

Index

ABANDONED CHATTELS, CONVERSION OF

Generally, § 4:13

ABATEMENT

See remedies

ABATEMENT OF NUISANCE

Generally, § 20:7, § 20:22

ABNORMAL SENSITIVITY

See thin-skull plaintiff

ABSENCE FROM JURISDICTION, EFFECT OF ON LIMITATION PERIOD

Generally, § 31:30

ABSOLUTE PRIVILEGE

See privilege, defence of

Agents, § 6:32

General, § 6:26, § 6:28

Judicial proceedings, § 6:29

Legislative proceedings, § 6:31

Official communications, § 6:32

Quasi-judicial proceedings, § 6:30

Solicitor-client, § 6:33

Standard of review on appeal, § 6:28

ABUSE OF LEGAL AUTHORITY

Tort of, see misfeasance in public office

Trespass ab initio, as, § 26:10

ABUSE OF POWER

See misfeasance in public office

ABUSE OF PROCESS

See purpose of proceedings

Acts in furtherance of improper purpose,
§ 1:8

Arrest, § 1:1, § 1:3

Attachment, § 1:8

Bankruptcy proceedings, § 1:2

Case, action on, § 1:1, § 1:5

Cause of action

distinguished from other torts

false imprisonment, § 1:5

malicious arrest, § 1:1

ABUSE OF PROCESS—Cont'd

Cause of action—Cont'd

distinguished from other torts—Cont'd
malicious prosecution, § 1:1, § 1:2,
§ 15:5

vexatious use of process, § 1:4

wrongful process of law, § 1:6

elements of, § 1:1, § 1:8

origin of, § 1:1

Caveat, wrongful filing of, § 1:8, § 1:10,
§ 1:11

Collateral purpose, requirement for, § 1:1,
§ 1:8, § 1:9

Crown, § 1:12

Damages

compensatory, § 1:10

punitive, § 1:11

Defences, § 1:9

Definition, § 1:8

Elements of cause of action, § 1:1, § 1:8

Execution, excessive, § 1:8

Extraneous purpose, see purpose of
proceedings

False imprisonment, § 1:5

Garnishment, § 1:9

Improper process, what constitutes, § 1:8

Improper purpose for proceedings, § 1:8

Intention of defendant, see motive

Judicial officers, liability of, § 1:6

Jurisdiction of court to prevent, § 1:7

Libel, § 1:8, § 1:9

Liens, wrongful filing of, § 1:8

Limitation periods, § 1:13

Malice, § 1:2, § 1:5, § 1:9

Malicious arrest, § 1:1

Malicious intent, see malice

Malicious process, § 1:3

Malicious prosecution

civil proceedings, § 1:2

distinguished from abuse of process,
§ 1:1, § 1:2

Motive of defendant, § 7:8

Origin of action, § 1:1

Parties, § 1:12

ABUSE OF PROCESS—Cont'd

- Public officers, liability of, § 1:6
- Punitive damages
 - claim for abuse of process, § 1:8
 - entitlement to, § 1:11
- Purpose of proceedings, § 1:1, § 1:8, § 1:9
- Reasonable and probable cause for proceedings, § 1:1, § 1:2
- Termination of proceedings, § 1:1
- Test for, § 1:8
- Threats in furtherance of improper purpose, § 1:8
- Trespass and case, § 1:5
- Vexatious proceedings, § 1:4
- Witness immunity, § 1:9
- Wrongful process of law, § 1:6

ABUSE OF PUBLIC OFFICE

- See misfeasance in public office
- Breach of statutory duty, § 27:30
- Damages awarded to, § 27:32
- Defences, § 27:31
- Development of, § 27:29
- Elements of
 - improper purpose, § 27:30
 - malice and intent, § 27:30
- Intention, § 27:30
- Malice, § 27:30
- Misfeasance in public office, § 27:29
- Nature of, § 27:29
- Parties, § 27:33
- Punitive damages, § 27:32
- Ultra vires acts as, § 27:30

ACCELERATED DEPRECIATION, DAMAGES FOR

- Generally, § 30:96
- Trespass to chattels, in action for, § 25:12

ACCELERATION OF INHERITANCE, DAMAGES FOR

- Generally, § 30:80, § 30:86

ACCIDENT, FATAL

- See fatal accidents

ACCIDENTAL DESTRUCTION OF CHATTELS

- Generally, § 4:10

ACCIDENT NEUROSIS

- Generally, § 30:17

ACCIDENTS

- Fatal, § 16:5
- Inevitable, defence of
 - trespass to chattels, in action for, § 25:11
- Multiple, assessment of damages for, § 30:21

ACCORD AND SATISFACTION

- Generally, § 29:40, § 31:23
- Deceit vitiating, § 5:14
- Extinction of cause of action by, § 29:40

ACCOUNTING

- Remedy of for passing off, § 22:22, § 22:23
- Waiver of tort, in action for, § 31:19

ACCOUNT OF PROFITS

- Generally, § 22:23

ACCOUNTS RECEIVABLE, CONVERSION OF

- Generally, § 4:8

ACCRUAL OF CAUSE OF ACTION

- See limitation of actions
- Generally, § 29:45, § 31:26, § 31:27
- Conspiracy, for, § 3:15
- Contract, in, § 29:45

ACCUMULATED WEALTH, DAMAGES FOR LOSS OF

- Generally, § 30:80

ACKNOWLEDGMENT OF CAUSE OF ACTION, EFFECT OF ON LIMITATION PERIOD

- Generally, § 31:31

ACQUIESCENCE, DEFENCE OF

- See also consent
- Nuisance, to, § 20:19
- Passing off, to, § 22:18
- Trespass, to, § 26:9

ACQUITTAL

- Generally, § 15:8, § 15:9

ACT OF GOD

- See also defences, statutory
- Generally, § 24:2, § 24:21, § 24:24, § 24:25
- Defence of
 - fire, to action for escape of, § 24:2

INDEX

ACT OF GOD—Cont'd

- Defence of—Cont'd
 - Rylands v. Fletcher, in action based on, § 24:2, § 24:21
 - scienter, in action based on, § 24:25
 - trespass by animals, in action for, § 24:24

