# **Index**

| ABORIGINAL RIGHTS CASES

Appeals, <b>10:15</b>	—Cont'd
Class actions, <b>5:22</b>	Remedies—Cont'd
Costs, <b>6:51</b>	declarations under s. 52 of Constitution
Damages, <b>6:50</b>	Act, 1982, <b>6:46</b>
Discovery issues	injunctions, <b>6:48</b> , <b>6:49</b>
generally, <b>9:42 to 9:49</b>	interlocutory injunctions, <b>6:48</b>
archival documents, <b>9:46</b>	purposes of, <b>6:44</b>
Crown's duty to produce, 9:46	specific, <b>6:45</b>
documents, 9:45, 9:46	structural injunctions, <b>6:49</b>
historical fact, questions of, <b>9:43</b>	Standing, <b>3:22</b>
immunity, public interest, <b>9:48</b>	ACTOR
inquiry, duty to make, <b>9:44</b>	1-0-0-
production of documents, ongoing	Control test
obligation, 9:45	Canadian law, 2:13
public interest immunity, <b>9:48</b>	U.S. law, 2:3
questions of fact, 9:43	Entwinement test, 2:5
questions of mixed fact and law, <b>9:47</b>	Factors to consider, summary of, 2:22
reasonable inquiry, duty to make, <b>9:44</b>	Government function test, 2:14
solicitor-client privilege, <b>9:49</b>	ADMINISTRATIVE TRIBUNALS
Evidentiary issues	Generally, <b>4:4 to 4:10</b>
generally, <b>8:25 to 8:36</b>	Appeals from, <b>5:25 to 5:27</b>
business records, 8:29	Choice among, <b>4:7</b>
documents, 8:28	Constitution, impact of, <b>4:5</b>
emerging disciplines, <b>8:31</b>	Discovery issues, <b>9:41</b>
expert evidence, <b>8:29</b> , <b>8:30</b> , <b>8:33</b> , <b>8:34</b>	Discretion, constitutional impact on, <b>4:5</b>
factual record, need for, <b>8:26</b>	Judicial review from
historians, 8:30	generally, <b>5:25 to 5:27</b>
historical documents, 8:28	alternatives to, <b>5:26</b>
improper legal argument, 8:32	evidentiary hearings, <b>5:26</b>
independence, lack of, <b>8:33</b>	government decisions, other, <b>5:27</b>
judicial notice, <b>8:36</b>	Jurisdiction
learned treatises, 8:35	cases, table, <b>4:10</b>
oral histories, 8:27	Charter challenges, <b>4:8</b>
public documents, 8:28	constitutional issues, <b>4:4 to 4:10</b>
record, need for a factual, <b>8:26</b>	exclusive jurisdiction model, <b>4:6</b>
scope of expertise, <b>8:34</b>	remedial. 4:1
sui generis nature of litigation, 8:25	under s. 24 of Charter, <b>4:4 to 4:6, 4:9</b> ,
treatises, 8:35	4:11
Plaintiffs, 3:24	under s. 52 of Constitution Act, 1982,
Remedies	4:4 to 4:6, 4:8, 4:9
generally, <b>6:44 to 6:51</b>	Proceedings, 5:24
compensatory remedies, <b>6:50</b> , <b>6:51</b>	Questions of law, authority to decide, <b>4:8</b>
constitutional exemptions, <b>6:47</b>	Remedial jurisdiction, generally, <b>4:1</b>
constitutional exemptions, <b>v7</b>	Remodial jurisdiction, generally, 4:1

