failure, re, 16:113
right to be present, 16:74	favourable witness, of, 16:116
right to make submissions, 16:480	full answer and defence, re, 16:117
unrepresented at trial, 16:29	harassing/prolix, 16:191
Admissions	material evidence, failure re, 16:127
by Crown, 16:164	outstanding charges, 16:119
error of law, re, 16:165	own witness, of
formal, 16:161	consultation after start of cross-ex
mixed fact and law, of, 16:163	amination, 16:102
Agreed statement of facts, 16:162	prior inconsistent statement, on
Burden of proof on Crown, 16:77	adverse witness, 16:97 , 16:103
Certificates	hostile witness, 16:96
defects in, 16:503	s. 9(2) C.E.A. application, 16:9
Commencement	without proof that witness is
generally, 16:80	adverse, 16:98, 16:101
rulings re evidence, 18:81	three types of, 16:100
Conduct of, 16:75	prior convictions, on, 16:120
Control of proceedings, power re, 16:82	prior inconsistent statements, on
Convictions	procedure, 16:132
denial of argument by accused, on, 16:490	recalling witness by trial judge,
	16:133
denial of opportunity to call defence, on, 16:492	proper limits of, 16:114
Corroboration requirements, 16:684 ,	purpose of, 16:108
16:685	unprovable allegations, 16:119
Courtroom security, 16:36	veracity, re, 16:115
	·

TRIALS—Cont'd	TRIALS—Cont'd
Crown	Evidence—Cont'd
denial of argument by, 16:491	exclusionary rules—Cont'd
Evidence	opinions by non-experts, 16:517
see also EVIDENCE	self-serving evidence, 16:517
accused's silence on arrest, re, 16:87	trial judge as evidentiary gatekeeper
admissibility	16:518
see criminal evidentiary rules;	exhibits
exclusionary rules	see Exhibits
amendments re admissibility, 16:195	facts vs., 16:520
character, of	failure to call, adverse inference from,
accused	16:534.50
see Accused	findings at prior criminal/civil trial, admissibility, 16:88
victim, 16:139	foreign jurisdiction, arising in, 16:524
witnesses, 16:137	inferences from, reasonable, 16:190
collateral matter rule	lately discovered, 16:156
contradiction on, 16:152	lex fori, 16:517
exceptions, 16:153	notice re admissibility, 16:500
continuation of trial until completion of, 16:493	objection to admissibility, timing of,
,	16:521
criminal evidentiary rules	opening door to issue, 16:154
admissibility, 16:510	out-of-court evidence, adoption of,
discretion to exclude, 16:510	16:180
first-hand knowledge requirement, 16:514	power to elicit, 16:86
	preliminary inquiry "information,"
legal and factual relevance, 16:510	16:228
multiple admissibility, doctrine of, 16:522	principles underlying rules, re, 16:511
ownership and value of property,	prior verdict, admissibility, 16:88
16:516	privilege
purpose of, 16:513	see PRIVILEGE
search for truth, 16:513	proposed evidence, admissibility hear-
death of witness during cross-examina-	ing, 16:512
tion, 16:235	provincial laws of, 16:506
documents	provisional rulings re admissibility, 16:523
common law/statutory proof of,	rebuttal
16:505	see Rebuttal
electronic, 16:525	relevance requirement, 16:508
name similarity, 16:502	sexual abuse syndrome, re, 16:138
proof of facts referred to in, 16:496	videotaped confession/demonstration,
service of	16:184
proof of, 16:499	Examination-in-chief
reasonable notice, 16:497, 16:498	generally, 16:95
exclusionary rules	Exhibits
bad character evidence, 16:517 ,	audiotapes as, 16:178
16:523	authentication of, 16:170
Charter rule, nature of, 31:1521.50	continuity of, 16:173
discretion re relevant evidence,	experiment/re-enactment, evidence of,
16:519	16:186
hearsay evidence, 16:517	in-court demonstrations, 16:187
•	