ACT OF STRANGER

- Generally, § 24:2, § 24:22, § 24:24, § 24:25

ACTS IN FURTHERANCE OF IMPROPER PURPOSE

- Generally, § 1:8

ACTUAL KNOWLEDGE OF LIBEL, NO NECESSITY FOR

- Generally, § 6:88

ACTUAL POSSESSION, REQUIREMENT OF

- Generally, § 25:8

ADMINISTRATIVE PROCEEDINGS, PRIVILEGE IN RESPECT OF DEFAMATION DURING

- Generally, § 6:30

ADMINISTRATIVE TRIBUNALS, RIGHT OF ACTION OF FOR DEFAMATION

- Generally, § 6:84

ADMIRALTY CASES

- Generally, § 17:1, § 17:11

ADMISSIBILITY OF EVIDENCE

- Certificate of conviction, § 3:2
- Co-conspirators, § 3:15

ADOPTION OF NUISANCE, LIABILITY FOR

- Generally, § 20:8

ADVERTISING

- Liability for unauthorized use of name or likeness in, see appropriation of personality
- Misleading, see passing off

ADVICE

- Giving as basis for liability, § 8:11
- Interference with contractual relations, liability for in action for, § 8:11

ADVICE—Cont'd

- Negligent misrepresentation, as, see negligent misrepresentation

AFFIRMATIVE ACTION, DUTIES OF

- Control of others
 - dangerous animals, § 24:3, § 24:25
 - parent, on, § 16:9
- Defective products, warning as to, § 23:9, § 23:13 to § 23:18
- Nuisance, with respect to, § 20:8
- Public authorities, see negligence
- Statutory duties, § 16:25, § 16:26

AGENT/PRINCIPAL

- Generally, § 17:16

AGENTS

- Act of as basis of liability, § 7:10, § 7:20, § 15:7, § 15:13
- Crown, of, § 32:7 to § 32:10, § 32:20
- Duty of disclosure, effect of breach of, § 5:8
- Employees distinguished from, § 29:36
- Independent contractors distinguished from, § 29:36
- Liability for acts of, § 13:13
- Liability of, § 29:36
 - agents of Crown, § 32:30
 - conversion, for, § 4:25
 - deceit, for acts of, § 5:9
 - defamation, § 6:49
 - personal, § 5:18
- Principal's personal liability for acts of, § 29:36
- Vicarious liability for acts of
 - generally, § 29:36
 - Crown, of, § 32:6 to § 32:28
 - deceit, § 5:18
 - false imprisonment, § 7:10, § 7:20
 - intimidation, § 13:13
 - malicious prosecution, § 15:7, § 15:13
 - solicitor's, § 18:41

AGGRAVATED DAMAGES

- See damages
- Generally, § 30:9
 - definition, § 30:9
 - quantum, § 30:9
 - when awarded, § 30:9
- Assault and battery, for, § 2:22
- Defamation, for, § 6:60, § 6:62, § 6:74

AGGRAVATED DAMAGES—Cont'd

False imprisonment, for, § 7:14
Nervous shock, for intentional infliction of, § 10:11

**AGGRAVATION OF PRE-EXISTING
CONDITION OF PLAINTIFF,
EFFECT OF ON DAMAGES**

Generally, § 16:34, § 30:21

AIR SPACE, TRESPASS TO

Generally, § 26:2, § 26:6

ALCOHOL

See intoxication
Vendors, § 16:26

ALLERGIC REACTIONS

Generally, § 16:18, § 16:34

“ALLUREMENT,” DOCTRINE OF

Generally, § 21:23

**ALTERATION OF ANOTHER'S
GOODS AS PASSING OFF**

Generally, § 22:14

AMBULANCES

Generally, § 16:21
Transport of schizophrenic patients,
§ 16:33

**AMENITIES, DAMAGES FOR LOSS
OF**

Generally, § 30:16, § 30:19

**ANAESTHETIC, DOCTOR'S DUTY TO
ADVISE AS TO CHOICE OF**

Generally, § 18:62

ANIMAL KEEPERS

See defences, statutory

ANIMALS

See also defences, statutory
Generally, § 17:11, § 17:15, § 17:16
Act of God as defence, § 24:24, § 24:25
Act of stranger as defence, § 24:24,
§ 24:25
At large, § 24:12
Damages, § 24:26
Dangerous, § 24:3, § 24:25
Dogs, § 24:12, § 24:15 to § 24:17,
§ 24:25
Ferae naturae, § 24:3
Highway, on, § 16:20

ANIMALS—Cont'd

Horses, § 24:3, § 24:15, § 24:25
Knowledge of propensity of dangerous-
ness, § 24:3, § 24:13, § 24:15 to
§ 24:17
Mansuetae naturae, § 24:3
Principles governing, § 24:3
Scienter
act of God as defence to, § 24:25
act of stranger as defence to, § 24:25
classification of animals for purpose of,
§ 24:3
control or ownership of animal,
§ 24:14, § 24:15
defences, § 24:25
dogs, in relation to, § 24:15, § 24:16
duty to warn, § 24:25
elements of cause of action, § 24:13
joint liability, § 24:14
as basis of liability, § 24:3, § 24:15,
§ 24:17
class of domestic animal, general
propensities of, § 24:15
disposition of animal, sufficiency of
knowledge of, § 24:15
evidence of, § 24:15
imputed, § 24:3, § 24:15
inferred, § 24:15
onus of proving, § 24:15
prior incidents, relevance of,
§ 24:15
personal injury and, § 24:12
plaintiff's conduct, § 24:25
statutory provisions affecting, § 24:3,
§ 24:15, § 24:17
trespassers and, § 24:25
Trespass by
animals governed by action for, § 24:3,
§ 24:12
defences, § 24:24
elements of cause of action, § 24:12
heads of damage recoverable under,
§ 24:12
personal injury, recovery for, § 24:12