ABORIGINAL RIGHTS CASES

# ADMINISTRATIVE TRIBUNALS

-Cont'd

Section 52 of Constitution Act, 1982, **4:4 to 4:6, 4:8, 4:9** 

Weber v. Ontario Hydro, 4:5

### **APPEALS**

Generally, **10:10 to 10:16** 

Appeal route, 10:12

Evidence, new, 10:14

Issues, new, raising of, 10:13

Notice requirements, 10:11

Remedial issues. 10:16

Standard of review. 10:15

Tribunals, appeals from

generally, 5:25 to 5:27, 10:10 to 10:16

evidentiary hearings, 5:26

government decisions, other, 5:27

### **APPLICANTS**

See PLAINTIFFS OR APPLICANTS

### APPLICATION OF CONSTITUTION

Aboriginal rights cases, 2:27

Activity

generally, 2:6, 2:15

factors to consider, 2:23

government approval test, 2:7, 2:17

government encouragement test, 2:8, 2:18

government function test, 2:10

statutory power, 2:16

symbiotic relationship test, 2:9

Actor

generally, 2:2, 2:12

control test, 2:4, 2:13

entwinement test. 2:5

government function test, 2:14

government itself, 2:3

Canadian law, 2:11 to 2:19

Control test, 2:4, 2:14

Courts, 2:20

Division of powers cases, 2:26

Dolphin Delivery Ltd. v. R.W.D.S.U.,

Local 580, 2:20

Entwinement test, 2:5

Extraterritorial application, 2:25

United States law, 2:2 to 2:10

### **APPLICATIONS**

Generally, 5:10 to 5:12

Ontario, 5:11

### APPLICATIONS—Cont'd

Originating, 7:6

Other jurisdictions, **5:12** 

### ATTORNEYS GENERAL

Intervention, 3:38

Naming as defendant, 3:25 to 3:32

Standing, 3:21

### BALANCE OF (IN)CONVENIENCE

See also INTERIM REMEDIES

Generally, 6:35 to 6:37

### **BIFURCATED HEARINGS**

Generally, 10:6 to 10:9

Civil cases, 10:8

Criminal cases, 10:7

General approach, 10:6

### **BILL OF RIGHTS**

See U.S. CONSTITUTIONAL LAW

### **BRANDEIS BRIEFS**

Generally, **8:21 to 8:24** 

Charter cases, early, **8:23** 

Current approach, 8:24

Pre-Charter cases, 8:22

### CANADA ELECTIONS ACT

Generally, 5:6

### CANADA EVIDENCE ACT

Aboriginal cases, 9:48, 9:49

Discovery of government, 9:3

Immunity, government, 9:5

Section 37: public interest immunity

generally, 9:38

factors to consider, 9:34

Section 38: national defence and

international relations

generally, 9:32

factors to consider, 9:34

international relations, 9:35

national defence, 9:36

procedure, 9:33

Section 39: cabinet confidences

generally, 9:25 to 9:30

adverse inference, 9:29

constitutionality of, 9:26

defined, 9:28

immunity, 9:30

scope of review, 9:27

CANADA LABOUR CODE Generally, 4:5	CANADIAN CHARTER OF RIGHTS AND FREEDOMS—Cont'd
•	Jurisdiction—Cont'd
CANADIAN BILL OF RIGHTS	courts, provincial superior, <b>4:2</b>
Generally, <b>3:15</b> , <b>5:16</b>	courts, statutory, 4:11 to 4:17
CANADIAN CHARTER OF RIGHTS	criminal trial courts, 4:13
AND FREEDOMS	exclusive jurisdiction model, <b>4:6</b>
Action under, 2:11 to 2:19	Federal Court of Canada, 4:3
summary of, 2:21 to 2:24	"functional and structural" approach,
Activities subject to	4:11, 4:12
generally, <b>2:15</b>	judges, preliminary inquiry, <b>4:14</b>
Eldridge v. British Columbia (Attorney	judicial review, <b>5:26</b>
General), <b>2:16</b>	Language rights under s.23, <b>6:5</b>
government approval test, 2:17	Notwithstanding clause, <b>6:1</b>