FRIALS—Cont'd	TRIALS—Cont'd
Exhibits—Cont'd	Mixed, 16:1—Cont'd
inherent jurisdiction over, 16:175	multiple informations
photographs as, 16:177	fitness hearing on, 16:4
release of for testing, 16:176	rule re, 16:1
secondary evidence of, 16:174	separate informations, 16:1
statements of witnesses, 16:171	Motive, 16:687
transcripts, 16:171	Names, similarity in, 16:502
videotaped confession/demonstration,	New trial, commencement of, 16:495
16:184	Notice
videotapes as, 16:179	see also NOTICE
Expert witness	evidence for preliminary inquiry, re,
in-court demonstration by, 16:187	16:500
Factual findings, 16:79	proof of service of, 16:499
Formal admissions, 16:161	reasonableness requirement, 16:498
Forms	validity for new proceedings, 16:501
both languages, 16:509	Objection at trial, failure re, 16:194
variations of, 16:508	Onus of proof, 16:680
Issues	Opportunity, necessity to prove exclusive
curative admissibility, doctrine of,	16:688
16:690	Party presentation principle, 16:71
leading evidence on, 16:680	Personal attendance of court participant,
Judge	16:51
see also JUDGES	Preliminary matters, 16:21
functus officio, as	accused
clerical amendments, 16:484	attendance of, 16:36 , 16:47 , 16:49
described, 16:482	audience before court, right of, 16:2
prior to sentence, 16:483	exclusion of
preliminary inquiry transcript, reading,	generally, 16:47
16:486	vital interests of accused, 16:48
pre-trial judge as trial judge, 16:14	full answer and defence, right to,
Judgment, 16:481	16:42
Judicial notice	remanded to jail, 16:50
see also JUDICIAL NOTICE	right to represent self, 16:24
of facts, 16:681	seating in prisoner's dock, 16:38
of laws, 16:682	adjournments
Judicial orders, 16:480	at jail, 16:47
Jury trial	retaining counsel, re, 16:22
see JURY TRIAL	trial judge's discretion re, 16:33
Management of trial, 16:83	unavailable witness, re, 16:34
Means to commit offence, proof of,	agents in summary conviction trials,
16:689	16:26
Mixed, 16:1	amicus curia, court's discretion to
application of evidence to another trial,	appoint, 16:25
16:3	audioconference/videoconference
disposal of charges	participation
former rule, 16:6	accused, 16:57
present practice, 16:7	judge, 16:59
multiple accused 16.5	participant 16.58

TRIALS—Cont'd	TRIALS—Cont'd
Preliminary matters, 16:21 —Cont'd	Pre-trial conference, 16:8
counsel	accused later unrepresented, 16:29
designation of counsel of record,	case management vs., 16:15
16:21	effect of, 16:12
discharge and withdrawal of, 16:30	judge's notes, immunity for, 16:13
right to, 16:22	jury trial, 16:8
trial without defence counsel, 16:28	non-jury trial, 16:9
witness, as, 16:31	pre-trial judge as trial judge, 16:14
evidence	purpose of, 16:11
Canadian witnesses in foreign	types of conferences, 16:10
jurisdictions, 16:54	Prior conviction
transcript of, 16:59	cross-examination re, 16:120
videotaped (s. 715.1), 16:52, 16:53	direction to jury re, 16:126
exclusion of public	examination-in-chief re, 16:126
generally, 16:46 , 16:61	subsequent civil proceedings, use in,
young person, 16:62	12:139
in camera hearings, 16:61	Procedure, summary of, 16:70
language of trial, 16:69	Purpose of, 16:72
pre-trial motions, 16:69	Reasons for judgment
testimony, behind screen/outside	changes in transcript to, 16:488
courtroom, 16:55	use of to interpret formal order, 16:485
victim's rights, 16:32	Rebuttal
video and audio evidence given during trial, 16:52	contradiction on collateral matter rule, 16:152
viewing by jury	defence, of, 16:146
direction for, 16:66	evidence, 16:145
purpose of, 16:67	good character evidence, of, 16:147
witnesses	laying new basis of liability, 16:148
communication with counsel, 16:60	recent fabrication allegation, 16:149
cross-examination of witness/	splitting case, 16:151
complainant under 18, 16:110	surrebuttal by accused, 16:155
duty to testify, 16:35	Recent fabrication, doctrine of
exclusion of, 16:50	discussed, 16:150
forms of evidence, 16:92	rebutting, 16:149
John Doe, 16:64	Re-examination
non-disclosure of identity, 16:45	explanation of inconsistent statements,
security of, order, 16:43	16:143
support person, 16:63	questions permitted on, 16:142
testimony behind screen/outside	reply evidence, vs., 16:144
courtroom, 16:55	Reopening case
Witness Protection Program, 16:65	accused's defence, 16:158
Presumptions	acquittal, 16:159
discussed, 16:691	judge's discretion re, 16:157
"evidence to the contrary," meaning of,	Reply evidence, 16:145
16:692	Reservation on applications, 16:84
mandatory, 16:691	Right to fair trial, 16:73
permissive, 16:691	inherently prejudicial practices and,
rebuttable, 16:691	16:40
statutory, 16:692	Rules of court, 16:505