**APOLOGY, EFFECT OF IN
DEFAMATION ACTION**

Generally, § 6:62, § 6:74, § 6:76

APPEALS

Generally, § 17:18
Effect of availability, § 15:8

INDEX

APPEALS—Cont'd

Favourable result obtained on, § 15:8,
§ 15:9

APPEARANCE OF GOODS, RIGHT TO EXCLUSIVE USE OF

Generally, § 22:14

APPORTIONMENT OF DAMAGE

See contributory negligence; damages

Admiralty cases, § 17:1, § 17:11

Applicability of Acts, § 17:12, § 17:14,
§ 17:15

Between concurrent tortfeasors, § 29:28

Between separate causes of action,
§ 29:46

Costs, § 17:18

Damages, of

contributory negligence, for, § 17:12 to
§ 17:15

pre-existing condition of plaintiff,
attributable to, § 30:21

successive torts, for, § 30:21

Degree of fault, determining, § 17:15

Fatal accidents, § 17:14

General, § 17:12

Last clear chance doctrine, § 17:11,
§ 17:13

Legislation

application of

construction of, § 17:12, § 29:21

contractual liability, to, § 29:46,
§ 29:47

fatal accidents, to, § 17:14

intentional torts, to, § 17:14, § 29:22

negligent misrepresentation, to,
§ 17:14

operation of, § 17:15, § 29:20

Liability, of

plaintiff and defendant, between, see
contributory negligence

tortfeasors, between, § 16:21, § 29:19
to § 29:29

Retroactivity of statutes, § 17:15

Workers' compensation, § 17:14

APPROPRIATION OF PERSONALITY

See privacy, invasion of

APPROVED PRACTICE

See custom

ARCHITECTS AND ENGINEERS

Generally, § 18:50

Defences

Errors of Judgement, § 18:60

Misuse of Structure, § 18:59

Elements of Case of Action

Causation, § 18:57

Duty of Care, § 18:51

Remoteness, § 18:58

Standard of Care, § 18:52

Errors, § 18:54

General Practice and Knowledge,
§ 18:53

General Standard, § 18:52

Instances of Liability, § 18:56

Special Steps, § 18:55

Remedies

Heads of Damage, § 18:62

Measure of Damages, § 18:62

Remuneration, § 18:62

ARMED FORCES

Members of as Crown servants, § 32:7

Vicarious liability for acts of, § 32:10

ARREST

See also assault and battery; false
imprisonment

Abuse of process, § 1:1, § 1:3

False imprisonment

assistance in arrest, § 7:12

police officer, § 7:12

private citizen, § 7:12

property trespass, § 7:12

statutory authority, § 7:12

Reasons for, § 7:12

Use of force in effecting, § 2:18

Warrant for

notice of, § 7:12

validity of, § 7:12

ASSAULT AND BATTERY

Aggravated damages, § 2:22

Arrest, use of force in effecting, § 2:18

Cause of action

criminal proceedings, effect of on,
§ 2:3

definition, § 2:6

distinguished from

intentional infliction of nervous
shock, § 2:4

negligence, § 2:2

ASSAULT AND BATTERY—Cont'd

Cause of action—Cont'd
 elements of, § 2:6
 apprehension of imminent contact, § 2:10
 conditional, § 2:6
 definition, § 2:10
 future harm, § 2:10
 words, § 2:10
 contact
 awareness of, § 2:9
 imminent, § 2:10
 means of effecting, § 2:9
 offensive nature of, § 2:8
 damage
 foreseeability, § 2:2, § 2:22
 necessity for, § 2:2, § 2:11
 intention
 generally, § 2:7
 constructive, § 2:7
 definition, § 2:7
 transferred, § 2:7
 motive, § 2:7
 negligence, § 2:1
 onus of proving, § 2:1
 pleading, § 2:2, § 2:27
 volition, § 2:7
 history of, § 2:1
 nature and purpose of, § 2:1
 Chattels, recovery of, § 2:15
 Children
 discipline of, § 2:18
 liability of, § 2:26
 Clinical records, production of, § 2:27
 Conditional threat, § 2:10
 Consent
 effect of, § 2:20
 express, § 2:20
 form of, § 2:20
 inferred from conduct, § 2:20
 medical treatment, to, § 2:2, § 2:20
 minor intrusions, § 2:8
 onus of proving, § 2:20
 validity of, § 2:20
 Constructive intent, § 2:7
 Contact, § 2:2
 Contributory negligence, § 2:19, § 2:24, § 2:26
 Corporal punishment as, § 2:18

ASSAULT AND BATTERY—Cont'd

Criminal injuries compensation
 availability, § 2:24
 contributory negligence, effect of, § 2:24
 effect of claim on tort action, § 2:24
 reporting of incident as prerequisite, § 2:24
 time for applying, § 2:24
 Criminal liability for, § 2:3
 Crown liability
 aggravated damages, § 2:22
 non-delegable duty, § 2:26
 punitive damages, § 2:23
 vicarious, § 2:26
 Damages
 aggravated, § 2:22
 apportionment, § 2:19
 cases, § 2:21
 compensatory, § 2:22
 measure of, § 2:22
 necessity for, § 2:2, § 2:11
 non-pecuniary damages, § 2:22
 provocation, effect of on, § 2:22
 punitive
 criminal prosecution, effect of, § 2:3, § 2:23
 provocation, effect of on, § 2:23
 remoteness, § 2:2, § 2:22
 sexual assault, § 2:22, § 2:23, § 2:27
 victims of crime, § 2:24
 Defences
 consent
 effect of, § 2:20
 express, § 2:20
 form of, § 2:20
 fraud, obtained by, § 2:20
 inferred from conduct, § 2:20
 medical treatment, to, § 2:2, § 2:20
 onus of proving, § 2:20
 sexual assault, to, § 2:20
 validity of, § 2:20
 contributory negligence, § 2:19
 defence of property, § 2:15
 defence of third parties, § 2:14
 illegality, § 2:21
 legal authority
 arrest, for, § 2:18
 common law, under, § 2:18
 corporal punishment, for, § 2:18