government encouragement or coercion	Remedial powers under s. 24(1)
test, 2:18	generally, <b>6:9 to 6:16</b>
statutory power plus government	administrative tribunals, <b>4:4 to 4:10</b>
program or policy, 2:16	application, <b>6:9</b>
symbiotic relationship, 2:19	concurrent constitutional remedies, 6:2
Actors subject to	costs, criminal cases, <b>6:41</b>
generally, 2:12	criminal cases, <b>6:9</b>
control test, 2:13, 2:16	Crown immunity and, 7:3
government function, 2:14	Crown immunity provisions, conflict
Application, generally, 2:11 to 2:19	with, <b>7:3</b>
Application to courts, <b>2:20</b>	damages, 6:10
Cases, table, 2:24	exclusion of evidence, <b>6:9</b>
"Constitutional torts," <b>5:16</b>	forum, choice of, <b>4:2</b>
Courts, <b>2:20</b>	injunctions, <b>6:12 to 6:16</b>
Evidence	limitation periods, government, <b>7:4</b>
generally, <b>8:1 to 8:24</b>	rules to use, <b>6:9</b>
Brandeis briefs, 8:21 to 8:24	standing, <b>3:7 to 3:21</b>
expert, <b>8:11 to 8:20</b>	suspension of remedies, <b>6:17</b>
extrinsic, 8:4	Standing under, 3:7 to 3:21
judicial notice, 8:21 to 8:24	CLASS PROCEEDINGS
legislative facts vs. adjudicative facts,	
8:10	Generally, <b>5:13 to 5:23</b>
need for factual record, 8:1 to 8:9	Aboriginal cases, <b>5:22</b>
Exclusion of evidence under section 24(2)	Certification
generally, 6:18 to 6:27	generally, <b>5:15</b>
administration of justice, effect on,	application of Guimond v. Quebec
6:21	(A.G.), 5:18, 5:19
criteria for, <b>6:18 to 6:21</b>	denial of, 5:18
notice of application to exclude evi-	granting of, 5:19
dence, <b>10:5</b>	Combined causes of action, <b>5:21</b> "Constitutional torts"
R. v. Collins, <b>6:18 to 6:21</b>	5:14, 5:16
seriousness of breach, 6:20	Guimond v. Quebec (A.G.), 5:17
trial fairness, 6:19	Outlook for, <b>5:23</b>
Jurisdiction	"Representative actions," <b>5:16</b>
generally, <b>4:1</b>	Res judicata, 5:20
administrative tribunals 4.4 to 4.10	United States experience 5.14

### **CONSTITUTION ACT, 1867**

Definition of "Indian," **3:24** Division of powers, **2:26** Jurisdiction of courts, **4:3** 

# **CONSTITUTION ACT, 1982**

Aboriginal rights, 3:24

Constitutional supremacy, 4:8

Jurisdiction, remedial

courts and tribunals, generally, 4:1

tribunals, 4:8

Legitimacy, 1:3

Public interest standing, 3:9

Relief under s. 52(1)

generally, 6:4 to 6:8

concurrent with s. 24 of Charter, 6:2

Section 52 relief, authority to grant preliminary inquiry judges, **4:14** provincial criminal trial court, **4:13** 

statutory courts, 4:11 to 4:17

tribunals, 4:4 to 4:10

Standing, criminal prosecutions, 3:10

### **CONSTITUTIONAL LITIGATION**

Generally, 1:1 et seq.

Distinctive nature of, 1:6

Scope of, 2:1 et seq.

see also APPLICATION OF CONSTITUTION

## CONSTITUTIONAL QUESTION

See also NOTICE

Generally, 10:2 to 10:4, Appendix 10A

### CONTROL TEST

Canadian law, **2:13** U.S. law, **2:4** 

## CORPORATIONS, STANDING

Generally, 3:17

### **COSTS**

Generally, **6:40 to 6:43** Aboriginal cases, **6:51** 

Civil cases, 6:40

Criminal cases, 6:41

Criteria to be satisfied, 6:40

Interim, **6:43** 

Intervenors, 6:42

Solicitor-client costs. 6:40

### COURTS

See also FORUMS

### COURTS—Cont'd

Generally, 4:1 et seq.