FRIALS—Cont'd	TRIALS—Cont'd		
Rulings	Witnesses—Cont'd		
prior, 16:89, 16:90	competency—Cont'd		
prospective, 16:91	compellability, vs., 16:527		
Speedy trial	judge, 16:539		
see ELECTION	mentally incompetent, 16:529		
Standards of proof, 16:680	spousal witness		
Submissions, interference with, 16:489	competence and compellability,		
Termination of trial, 16:494	16:535		
Time, within reasonable	Crown witness, as, 16:536		
see CHARTER OF RIGHTS —	to testify or take oath, 16:528		
Offence, person charged with	credibility		
Victim	assessment by trier of fact, 16:188		
evidence of bad character, 16:139	pre-determination of, 16:486		
sexual abuse syndrome evidence,	stereotypical reasoning, 16:189		
16:138	cross-examination of		
Waiver	see Cross-examination		
statutory requirements, of, 16:504	Crown recall of own witness, 16:107		
Within reasonable time	diplomatic immunity, 16:542		
see CHARTER OF RIGHTS —	expert		
Offence, person charged with	see Expert witness		
Witnesses	forms of evidence, 16:92		
see also Preliminary matters	hostile, 16:96		
accused as	order of		
competence, 16:532	multiple accused, 16:167		
failure to testify, 16:534	trial judge direction re, 16:166		
non-compellability	out-of-court evidence, adoption of,		
see CHARTER OF RIGHTS —	16:180		
Offence, person charged with	past memory recorded, 16:183		
unsworn dock statement, 16:533	present memory revival, 16:181		
adverse, 16:97	memory aid, 16:181		
calling by judge, 16:193	production of documents used,		
calling prior, 16:93	16:182		
character evidence, 16:137 , 16:140 ,	prior consistent statements, 16:106		
16:645	prior inconsistent statement of		
compellability	accused, of, 16:105		
judge, 16:539	cross-examination on		
parliamentary immunity, 16:541	see Cross-examination		
sovereign, 16:542	explanation for, 16:104		
spouse	judge's satisfaction, 16:103		
privileged communications,	own witness		
16:537	see Cross-examination		
statutory tribunals and commissioners, 16:540	problematic, reliability caution from judge, 16:686		
competency	protection of from harassment/prolixity,		
accused, of, 16:532, 16:533	16:191		
admissibility and weight of testimony, 16:526	questioning/interventions by judge, 16:192		
by taking oath or affirmation, 16:528	spouse as		
child witness, 16:531	see compellability; competency		