ASSAULT AND BATTERY—Cont'd

Defences—Cont'd
 legal authority—Cont'd
 Criminal Code, under, § 2:18
 nature and scope of defence, § 2:18
 onus of proving, § 2:18
 provincial legislation, under, § 2:18
 reasonableness of force, § 2:18
 liquor control legislation, § 2:18
 mistake, § 2:16
 necessity, § 2:17
 self-defence
 availability of, § 2:12
 defendant as aggressor, § 2:12
 serious injury resulting, § 2:12
 definition, § 2:12
 reasonableness of force, § 2:12
 spousal immunity, § 2:26
 statutory bar of proceedings, § 2:3
 Discovery, § 2:27
 Distinguished from nervous shock, § 2:4, § 10:2
 Doctors, see medical treatment
 Employer, liability of, § 2:26
 Evidence, § 2:27
 Exemplary damages, see punitive damages
 Ex turpi causa, § 2:21
 Federal Court, jurisdiction of, § 2:27
 Fiduciary duty, breach of, § 2:5, § 2:27
 Foreseeability of damage, § 2:1, § 2:2, § 2:22
 Illegality, § 2:21
 Independent contractor, liability for act of, § 2:26
 Injunctions, § 2:24
 Intention, § 2:7, § 2:19
 Intentional infliction of nervous shock
 distinguished from, § 2:4
 Intoxicated persons, use of force in detention of, § 2:18
 Joint tortfeasors, § 2:26
 Leave to bring action, § 2:27
 Limitation of actions, § 2:2, § 2:5, § 2:27
 Liquor control legislation, § 2:18
 Medical treatment
 battery, as, § 2:2
 consent as defence, § 2:20
 emergencies, § 2:20, § 2:21

ASSAULT AND BATTERY—Cont'd

Medical treatment—Cont'd
 limitation periods applying to, § 2:2, § 2:27
 mental incompetence, effect of, § 2:26
 mistake as defence, § 2:16
 motive, relevance of, § 2:7
 necessity as defence, § 2:17
 negligence, § 2:2
 occupier of property, liability of, § 2:15
 onus of proof, § 2:1, § 2:2, § 2:18, § 2:20, § 2:27
 Non-delegable duty, § 2:26
 Parents
 discipline by, § 2:18
 liability for act of child, § 2:26
 liability for sexual assault of child, § 2:5, § 2:26
 Parties, § 2:26
 Pleadings, § 2:2, § 2:27
 Police officers, liability of, § 2:18
 Privilege, § 2:27
 Property, protection or recovery of, § 2:15
 Provocation
 definition, § 2:13
 effect of, § 2:13, § 2:22, § 2:23
 psychiatric illness, § 2:7
 Punitive damages
 awards, § 2:23
 criminal proceedings precluding, § 2:3, § 2:23
 Crown, awarded against, § 2:23
 effect of provocation, § 2:23
 employer awarded against
 complicity or blameworthiness in some degree required, § 2:23
 motive, § 2:7
 negligence, § 2:2
 related actions
 breach of fiduciary duty, § 2:5
 criminal proceedings, § 2:3
 intentional infliction of nervous shock, § 2:4
 Related actions
 breach of fiduciary duty, § 2:5
 criminal proceedings, § 2:3
 intentional infliction of nervous shock, § 2:4
 negligence, § 2:2
 Remedies, see damages

ASSAULT AND BATTERY—Cont'd

Sexual assault
 actions arising from, § 2:5, § 2:27
 consent as defence, § 2:20
 damages, § 2:22
 limitation period, § 2:27
 vicarious liability for, § 2:26
 Spectators, right of action of, § 2:20
 Sports, liability for injuries during, § 2:20
 Spouse, liability of, § 2:26
 Statutory authority
 arrest, for, § 2:18
 corporal punishment, for, § 2:18
 Criminal Code, under, § 2:18
 limitation periods, § 2:27
 nature and scope of defence, § 2:18
 onus of proving, § 2:18
 provincial legislation, under, § 2:18
 reasonableness of force, § 2:18
 Teachers, liability of, § 2:18, § 2:26
 Transferred intent, § 2:7
 Trespass, § 2:1
 Trespassers, expulsion of, § 2:15
 Vicarious liability, § 2:22, § 2:26
 Words as assault, § 2:10

ASSAULTS/FIGHTS

Generally, § 17:10, § 17:14

**ASSETS, DISCLOSURE OF AS
 MAINTENANCE AND
 CHAMPERTY**

Generally, § 14:2

ASSIGNMENT

Contractual claims, § 29:42
 Tort claims, § 29:42

ASSIGNMENT OF CAUSE OF ACTION

Contract, in, § 29:42
 Maintenance and champerty, as, § 14:6,
 § 14:7
 Nuisance, for, § 20:23
 Personal actions, § 29:42
 Property, loss or damage to, § 29:42
 Tort, in, § 29:42

ASSIGNMENTS OF CLAIM AS

Generally, § 14:6, § 14:7

ASSISTANCE, DUTY TO RENDER

Generally, § 7:13

ASSISTED SUICIDE

Generally, § 18:54

ASSOCIATIONS

Capacity to sue, § 32:55
 Definition, § 32:54
 Liability of, § 32:56
 Right of action of for defamation, § 6:82
 Voluntary organization, § 32:56

ASSUMPTION OF RISK

See defences, statutory

ATTEMPT

Generally, § 13:10

ATTORNEY GENERAL

See also Crown
 Liability of
 malicious prosecution, for, § 15:13
 Public nuisance, right of action of for,
 § 20:5, § 20:8
 Vicarious liability for acts of, § 32:7

AUCTIONEERS

Generally, § 4:13, § 4:14

AUDITORS

See accountants; financial statements,
 reliance on

BAILEES

Gratuitous bailees, § 4:25
 Involuntary bailees, § 4:25
 Liability of for conversion, § 4:25
 Right of action of for conversion, § 4:9,
 § 4:24

BAILIFFS, DEFENCES OF

Generally, § 25:11

BAILIFFS, LIABILITY OF

Conversion, for, § 4:11
 Trespass to chattels, for, § 25:11
 Trespass to land, for, § 26:9