Appellate courts, 4:16

Federal Court of Canada, 4:3

Provincial superior courts, 4:2

Remedial jurisdiction, 4:1

Statutory

generally, 4:11 to 4:17

criminal trial courts, 4:13

judges, preliminary inquiry, **4:14** jurisdiction to decide constitutional

issues. 4:11 to 4:16

Ontario Divisional Court, 4:15

provincial offences courts, **4:12** 

# COVID-19 CONSTITUTIONAL CHALLENGES

Costs, 6:40

Evidence, 8:10, 8:11

Mootness, 3:23

Pleadings, 7:9

Standing, 3:7, 3:8

### **CRIMINAL CODE**

Generally, 4:14, 4:16

# CROWN LIABILITY AND PROCEEDINGS ACT

Attorney General, naming of, 3:28

Damages claims, 3:27

Defendants, naming of, 3:30

Discovery of government, 9:4

Representative of Crown, 9:9

### **CROWN OR GOVERNMENT**

Immunity

aboriginal cases, 9:48

cabinet confidences, 9:10 to 9:30

discovery and, 9:1

federal government, 9:5

public interest, 9:38

Rules of

generally, **7:2 to 7:4** 

Crown immunity provisions, 7:3

limitation periods, 7:4

notice of claim provisions, 7:2

### **DAMAGES**

Aboriginal Cases, 6:50

Under Charter, 6:10

### DECLARATORY ACTION

Generally, **5:13 to 5:23** 

#### **DECLARATORY RELIEF** DISCOVERY OF GOVERNMENTS Generally, 6:5 —Cont'd Federal government, 9:3 DEFENCE, DRAFTING OF immunities under CEA, 9:4, 9:25 to Generally, 7:8 9:30 Immunity, public interest DEFENDANTS OR RESPONDENTS generally, 9:38 Generally, 3:25 to 3:32 aboriginal rights cases, 9:48, 9:49 Claims against Federal Crown, 3:28 Immunity of Crown Claims in damages, 3:27 aboriginal rights cases, 9:48, 9:49 Crown Liability And Proceedings Act, common law, 9:1 3:26 to 3:28 Information legislation, 9:39 Damages, claims in, 3:27 Interests, balancing of, 9:12 Declaration of invalidity, 3:26 International relations and, 9:31 to 9:37 "Dyson declaration," 3:26 Limitations, 9:22 Judicial review, naming of respondents, Ministers, 9:9 Ministers, 3:27, 3:29, 3:30 National defence generally, 9:31 to 9:37 Other parties, 3:32 section 38 of CEA, 9:32 Persona ficta rule, 3:27, 3:31 "Petition of right," 3:26 Security of Information Act, 9:37 Privilege, 9:2 Premiers, 3:27 Provincial governments, 9:2 Representative capacity Representative, 9:7 to 9:9 federal Ministers, 3:30 provincial Ministers, 3:29 federal government, 9:9 interests, balance of, 9:12, 9:15 DISCOVERY OF GOVERNMENTS provincial governments, 9:8 Generally, 9:1 et seq. Scope of. **9:6** Aboriginal rights cases Statutory scheme, 9:2 to 9:5 generally, 9:42 to 9:49 Tribunal proceedings, 9:41 immunities of Crown, 9:48, 9:49 DIVISION OF POWERS CASES scope of discovery, 9:43 to 9:47 Evidence and, **8:1 to 8:24** Access to information legislation, 9:39 Jurisdiction of federal courts, 4:3 Adverse interests, 9:29 Scope of government action, 2:25 Balancing interests, 9:12 factors applied in, 9:15 **ENTWINEMENT** Cabinet confidences See also U.S. generally, 9:10 to 9:30 CONSTITUTIONAL LAW balance of interests, 9:12 Generally, 2:5 definition, 9:28 **EVIDENCE** factors applied, 9:15 Generally, 8:1 et seq. federal government, 9:25 to 9:30 Aboriginal rights litigation, 8:25 to 8:36 interests, competing, 9:12 Adjudicative facts onus on parties, 9:12 defined, 8:10 provincial governments, 9:11 to 9:24 disclosure and, 9:40 section 39 of Canada Evidence Act, versus legislative facts, 8:10 9:27, 9:28, 9:30 Admissibility, factors to consider, 8:7 what documents should be protected, 9:24 Appeal, fresh evidence on, 10:14 Canada Evidence Act, 9:25 to 9:30, 9:32 Brandeis briefs