TRIALS—Cont'd	VERDICTS
Witnesses—Cont'd	Alternative verdicts on separate counts
vouching for reliability of, 16:95	(Kienapple), 16:271
UNLAWFULACT	Appeal of directed verdict, 16:267
See MANSLAUGHTER — Unlawful act	Attempt charged, full offence proved, 16:273
VAGUENESS	Completion of importing drugs, 16:274
Administrative bodies, re, 31:182	Conspiracy conviction, re
Doctrine of, 31:42	see CONSPIRACY
Fundamental justice and, 31:508	Dangerous offender, 16:308
Tolerable certainty, 31:184	Deliberation delay, 31:999
Understandable and ascertainable standards, 31:183	Denial of right to make submissions before verdict, 16:269
VENUE	Different trials, at, 16:276
Change of, 2:8	Differing verdicts between offenders,
appeal of refusal, 2:31	12:135
application for	Directed, 16:267, 19:60, 23:194
chambers hearing on interlocutory	Evidence supporting, 23:178
basis, 2:27	Full offence charged, attempt proved, 16:272
during trial, 2:26	Included offences
ethnic/racial group, avoidance of	amendment to enlarge count re, 16:301
exclusion, 2:11	amount of money, etc.
mechanics of, 2:3	greater, 16:316
order not appealable, 2:28	lesser, 16:315
renewal of, 2:24	attempt charge, 16:318
successive, 2:25	attempted murder and second degree
community survey, 2:10	murder, 16:305
examples where venue changed, 2:16	bodily harm, unlawfully causing,
factors for or against, 2:15 impossibility of full and impartial trial,	16:314
2:8	broad approach, 16:286
inconvenience, 2:14	common law, at, 16:278
language of trial, 2:20	conspiracies, 16:319
partiality or prejudice, 2:9	criminal negligence and dangerous
payment of costs to accused, 2:22	driving, 16:306
potential for prejudice, 2:19	Crown option offence deemed indict-
prejudice, mere possibility of, 2:17	able conviction, 16:311
probability of bias, 2:18	described in charge, 16:321
public costs, 2:13	described in enactment, 16:286 , 16:320
publicity, extensive, 2:12	different modes of greater offence,
return to original venue, 2:23	16:294
systemic delay, 2:21	disclosure by evidence requirement,
traversal to next sittings, 2:30	16:299
within province only, 2:29	distinguishing features of, 16:279
Jurisdiction vs., 2:1	divisibility of count, 16:277
Place of trial, 2:4	driving offences
Power to order change of, 2:6	actual driving, 16:313
Publication ban on application for change,	care and control, 16:312
2:7	criminal negligence, 16:306
Venue of trial, 2:2	duty to consider, 16:297

ERDICTS—Cont'd	VERDICTS—Cont'd
Included offences—Cont'd	Jury verdicts
duty to put lesser offence to jury,	see JURY TRIAL — Jury verdicts
16:281	Long-term offenders, 16:308, 18:395,
equal offence, as, 16:292	18:396
examples	Not criminally responsible, consent to,
offences including lesser offences,	14:29
16:323	Partial, 16:297
offences not including lesser	Possible, 16:268
offences, 16:324	Principal and secondary offenders, 16:275
failure to put, 16:298	Provocation finding, on, 27:180
fairness in relying on, 16:280	Quashing of, effect of, 23:174
in offence as charged, 16:285	Substituted verdict on appeal
instruction of jury re, 16:300	see APPEALS
ladder effect of, 16:288	Unreasonable, 23:176, 24:64
lesser offence	VICARIOUS LIABILITY
described, 16:290	Contempt of court, for
revealed on reading indictment or	see CONTEMPT OF COURT
Code, 16:291	Fundamental justice and, 31:541
modes of inclusion, 16:283	Primary liability, vs., 15:3
murder and manslaughter, 16:303, 16:304	VICTIMS
no duty to consider if not viable issue,	See also TRIALS
16:296	Character evidence
no foreign elements, 16:287	see Character evidence
not duplicitous, 16:322	Child, 18:46
partial verdict, 16:293	Compulsion to testify, 31:480
same time period, 16:302	Contributory negligence by, 28:22
same transaction, 16:289, 16:302	Death of after guilty plea, 14:110
summary conviction offences	Homicide and
availability re, 16:309	see HOMICIDE, CULPABLE
Crown option offence, 16:311	· ·
prescription of, 16:310	Party, not capable of being, 15:10
theft and possession, 16:307	Prior conduct against, 16:630 Prostitute as, 18:45
"words of description," 16:284	Self-defence, defence of
Inconsistent	disposition of victim, 21:184
application, 16:327	
at same trial, 16:325	previous attacks by victim, 21:181
conspiracy	Sentencing considerations see SENTENCING
and substantive verdicts, 16:329	
need for two convictions re, 16:334	Unlawful conduct by, 28:23
definition, 16:327	Victim fine surcharge, 18:216
inconsistency between accused, 16:333	Victim impact statement, 18:233
inseverability of evidence between	VIDEOTAPE
courts, 16:332	Generally, 16:52 , 16:53 , 16:179 , 16:382 ,
onus on appellant, 16:328	31:588
quashing not compulsory, 16:331	
Insanity, 14:96, 16:270, 17:102, 18:257,	VOIR DIRE
22:30, 23:31, 23:228	Automatism, re, 21:32
see also INSANITY — Disposition	Cross-examination of accused on voir dire
hearing	testimony, 16:131