**BAILORS, RIGHT OF ACTION OF
 FOR CONVERSION**

Generally, § 4:24

**BALANCE OF CONVENIENCE,
 EFFECT OF ON AVAILABILITY
 OF INJUNCTION**

Generally, § 31:3, § 31:11

INDEX

BANKRUPT

- Capacity to sue, § 32:62
- Tortious liability of, § 32:63

BANKRUPTCY

- Capacity to sue, effect of on, § 32:62
- Liability, effect of on, § 32:63
- Malicious prosecution, as, § 15:7
- Proceedings, § 1:2
- Proceedings for as malicious prosecution, § 15:7

BANKS/FINANCIAL INSTITUTIONS

- Generally, § 17:16

BARRATRY

- Generally, § 14:1

BARRISTERS, LIABILITY OF

- Generally, § 7:10, § 7:12

BATTERY

- See also Medical Practitioners
- Negligence and, § 2:1, § 2:2

BENEFIT TO DEFENDANT

- Effect of on damages
 - property, to, see betterment
- trespass, for, § 26:11
- Recovery of, see waiver of tort

BETTERMENT

- Effect of damages, § 25:12
 - property of, effect of on damage award, § 30:98
- trespass to chattels, for, § 25:12

BICYCLISTS

- Generally, § 17:4

BIOLOGICAL PRODUCTS

- Generally, § 23:2

BOATS

- Generally, § 21:9

BREACH OF CONFIDENCE

- Confidential information, § 27:17, § 27:21
- Defences
 - consent to disclosure, § 27:18
 - equitable estoppel, § 27:18
 - public interest, § 27:18
 - required by law, § 27:20
- Detriment, § 27:17

BREACH OF CONFIDENCE—Cont'd

- Duty of confidentiality
 - personal information, § 27:16
 - unintentional breach, § 27:17
 - when absent, § 27:17
 - when arising, § 27:16
- Elements of, § 27:17, § 27:21
- Equity, § 27:16, § 27:19
- Financial compensation, § 27:19
- General, § 27:16
- Injunction, § 27:19
- Measure of damages, § 27:19
- Nature of, § 27:16
- Parties, § 27:20
- Remedies, § 27:16, § 27:19
- Sui juris hybrid, § 27:16
- Trade secrets, § 27:16
- Unpatented inventions, § 27:16
 - necessity for, § 8:1, § 8:9

BREACH OF CONTRACT

- See concurrent tort/contract liability;
contractual relations, interference with
- Necessity for, § 8:1, § 8:9

BREACH OF FIDUCIARY DUTY

- Related action to assault, § 2:5, § 2:27

BUILDING CONTRACTS

- See buildings

BUILDINGS

- See also architects and engineers;
negligence (general)
- Conversion of, § 4:8
- Defects in, liability for, § 23:5

BURDEN OF PROOF

- See onus/burden of proof
- Generally, § 5:21, § 17:18

BUS DRIVERS/BUSES

- Generally, § 16:30

BUSINESS

- See also injurious falsehood; passing off
- Liability for disparagement of reputation in, § 6:7, § 6:11

CANADA PENSION PLAN BENEFITS

- Deductibility of, § 30:62, § 30:92
- Effect of payment of on right of action, § 32:14

CANADA POST

Liability of, § 32:7

CANADA SHIPPING ACT

Liability under, § 15A:3

CARRIERS, LIABILITY OF FOR CONVERSION

Generally, § 4:25

CASE, ACTIONS ON

Abuse of process as, § 1:1, § 1:5, § 1:13

Assault and battery as, § 2:1

Conspiracy as, § 3:9

Injurious falsehood as, § 9:9

Intentional infliction of nervous shock as, § 10:14

Limitation periods in, § 31:25

Malicious prosecution as, § 15:2, § 15:16

Trespass and, § 10:14, § 26:1

CATTLE TRESPASS

See defences, statutory

CAUSATION

See also elements of negligence; foreseeability; intervening causes; nervous shock; proximate cause/remoteness of damage

Generally, § 16:27

Basic rule, § 16:28

“But for” test, § 16:28 to § 16:33

“Causa causans,” § 16:28

Cook v. Lewis, rule in, § 16:30

Inferences, § 16:28

Joint liability, § 16:31

Loss of chance, § 16:32

Material contribution, § 16:28, § 16:30, § 16:32

Medical malpractice, § 16:32

Multiple causes, defendants

non-tortious causes, § 17:10

Nexus, § 16:28

Onus of proof, shifting of, § 16:23

Operating cause, § 16:28

Substantial connection, § 16:28, § 16:32

Vicarious liability

cause in fact

balance of probabilities, § 17:4

breach of statute, § 17:4

general, § 17:4

life jackets, § 17:8

seat belts/headrests, § 17:4

CAUSE OF ACTION ESTOPPEL

See also issue estoppel

Basis of, § 29:41

Consent orders, § 29:41

Requirements for, § 29:41

CAVEAT, WRONGFUL FILING OF

Generally, § 1:8, § 1:10, § 1:11

CHAMPERTY

See maintenance and champerty

Definition, § 14:1, § 14:6

CHARACTER OF PLAINTIFF, ADMISSIBILITY OF EVIDENCE AS TO

Defamation, in action for, § 6:69

Malicious prosecution, in action for, § 15:9

CHARITABLE MOTIVE AS DEFENCE TO MAINTENANCE AND CHAMPERTY

Generally, § 14:8

CHARITY

Generally, § 14:8

CHARTER OF RIGHTS AND FREEDOMS

Breach of as cause of action, § 15A:4, § 27:35

effect of on tort law generally, § 15A:4

limitation periods, effect of on, § 31:25

Effect of on limitation periods, § 31:25

Issues, § 6:1, § 6:45

contract law, distinguished from, § 15A:1

criminal law, distinguished from, § 15A:1

maritime law, § 15A:3

CHATTEL LESSOR, RIGHT OF ACTION OF FOR CONVERSION

Generally, § 4:9

CHATTEL MORTGAGEE, RIGHT OF ACTION OF FOR CONVERSION

Generally, § 4:9, § 4:24

CHATELS

Conversion of, see conversion and detinue

Damages for loss or injury to, see property loss or damage, damages for

INDEX

CHATTELS—Cont'd

- Recovery of, § 2:15, § 2:17
see replevin
- Trespass to, see trespass to chattels