Criminal cases, disclosure in, 9:40

generally, 8:21 to 8:24

#### EVIDENCE—Cont'd EXCLUSION OF EVIDENCE UNDER Brandeis briefs-Cont'd **SECTION 24(2) OF THE** current approach, 8:24 **CHARTER—Cont'd** early Charter cases, 8:23 Factors to consider administration of justice, effect on, pre-Charter cases, 8:22 6:21 Exclusion of evidence under s. 24(2) of fairness of trial, 6:19 Charter seriousness of breach, 6:21 generally, 6:18 to 6:27 application for, 10:5 FEDERAL COURTS ACT critera for, 6:18 to 6:21 Constitutional question, notice of, 10:2 Expert Defendants, naming of, 3:30 generally, 8:11 to 8:20 Judicial review admissibility, test for, 8:11 to 8:20 applications, 3:25 to 3:32 affidavits, 8:17 parties to, 3:31 boundaries of expertise, 8:15 review of government decisions, 5:27 challenges to, 8:16 Jurisdiction cost-benefit analysis, 8:11 to 8:20 claims against federal Crown, 3:30 cross-examination, 8:18 courts. 4:3 duties, 8:14 Reference, tribunal, 5:24 findings of legislative face, deference FEDERAL COURTS RULES to, **8:20** Class actions, 5:15 improper legal argument, 8:13 Discovery, federal government, 9:4, 9:9 lack of independence, 8:14 Judicial review applications, 3:25 to 3:32 qualifications, 8:12 Originating applications, **5:12** test for admissibility of, 8:11 to 8:20 Summary judgment, 5:8 weighing of, 8:19 Extrinsic evidence FEDERAL CROWN LIABILITY AND Charter cases, 8:4 PROCEEDINGS ACT division of powers cases, 8:6 Generally, **3:27**, **3:28**, **3:30** factual context, 8:4 **FORUMS** historically, 8:2 Generally, 4:1 et seq. legislative context, 8:6 Administrative tribunals, 4:4 to 4:10 unreliable or improper material, 8:3 Appellate courts, 4:16 Factors to consider on admissibility, 8:7 Choice of, generally, 4:1 et seq. Legislative facts Courts Brandeis briefs and, 8:21 to 8:24 generally, **4:11 to 4:17** defined, 8:10 bail hearing judges, 4:17 disclosure and, 9:40 Charter relief, authority to grant, 4:11, versus adjudicative facts, 8:10 4:13, 4:14 Record, need for factual, 8:1 to 8:9 criminal trial courts, 4:13 EXCLUSION OF EVIDENCE UNDER Federal Court of Canada, 4:3 SECTION 24(2) OF THE judges, preliminary inquiry, 4:14 **CHARTER** jurisdiction re constitutional issues, Generally, 6:9 to 6:16 Application, **6:18 to 6:21** Ontario Divisional Court, 4:15 Conscriptive evidence, 6:19 provincial offences courts, 4:12 Criteria for, 6:18 to 6:27 provincial superior courts, 4:2 Federal Court of Canada, 4:3 Discoverability test, 6:19