VOIR DIRE—Cont'd WARRANTLESS SEARCH OR Exclusion of evidence, re, 31:1529 SEIZURE Need for. 17:127 After arrest or on consent, 3:237 Testimonial self-incrimination, re, After or before arrest or on consent, 3:237 31:1243 American exceptions to warrant require-Voluntariness of statements, re, 16:606 ment, 3:260 Border searches, 3:257 **VOLUNTARINESS** Canadian Border Services Agency search, Confession and, 31:519 3:253 Judge's charge re, 17:137 Condominium search or seizure. 3:240 Manslaughter and Consensual search or seizure, 3:239 see MANSLAUGHTER Consent by co-resident (joint tenants/ Statements owners), 3:241 see HEARSAY EVIDENCE — Volun-Discarded/abandoned items, 3:256 tary statements Exigent circumstances, 3:112, 3:255 Voluntary act Frisk search, 3:247 see AUTOMATISM Inmate's cell, of, 3:252 Open fields doctrine, 3:259, 31:750 **VOTE, RIGHT TO** Plain view doctrine, 3:258 See CHARTER OF RIGHTS Private search, 3:242 WAIVER Protect public peace, 3:250 Appeal, of, 23:111 Release of accused but detention of item Arraignment, of, **14:7** seized, **3:244** Charter right, of, 31:32 Return of items not required for trial, Consent and, 31:751 3:254 Search incidental to arrest, 3:243, 31:253 Election rights, 8:2, 8:25 Search ordered by another officer, 3:237 Guilty plea and Charter rights, 14:60 Security purposes, 3:248 Immunity, of, 31:1248 Seizure without authorization/consent, Intercepted communications 3:236 waiver of notice of intention to adduce Suspension of search of person, 3:246 evidence, **4:156** Urgent situations, 3:255 Jurisdiction, re. 1:8, 1:133 Validity, 3:235 Jury trial, right to, 7:44, 8:3, 8:26, Vehicle search, 3:251 31:1128 Re-election rights, 8:58, 8:61 WEAPONS Right to retain counsel See also FIREARMS see CHARTER OF RIGHTS — Charter of Rights Counsel, right to retain — duty to mandatory prohibitions, 31:558 inform registered weapon certificate, 31:1014 Solicitor and client privilege, **16:567** warrantless searches for, 31:737 Statutory compliance, of, 9:50 Dangerous, 28:26 Statutory requirements re trial, 16:504 Forfeiture of, 3:201 Time periods, of, **31:990** Manslaughter, use of in, 18:141 Prohibited, 21:236 WAR CRIMES Generally, **31:526**, **31:1143**

WIRETAPS

4:84, 19:65

Consent, 31:754

Admissibility of evidence, principles re,

Consent re admissibility, 31:755

SEARCH WARRANT

See ARREST; CHARTER OF RIGHTS

- Search and seizure, unreasonable;

WARRANT

WIRETAPS—Cont'd YOUNG PERSON—Cont'd Emergency, 31:757 Adult sentence Crown application for imposition of, Interprovincial authorization, 1:119 30:119 Third party, used on, 31:1423 dangerous and long-term provisions, WITNESSES 30:127 See also JURISDICTION — Compelling election attendance of witness; PERPETUmode of trial election, 30:22, 30:120 ATED EVIDENCE; TRIALS hearing re, 30:122 Accomplice as Crown witness, 31:586 mandatory imposition of, 30:125 Accused as non-compellable mandatory imposition of youth see CHARTER OF RIGHTS sentence, 30:126 Offence, person charged with mixed sentences, 30:132 Character evidence re, 16:137, 16:140, parole board, obligation to inform, 16:645 30:130 placement of young person serving, Compelling attendance of, 1:177 30:129 Concealing identity of, 31:302 presumption of diminished moral Contempt of court and blameworthiness, 30:124 defaulting, 1:198 presumptive offences refusal to be sworn, 29:25 included offences within, 30:121 Crown's duty to call, 13:112 release entitlement, 30:131 Detention of, 1:202 sentencing principles, application of, Duty to testify, 16:35 30:128 Expert, 16:666, 17:80 test for imposition of, 30:123 see also OPINION EVIDENCE Age of Fundamental justice and proof of, **1:5** see CHARTER OF RIGHTS testimony re, 30:202 Principles of fundamental justice Appeals, **30:47** Interfering with, 16:427 Appearance before judge or justice, 30:42 Mentally disordered, 22:139 Assessment Preliminary inquiry and assessment statement, admissibility, see PRELIMINARY INQUIRY -- Pro-30:201 cedure child welfare agency, 30:45 medical/psychological, 30:44 Self-incrimination, right against, 31:523 Attorney General, review of charges by, **WRITS** 30:34 Error, of, 23:2 Child Prerogative, 26:13, 26:75, 31:1502 credibility of, 30:207 unsworn testimony, 30:206 WRITS OF ASSISTANCE Compliance Charter and, 31:737 failure re sentence/disposition, 30:191 Common law, at, 3:234 wilful non-compliance with various requirements, 30:192 YOUNG PERSON Counsel, right to, 30:35, 31:886 See also YOUTH CRIMINAL JUSTICE Criminal Code, application to, 30:8 **ACT** Custody and supervision Admissions see also SENTENCING see also Statements age by party to proceedings, 30:203 young person attaining 20, 30:144 Adult accused, no trial as/with, 30:3 young person 20 or more, 30:140