CHEQUES, CONVERSION OF

- Generally, § 4:8

CHILDREN

- See sexual abuse/assault
- Actions
 - generally, § 32:35, § 32:36
 - against others, § 32:36, § 32:37, § 32:43
 - against parents, § 32:36, § 32:37, § 32:43
 - against third parties, § 32:38
- Adult activities, § 32:41
- Capacity to sue, § 32:35 to § 32:38
- Claims in respect of death or injury of, § 30:81
- Consent of to medical treatment, § 18:54
- Contract liability, § 32:42
- Contributory negligence of, § 17:6, § 32:36
- Discipline of, § 2:18
- Discipline of as defence to assault or battery, § 2:18
- Doctrine of identification, § 32:36
- Duty to supervise, § 16:9
- En ventre sa mere, § 30:45
- Explosions, § 17:6
- Foetus, § 16:26
- Illegitimate, entitlement of to dependants' compensation, § 30:68
- Immunity, § 32:41
 - rights of unborn, § 32:43
- Liability of
 - generally, § 32:39, § 32:42
 - adult activities, where engaged in, § 32:41
 - assault and battery, for, § 2:26
 - contractual, § 32:42
 - conversion, for, § 4:25
 - intentional torts, for, § 32:40
 - negligence, for, § 32:41
- Parental liability, § 17:5, § 17:16
- Parental responsibility for, § 16:9, § 32:39
- Parent's or caretaker's negligence, effect of on recovery by, § 17:16, § 32:36

CHILDREN—Cont'd

- Postponement of limitation periods in respect of, § 31:29
- Products liability, § 23:11 to § 23:13
- Railways, § 17:6
- Right of action of
 - generally, § 32:35
 - against occupier
 - invitees and licensees, § 21:22, § 21:23
 - trespassers, § 21:23
 - against parents, § 32:36, § 32:37
 - against third parties, § 32:38
 - unborn, § 32:43
- Settlements, § 30:63
- Standard of care (general), § 17:4 to § 17:6
- Supervision of, duty of, § 32:39
- Teachers/schools, § 16:9, § 16:20
- "Tender age," § 32:41
- Tortious liability of
 - generally, § 32:39, § 32:42
 - capacity for, § 32:39 to § 32:41
 - contributory negligence, § 32:36
 - intentional torts, § 32:40
 - negligence, § 32:41
 - parental responsibility, for, § 32:39
- Unborn, right of action of
 - pre-natal injuries, for, § 16:26, § 32:43
- Want of prosecution, § 32:36

CHOICE OF LAW

- See conflict of laws

CHOSES IN ACTION, CONVERSION OF

- Generally, § 4:8

CHRONIC PAIN SYNDROME

- Generally, § 30:17

CIVIL PROCEEDINGS AS BASIS OF ACTION

- Generally, § 15:7

CLASS, DEFAMATION OF

- Injunctive relief for, § 6:75
- Right of action for, § 6:23 to § 6:25, § 6:85

CLASS, REPRESENTATION TO

- Generally, § 5:11, § 5:17

CLASS ACTIONS

Defamation, for, § 6:25, § 6:75, § 6:85
 Negligent misrepresentation, § 19:9
 Nuisance, in action for, § 20:25
 Products liability, in action for, § 23:32

CLINICAL RECORDS, PRODUCTION OF

Generally, § 2:27

CO-DEFENDANTS

Admissions of, § 3:15
 Trial, § 3:15

COHABITEE, ENTITLEMENT TO DEPENDANTS' COMPENSATION

Generally, § 30:68

COLLATERAL BENEFITS

Employment benefits, § 30:61, § 30:92
 Government assistance, § 30:62, § 30:92
 Gratuitous assistance, § 30:60, § 30:79, § 30:84
 Insurance, § 30:61, § 30:92
 Medicare benefits, § 30:62
 Payments made pursuant to statute, § 30:62
 Pension benefits, § 30:61, § 30:62, § 30:92
 Principles governing deductibility of, § 30:57 to § 30:59, § 30:61
 Private insurance policies, under, § 30:58, § 30:61
 Unemployment Insurance benefits, § 30:62

COLLATERAL NEGLIGENCE OF INDEPENDENT CONTRACTORS

Generally, § 29:37

COLLATERAL PURPOSE

See purpose of proceedings

COLLATERAL WARRANTIES

Generally, § 23:2

COLLECTION AGENTS, LIABILITY OF FOR MAINTENANCE AND CHAMPERTY

Generally, § 14:6

COLLECTIVE AGREEMENT, PARTIES TO

Generally, § 32:54

COLOUR OF RIGHT

See trespass

COMMERCIAL DISPARAGEMENT

See injurious falsehood

COMMERCIAL HOST LIABILITY

Generally, § 16:18, § 16:26

COMMON DESIGN

Conspiracy as
 intentional participation in, § 3:6
 proof of, § 3:6
 what constitutes, § 3:6
 Defence of, see illegality, defence of
 Joint liability arising from, § 16:31, § 29:11

COMMON INTEREST

Maintenance and champerty, as defence to
 commercial interest, § 14:7
 definition, § 14:7
 familial relationship, § 14:8, § 14:9
 Occupiers' liability, effect of on status of
 entrant for purposes of, § 21:14