FORUMS—Cont'd

#### "Functional and structural" approach, PROTECTION ACT 4:11, 4:12 Generally, 4:3 Provincial offences courts, 4:12 **IMMUNITY, CROWN** Provincial superior courts, 4:2 Aboriginal cases, 9:48 Section 24(1) of Charter and, **4:1, 4:2** Cabinet confidences, 9:10 to 9:30 Section 52 of Constitution Act, 1982 and, Discovery and, 9:1 4:1 Federal government, 9:5 Tribunals, 4:4 to 4:10 Provisions, 7:3 FRIEND OF THE COURT Public interest, 9:38 See also INTERVENORS **INDIAN ACT** Generally, 3:39 Generally, 3:24 **GOVERNMENT ACTION INJUNCTIONS** Generally, 2:1 et seq. Generally, **6:11 to 6:16** Aboriginal rights cases, 2:27 Interlocutory Charter, action under, 2:11 to 2:19 generally, see INTERIM REMEDIES Courts, special case of, 2:20 aboriginal rights cases, 6:48 Division of powers cases, 2:26 Rules of. 6:11 Extraterritorial application of Charter, Structural injunctions, 6:12 to 6:16 2:25 aboriginal rights cases, 6:49 United States, state action in, 2:2 to 2:10 Canadian law, 6:16 HEARINGS United States experience, 6:13 to 6:15 Generally, 10:1 et seq. **INTERIM REMEDIES** Appeals Generally, 6:28 to 6:39 generally, 10:10 to 10:16 Balance of (in)convenience appeal route, 10:12 generally, 6:35 to 6:37 evidence, new, 10:14 elections cases, 6:36 issues, new, 10:13 solicitor-client privilege cases, 6:35 notice requirements, 10:11 Exemption, 6:39 remedial issues, 10:16 Interim costs, **6:43** standard of review, 10:15 Irreparable harm Bifurcated hearings generally, **6:30** to **6:34** generally, 10:6 to 10:9 election cases, 6:31 civil cases, 10:8 language rights, 6:33 criminal cases, 10:7 remedies after trial, 6:34 general approach, 10:6 social welfare, 6:32 statutory bifurcation, 10:9 Public interest, 6:38 Notice Serious constitutional issue, 6:29 appeal, 10:11 Suspension, 6:39 application to exclude evidence, 10:5 Test for obtaining relief, 6:28 constitutional question, 10:2 to 10:4 **INTERVENORS** requirements, generally, 10:2 to 10:5, See also INTERVENTION Appendix 10A Generally, 3:33 **HUMAN RIGHTS CODE** INTERVENTION Generally, 4:6 Generally, 3:33 to 3:46 **IMMIGRATION ACT** Academic commentary on generally, 3:34 Generally, **4:3**

IMMIGRATION AND REFUGEE

### INTERVENTION—Cont'd

Academic commentary on—Cont'd assisting the court, **3:35** 

legitimacy critiques, 3:36

Appeals, intervention on, 3:45

Assisting the Court, **3:35** 

Conduct of, 3:46

Costs, 6:42

Court of first instance, 3:40

Critiques of, 3:36

Independence of intervenors, 3:46

Introduction, 3:33

Rules of, 3:37

added party vs. "friend of the court," 3:39

attorneys general, 3:38

Tests applied to, 3:41

prejudice to parties, 3:44

sufficient "interest," 3:43

usefulness and distinctiveness, 3:43

### IRREPARABLE HARM

See also INTERIM REMEDIES

Generally, 6:30 to 6:34

Election cases, 6:31

Language rights, 6:33

Remedies after trial. 6:34

Social welfare, 6:32

### JUDICIAL REVIEW

Generally, 1:1 et seq.