YOUNG PERSON—Cont'd	YOUNG PERSON—Cont'd
Custody and supervision—Cont'd	Justice of the peace, jurisdiction of over,
conditional supervision	30:30
conditions of, 30:158	Medical and psychological reports, 30:44
recommendation for, 30:149	Parents
review re suspension, 30:161,	attendance of, order requiring, 30:37
30:162	notice to, 30:36
suspension of, 30:159	Placement of responsible person, 30:41
warrant of apprehension issues, 30:160	Plea by, 30:46
	Pre-charge screening, 30:32
conditions of order, 30:155 hearing, 30:152	Private prosecutions re, 30:33
levels of youth custody, 30:136	Publication ban re evidence at trial, 30:163
procedural safeguards, 30:137	Publication ban re name/identity
purpose of system, 30:134	Charter validity, 31:340
reasons for order of continued custody,	offender, 30:164
30:153	victim/witness, 30:165
reintegration leave, 30:142	when information may be published,
report for hearing, 30:152	30:166
review of breach of, 30:156	Records
review of level, 30:138, 30:139	access after time limit expiry, 30:177
review of order for continued custody,	access by young person, 30:178
30:154	access re adult sentences, 30:171
review of sentence	access restrictions, 30:172
annual, 30:145	archivists' custody, 30:180
grounds of, 30:146	authorized access, 30:173
orders deemed sentences, 30:148	court and board, 30:168
review options, 30:147	court ordered disclosure, 30:181
separate and apart from adults, 30:135	disclosure and copies, 30:176
transfer to adult facility, 30:143	disclosure of information in, 30:179
youth worker, designation of, 30:141	disposition or destruction of, 30:182
Default of recognizance, proceedings for,	government, 30:170
30:189	police, 30:169
Definition of, 30:2	RCMP, 30:174
Detention of	statutory authorization requirement, 30:183
before sentencing, 30:39	
in custody, 30:43	Release from custody, 30:43
social measures, not substitute for,	Sentence appeals, 25:14 Sentences, 30:48
30:38	
temporary, designated place of, 30:40	additional youth sentences, 30:93 custodial portion of, 30:57
Direct indictment, 11:36	supervision re, 30:80
Discrimination, 31:1357	adult sentence
Double jeopardy and, 31:1147	see Adult sentence
Fingerprints and photographs, 5:91,	
30:167	appeals, standard of review, 30:58.50
Forfeiture of recognizances, applications for, 30:188	attendance at non-residential program, 30:77
Judicial measures, 30:33	coming into force of sentence, 30:89
Jurisdiction over, 1:10	committal
Jury trial right, 31:1138, 31:1139	place of, 30:103
July 11111 115111, J1.1130, J1.113)	piace 01, 50.105