COMMON LAW AND STATUTE

General, § 6:1
 Presumption of damage, § 6:4

COMMON LAW OFFENCE

Generally, § 14:1

COMMON-LAW SPOUSE, ENTITLEMENT OF TO DEPENDANTS' COMPENSATION

Generally, § 30:68

COMPARATIVE ADVERTISING, LIABILITY WITH RESPECT TO

Generally, § 9:7, § 9:10

COMPENSATION NEUROSIS

Generally, § 30:17

COMPENSATION ORDER IN CRIMINAL PROCEEDING

Generally, § 5:14

COMPENSATORY DAMAGES

Generally, § 4:20, § 4:21, § 25:12

COMPETITION ACT

Generally, § 3:4, § 3:7

COMPLAINANT, LIABILITY OF

False imprisonment, for, § 7:10

COMPLAINANT, LIABILITY OF
—Cont'd

Malicious prosecution, for, § 15:7

CONCEALMENT OF CAUSE OF ACTION, EFFECT OF ON LIMITATION PERIODS

Generally, § 31:28

CONCEALMENT OF FACTS AS DECEIT

Generally, § 5:8

CONCURRENT TORT/CONTRACT LIABILITY

See also disclaimers

Generally, § 16:3, § 19:4, § 29:43, § 29:44

Accountants, of, § 18:35

Accrual of cause of action and, § 29:45

Action in either or both, § 19:4

Contributory negligence and, § 29:46, § 29:47

Damages and, § 29:47

Duty of care, § 19:4

Limitation of actions and, § 29:45

Medical practitioners, of, § 18:70

Misrepresentation inducing entry into contract, § 19:4

Post-contractual misrepresentations, § 19:4

Pre-contractual misrepresentations, § 19:4, § 19:8, § 19:11

Terms of contract barring, § 19:4

CONCURRENT TORTFEASORS

Generally, § 6:21

CONDITIONAL THREAT

Generally, § 2:10

CONDUCT

Directed at third parties, § 10:2, § 10:13

Pleadings, § 10:14

Required for tort, § 10:4, § 10:5

CONDUCT, MISLEADING

Generally, § 19:7

CONDUCT, MISREPRESENTATION BY

Generally, § 5:7, § 18:6

CONDUCT, REPRESENTATION BY

Generally, § 5:7

CONFIDENTIALITY, DUTY OF

Breach of, liability for, see breach of confidence

CONFINEMENT

Awareness of, § 7:9

Extent of, § 7:7

Failure to provide assistance, by, § 7:8

Means of, § 7:7

Plaintiff having means of escaping from, § 7:7

Segregated custody, § 7:7

Voluntary submission to, § 7:8, § 7:9

CONFIRMATION OF CAUSE OF ACTION, EFFECT OF ON LIMITATION PERIODS

Generally, § 31:31

CONFLICT OF LAWS

Choice of law, § 29:51 to § 29:53

Class actions, § 29:49

Concurrent liability, § 29:43

Contribution, § 29:60

Contributory negligence, § 29:56

Court, constitutional jurisdiction, § 29:61

Defences, § 29:56 to § 29:58

Defined, § 29:48

Exemption clauses, § 29:57

Foreign law, determination of, § 29:61

General, § 29:54

Indemnity, § 29:60

Jurisdiction, § 29:49, § 29:50

forum non-conveniens, § 29:49

forum selection clauses, § 29:50

land, § 29:49

real and substantial connection, § 29:49

Limitation periods, § 29:55

Probate, § 29:39

Statutory provisions, § 29:58

Vicarious liability, § 29:59

CONSENT

See breach of confidence; privacy, invasion of

as defence

see breach of confidence; privacy, invasion of

Absence of as element, § 7:9

As defence, § 10:10, § 19A:2 to § 19A:4

Confinement, to, § 7:8, § 7:9

Effect of, § 2:20

CONSENT—Cont'd

Express, § 2:20
 Form of, § 2:20
 Inferred from conduct, § 2:20
 Medical treatment, to, § 2:2, § 2:20
 Minor intrusions, § 2:8
 Onus of proving, § 2:20
 Reality of, § 7:8
 Validity of, § 2:20

CONSENT, DEFENCE OF

Generally, § 19A:2 to § 19A:4, § 25:11
 Assault and battery, to, § 2:2, § 2:20
 Breach of confidence, to, § 27:18
 Defamation, to, § 6:58
 Invasion of privacy, to statutory action for, § 27:10
 Mistake as to, § 29:7
 Nervous shock, to intentional infliction of, § 10:10
 Nuisance, in action for, § 20:19
 Rylands v. Fletcher, in action based on, § 24:19
 Trespass to chattels, to, § 25:11
 Trespass to land, to, § 26:9

CONSENT TO DEFAMATION

Generally, § 6:58

CONSENT TO MEDICAL TREATMENT

Children, by, § 18:54
 Effect of absence of, § 2:2, § 2:20

CONSPIRACY

Admissibility of evidence
 certificate of conviction, § 3:2
 co-conspirators, § 3:15
 Agreement as element of cause of action
 intentional participation in, § 3:6
 nature of, § 3:6
 proof of, § 3:6
 Availability
 conduct where tortious, § 3:1, § 3:7
 statutory limitations, § 3:10
 Cause of action
 accrual, § 3:15
 availability
 statutory limits on, § 3:10
 where conduct tortious, § 3:1, § 3:7
 case, as action on, § 3:9
 definition, § 3:5

CONSPIRACY—Cont'd

Cause of action—Cont'd
 distinguished from
 criminal conspiracy, § 3:2
 inducing breach of contract, § 3:3
 intimidation, § 13:3
 elements of
 act pursuant to agreement
 necessity for, § 3:7
 proof of, § 3:2
 tort as, § 3:1, § 3:7, § 3:9
 unlawfulness of, § 3:7, § 3:8
 agreement
 intentional participation in, § 3:6
 nature of, § 3:6
 proof of, § 3:6
 damage, § 3:9
 intention or purpose
 injury to plaintiff, § 3:8
 where means lawful, § 3:8, § 3:10
 where means unlawful, § 3:8
 merger, § 3:1
 scope, § 3:1
 Co-defendants
 admissions of, § 3:15
 trial of, § 3:15
 Common design
 intentional participation in, § 3:6
 proof of, § 3:6
 what constitutes, § 3:6
 Constructive intent, § 3:8
 Contracts
 concurrent liability for breach, § 3:1
 Conviction
 admissibility of certificate of, § 3:2
 effect of on punitive damages, § 3:11
 Corporations
 liability of, § 3:14
 parent and subsidiary, § 3:14
 shareholders' action for injury to, § 3:13
 vicarious liability of, § 3:14
 Criminal conspiracy distinguished from, § 3:2
 Criminal liability for, § 3:2
 Damages
 causation, § 3:9, § 3:11
 double recovery, avoidance of, § 3:11
 heads of, § 3:11
 nature of, § 3:9, § 3:11