Alternatives to, **5:26** 

Defendants, 3:31

Foundation of, 1:2

enforceability, 1:4

legitimacy, 1:3

Parties to. 3:31

Powers of court on. 5:26

Respondents, 3:31

Statutory schemes, 3:25 to 3:32

Tribunals, 5:25 to 5:27

evidentiary hearings, **5:26** 

government decisions, 5:27

### LABOUR RELATIONS ACT

Generally, **4:6** 

### LIMITATION PERIODS, GOVERNMENT

Generally, 7:4

### MOOTNESS, DOCTRINE OF

Generally, 3:23

### MOTIONS

Motion for summary judgment, 5:5

Federal Court, 5:8

Ontario, 5:6

other provinces/territories, 5:7

Motion to determine question of law, **5:4** 

Motion to strike, 5:3

### NOTICE

Appeal

requirements, 10:11

Application to exclude evidence, 10:5

Claim against government, 7:2

Constitutional question

generally, 10:2 to 10:4, Appendix 10A

case law, 10:4

introduction, 10:2

provincial legislations, table, 10:3,

Appendix 10A

Supreme Court of Canada, 10:3

## ONTARIO LABOUR RELATIONS ACT

Generally, 4:6

### ORIGINATING APPLICATION

See APPLICATIONS

### **ORIGINATING DOCUMENTS**

Generally, 7:6

### **PARTIES**

Generally, **3:1 et seq.** 

Applicants, see plaintiffs or applicants

Defendants or respondents

generally, **3:25 to 3:32** 

claims against federal Crown, 3:28

claims in damages, 3:27

declaration of invalidity, 3:26

judicial review, 3:31

Ministers in representative capacity,

3:29, 3:30

other parties, 3:32

persona ficta rule, 3:27, 3:31

Premiers, 3:27

Intervenors, 3:33 to 3:46

see also INTERVENTION

Plaintiffs or applicants, 3:2 to 3:24

aboriginal rights cases, 3:24

mootness, 3:23

standing, 3:2 to 3:22

#### PLAINTIFFS OR APPLICANTS PROCEEDINGS—Cont'd Generally, 3:2 to 3:24 Pleadings generally, 7:5 to 7:9 Aboriginal rights cases, 3:24 amendment of, 7:9 Mootness, 3:23 case study: Lavigne v. OPSEU, 7:7 Standing defences, drafting of, 7:8 generally, 3:2 to 3:22 statement of claim, drafting of, 7:6 aboriginal rights cases, 3:22 Rules, Crown or government Charter, **3:21** generally, 7:2 to 7:4 division of powers, 3:3 to 3:6 immunity provisions, 7:3 PLEADING A CONSTITUTIONAL limitation period, government, 7:4 CASE notice of claim provisions, 7:2 Generally, 7:5 to 7:9 PROCEEDINGS AGAINST THE Amending pleadings, 7:9 CROWN ACT, ONTARIO Defence, drafting of, 7:8 Defendants in damages claims, 3:27 Lavigne v. OPSEU, 7:7 Discovery of provincial governments, 9:2 Statement of claim, drafting of, 7:6 Notice of claim provisions, 7:2 POLICE ACT PROVINCIAL OFFENCES ACT Generally, 4:6 Generally, 4:12 **PRIVILEGE** PUBLIC AUTHORITIES PROTECTION Discovery of government, and, 9:1, 9:2 ACT, ONTARIO Solicitor-client, see SOLICITOR-CLI-Discovery of governments and, 9:2 **ENT PRIVILEGE** Limitation periods, 7:4 **PROCEDURES** Actions PUBLIC INTEREST generally, **5:2 to 5:9** Immunity, 9:38 disadvantages of, 5:2 to 5:9 Intervention, 3:33 to 3:46 motions for summary judgment, 5:5 Standing, 3:4 motions to determine question of law, Charter, standing under, 3:9 5:4 READING DOWN motions to strike. 5:3 See also REMEDIES Appeals from tribunals, **5:25 to 5:27** Generally, 6:5 Applications, **5:10 to 5:12** Ontario, 5:11 READING IN other jurisdictions, 5:12 See also REMEDIES Choice of, generally, **5:1** et seq. Generally, 6:7 Class proceedings, 5:13 to 5:23 REFERENCES see also CLASS PROCEEDINGS Generally, 5:28 to 5:30 Judicial review from tribunals, 5:25 to Discretion to refuse to decide, 5:30 5:27 Notice requirements and, 10:3 from evidentiary hearings, 5:26 Provincial reference statutes, table, 5:29 from other government decisions, **5:27** Scope of, **5:29** References, 5:28 to 5:30 discretion to refuse to decide, 5:30 REMEDIES scope of. 5:29 Generally, 6:1 et seq. Tribunal proceedings, 5:24 Aboriginal rights cases **PROCEEDINGS** see also ABORIGINAL RIGHTS Generally, 7:1 **CASES** Commencing, 7:1 et seq. generally, **6:44 to 6:51**