YOUNG PERSON—Cont'd	YOUNG PERSON—Cont'd
Sentences, 30:48—Cont'd	Sentences, 30:48—Cont'd
committal—Cont'd	maximum duration, 30:91
warrant of, 30:102	offence committed prior to youth
community service order, 30:73	sentence, 30:98
compensation	open vs. closed custody, 30:59
in kind or by personal services,	payment to innocent purchaser, 30:71
30:72	pre-sentence custody, 30:58
order, 30:69	pre-sentence report, 30:61
complete code of, 30:49	principles re, 30:50, 30:52, 30:75
conditions	probation order
reasonable and ancillary, 30:87	generally, 30:76
conference recommendations re, 30:62	communication of terms of, 30:111
consecutive sentences, 30:90	division with delayed custody,
continuation of youth sentence as adult,	30:113
30:92	prohibition, seizure or forfeiture order,
custodial youth sentences, 30:57	30:74
custody, deduction of time served in,	prohibition order
30:53	generally, 30:74 , 30:105
custody and placement order	review of, 30:106
first degree murder, 30:84	purpose and principles, 30:54
second degree murder, 30:85	purpose of, 30:48
custody and supervision order	range of sanctions, 30:63
attempted murder, etc., 30:81	reasons for sentence, 30:101
deferred, 30:82 , 30:83	recommendations, reports, etc.,
general, 30:80	considerations of, 30:63
intensive, 30:86	remand of supervised offender, 30:97
commencement of, 30:112	reprimand, 30:65
communication of terms of,	restitution order, 30:70
30:111	termination of youth sentence, effect of
division with delayed custody,	re cross-examination, 30:118
30:113	transfer of youth sentence, 30:114
limitations re, 30:88	transitional provisions re, 30:214 victim fine surcharge, 30:107
custody deemed continuous, 30:99	
denunciation, 30:58	violent offences, 30:78, 30:79
deterrence not sentencing principle,	work program, 30:109 Statements
30:54	
discharge	assessment statement, admissibility, 30:201
absolute, 30:66	preconditions to admissibility of,
conditional, 30:67	30:199
fine	voluntariness requirement, 30:200
generally, 30:68	Transfer of charges, 30:187
means of young person, 30:108	Transfer of charges, 30.107
victim fine surcharge, 30:107	YOUTH CRIMINAL JUSTICE ACT
general deterrence not sentencing	See also Young person
principle, 30:54	Agreements with provinces re costs,
intensive support and supervision order,	30:212
30:76	Charter validity, 30:1
intermittent sentence, 30:100	Classification of offences under, 30:9
interprovincial arrangements 30.115	serious offences 30·11

YOUTH CRIMINAL JUSTICE ACT —Cont'd

Classification of offences under, **30:9**—Cont'd

serious violent offences, 30:10

violent offences, 30:12

Community-based programs, 30:213

Criminal Code and, 30:8

mental disorder provisions of CC, 30:195

specific application of CC, 30:194

Discrimination, 31:1300

Extrajudicial measures

adequacy of, 30:16

Crown cautions, 30:19

objects of, 30:15

police cautions, 30:18

principles of, 30:14

warnings, cautions and referrals, 30:17

Extrajudicial sanctions, 30:20

Federal offences, restriction to, 30:7

Forms, prescribed, 30:209

Hybrid offences, deemed election re, 30:175

Joinder of offences in same charging document, 30:196

Mode of trial election, 30:22, 30:120

Preliminary inquiry, right to request, 30:23

Principles, declaration of, 30:13

Provincial directors, powers of, 30:30

Regulations under, 30:211

Seal, requirements re, 30:209

Service of documents, proof of, 30:208

YOUTH CRIMINAL JUSTICE ACT

—Cont'd

Temporal jurisdiction, 30:24

Time limitations, 30:24

Transitional provisions re sentence, 30:214

YOUTH JUSTICE COMMITTEES

Generally, 30:27

YOUTH JUSTICE CONFERENCE

Generally, 30:28

YOUTH JUSTICE COURT

Clerk of court, 30:30

Contempt of court powers, 30:25

Court of record, as, 30:6

Divisions of, 30:4

Jurisdiction of

absolute jurisdiction re specified

offences, 30:190

exclusive, 30:21

uncertain status of offender, where,

30:26

young person, over, 1:11

Records, no access to, 30:172

Superior Court vs., 30:5

YOUTH JUSTICE COURT JUDGE

Contempt, 29:21

Disqualification of, 1:130, 30:184

Exclusion from hearing, power re, 30:186

Subpoena, issuance of, 30:197

Substitution of, 30:185