REMEDIES—Cont'd	REMEDIES—Cont'd
Aboriginal rights cases—Cont'd	Relief under s. 24(1) of Charter—Cont'd
purposes of, <b>6:44</b>	injunctions and, 6:11
specific remedies, <b>6:45</b>	Relief under s. 52 of Constitution Act,
Appeal, issues on, 10:16	1982
Concurrent constitutional remedies, <b>6:2</b>	generally, <b>6:4 to 6:8</b>
Costs	application, <b>6:4</b>
generally, <b>6:40 to 6:43</b>	Severance (reading out), <b>6:7</b>
civil cases, <b>6:40</b>	Structural injunctions, 6:12 to 6:16
criminal cases, <b>6:41</b>	Suspension of, <b>6:17</b>
criteria, <b>6:40</b>	REPRESENTATIVE ORGANIZATION
interim, <b>6:43</b>	Generally, 3:18
intervenors, 6:42	
solicitor-client, 6:40	SECURITY OF INFORMATION ACT
Criteria to consider, <b>6:4</b>	Generally, 9:37
Declaratory relief, 6:5	SEVERANCE
Determination of, steps to take in, <b>6:4</b>	See also REMEDIES
Exclusion of evidence under s. 24(2) of	Generally, <b>6:7</b>
Charter	
generally, <b>6:18 to 6:27</b>	SOLICITOR-CLIENT PRIVILEGE
administration of justice, effect on,	Aboriginal rights cases, 9:49
6:21	Interim remedies, 6:35
application, 6:18 to 6:21	STANDING
seriousness of breach, 6:20	Generally, <b>3:2 to 3:22</b>
trial fairness, <b>6:19</b>	Aboriginal rights cases, <b>3:22</b>
Injunctions	Attorneys general, 3:21
generally, 6:11 to 6:16	Challenges to, <b>3:12</b>
rules, generally, <b>6:11</b> structural, <b>6:12 to 6:16</b>	Charter, under
Interim remedies	generally, <b>3:7 to 3:21</b>
generally, 6:28 to 6:39	challenges, procedure on, 3:12
balance of (in)convenience, <b>6:35 to</b>	public interest standing, <b>3:9</b>
6:37	section 24(1), <b>3:8</b>
exemption, <b>6:39</b>	Corporations, 3:7 to 3:21
irreparable harm, <b>6:30 to 6:34</b>	Criminal prosecutions, <b>3:10</b>
public interest, <b>6:38</b>	Existing litigation, <b>3:11</b>
serious constitutional issue, <b>6:29</b>	Factors considered
suspension, <b>6:39</b>	generally, 3:13
test for obtaining relief, <b>6:28</b>	"directly affected" or "genuine inter-
Legitimacy of, <b>6:1</b>	est," 3:15
Limitations imposed by courts, <b>5:13 to</b>	illegality, 3:21
5:23	"serious issue," 3:14
Principles of, <b>6:1 to 6:3</b>	Organizations, 3:18
Reading down, <b>6:6</b>	Public interest standing
Reading in, <b>6:7</b>	generally, 3:4
Reading out (severance), <b>6:7</b>	Charter, under, 3:9
Relief under s. 24(1) of Charter	decisions, 3:13, 5:16
generally, <b>6:9 to 6:16</b>	discretionary, <b>3:6</b> special damage, <b>3:5</b>
application, <b>6:9</b>	R. v. Big M Drug Mart Ltd., <b>3:10</b>
damages, <b>6:10</b>	Representative organizations, 3:18
Galliages, U.10	representative organizations, 3.10

### STANDING—Cont'd

Right, as of, 3:3

### STATEMENT OF CLAIM

Drafting of, **7:6**Topics covered in, **7:6** 

### STATEMENT OF DEFENCE

Generally, 7:8

### STRUCTURAL INJUNCTIONS

Generally, **6:12 to 6:16**Aboriginal cases, **6:49**Canadian law, **6:16**United States
generally, **6:13 to 6:15**challenges, **6:13**developments, **6:14**origins, **6:13**response, congressional, **6:15** 

### SUMMARY JUDGMENT

See also MOTIONS
Generally, 5:5
Federal Court, 5:8
Ontario, 5:6
Other provinces/territories, 5:7

### **TRIBUNALS**

See ADMINISTRATIVE TRIBUNALS

# UNEMPLOYMENT INSURANCE ACT

Generally, 4:6

# UNITED STATES CONSTITUTIONAL LAW

Action under, 2:2 to 2:10 Activities caught by constitution generally, 2:6 government approval test, 2:17 government encouragement or coercion test, 2:18 statutory power plus a specific government program or policy, 2:16 "symbiotic relationship" test, 2:19 Actors caught by constitution generally, 2:2 control test. 2:4 entwinement, 2:5 government itself, 2:3 Bill of Rights, 2:2 to 2:10 Class actions, 5:14 "Constitutional torts," 5:14 Control test, 2:4 Injunctions, **6:13 to 6:15** Judicial review enforceability, 1:4 legitimacy, 1:3