CONSPIRACY—Cont'd

Damages—Cont'd
 necessity for, § 3:9
 non-pecuniary, § 3:15
 pleading, § 3:15
 presumption of, § 3:9
 punitive, § 3:11
 remoteness, § 3:11
Defences
 immunity from suit, § 3:10, § 3:14
 labour legislation, under, § 3:10
 legal authority, § 3:10
 mistake, § 3:10
 plaintiff's participation in act, § 3:10
 self-interest, § 3:8, § 3:10
Definition, § 3:5
Evidence, admissibility
 agreement, of, § 3:6, § 3:15
 certificate of conviction, § 3:2
 co-conspirators, admissions of, § 3:15
 onus of adducing, § 3:10
Inducing breach of contract
 distinguished from conspiracy, § 3:3, § 8:2
 unlawful means, as, § 3:7
Infants, liability of, § 3:14
Injunctions, § 3:12
Intention
 constructive, § 3:8
 where means lawful, § 3:8, § 3:10
 where means unlawful, § 3:8
Interference with contractual relations
 distinguished from, § 3:3, § 8:2
Intimidation distinguished from, § 13:3
Jurisdiction, § 3:15
Labour legislation
 damage action under, § 3:4
 limitations on action under, § 3:10
Merger, § 3:1, § 3:15
Mistake, defence of, § 3:10
Motive, § 3:8, § 3:10
Municipality, right of action of, § 3:13
Nature and purpose, § 3:1, § 3:15
Offence, as, § 3:2, § 3:4
Onus of proof, § 3:10
Overt act
 lawfulness of, § 3:7
 proof of, § 3:2
 tort as, § 3:1, § 3:7, § 3:9, § 3:10

CONSPIRACY—Cont'd

Parties
 defendants, § 3:14
 plaintiffs, § 3:13
Pleadings, § 3:15
Privilege, solicitor-client, § 3:15
Related actions
 breach of contract, § 3:1
Remedies
 damages, see damages
 statutory remedies, § 3:4
Right of action
 consumers, § 3:13
 corporations, § 3:13
 individuals, § 3:13
 municipalities, of, § 3:13
 shareholders, § 3:13
 statutory limits on, § 3:10
Scope of cause of action, § 3:1
Secondary picketing as unlawful means, § 3:7
Self-interest
 onus of proving, § 3:10
 where conduct lawful, § 3:8, § 3:10
 where conduct unlawful, § 3:10
Shareholders, right of action of, § 3:13
Special damage
 necessity for, § 3:9
 presumption of, § 3:9
Statement of claim, content of
 generally, § 3:15
 successive conspiracies, pleading of, § 3:15
 where conduct criminal, § 3:15
Statute
 breach of as unlawful means, § 3:7
 limitations on right of action under, § 3:10
 remedies under, § 3:4
Statutory limits on right of action, § 3:10
Tort as unlawful means, § 3:7
Trade unions
 liability of, § 3:14
 status of, § 3:14
 statutory protection for acts of
 Criminal Code, under, § 3:2
 labour legislation, under, § 3:2, § 3:10
Trial, § 3:15

CONSPIRACY—Cont'd

Unlawful means
 effect of, § 3:8, § 3:10
 elements of action, § 3:5, § 3:15
 mistake of fact as defence, § 3:10
 mistake of law as defence, § 3:10
 tort as, § 3:1, § 3:7, § 3:15
 what constitutes, § 3:7, § 3:15
 Witness immunity rule, § 3:10

CONSTRUCTION, NEGLIGENT

Generally, § 23:5

**CONSTRUCTION AND
INTERPRETATION**

See defamatory meaning

CONSTRUCTION CONTRACTS

See buildings

CONSTRUCTIVE INTENT

Generally, § 2:7, § 10:6, § 32:5
 Conspiracy, in, § 3:8
 Nervous shock, in intentional infliction of,
 § 10:6

CONSTRUCTIVE POSSESSION

Generally, § 25:8

CONSULTANTS, LIABILITY OF

Generally, § 18:80

CONTACT

Generally, § 2:2
 Requirement of, § 7:8

CONTAINERS

Liability for injuries caused by, § 23:5
 Sealed, effect of on liability for injuries
 caused by defective products, § 23:7,
 § 23:10

CONTEMPTUOUS DAMAGES

See also damages
 Generally, § 30:2
 Defamation, for, § 6:66
 Definition, § 30:2
 Effect of award of, § 30:2
 Quantum, § 30:2
 When awarded, § 30:2

CONTINGENCIES, EFFECT OF

Generally, § 30:46, § 30:54, § 30:89

**CONTINGENCY FEES AS
MAINTENANCE AND
CHAMPERTY**

Accountants' fees, § 14:3
 Legal fees, § 14:6

**CONTINUATION OF NUISANCE,
LIABILITY FOR**

Generally, § 20:8

CONTINUING CAUSES OF ACTION

Damages for, § 20:21, § 26:11
 Effect of on limitation periods, § 31:26
 Nuisance as, § 20:8, § 20:21, § 20:25
 Successive actions for, § 31:23
 Trespass to land as, § 26:6

CONTRACT AND TORT

Apportionment of liability, § 29:46
 Assignment of right of action, § 29:42
 Concurrent or alternative, § 29:43
 Conflict of laws, § 29:43
 Contribution, § 29:22
 Damages in, § 29:47
 Limitation of actions, § 29:45

CONTRACTORS

Duty owed to by architects and engineers,
 § 18:80
 Liability of for injuries caused by defec-
 tive product, § 23:23

CONTRACTS

See also concurrent tort/contract liability
 Generally, § 17:14
 Adequacy of remedies under, § 13:8
 Breach of as unlawful act, § 13:8
 Concurrent liability for breach, § 3:1
 Contingency fees, § 14:3
 Enforceability generally, § 14:1
 Inducing breach of, § 13:2
 see contractual relations, interference
 with
 Necessity for, § 25:9
 Remedy in, effect of on right of action for
 two-party intimidation, § 13:8
 Requirement of, § 7:8
 Threat of breach of as unlawful act for
 purposes of intimidation action,
 § 13:8

CONTRACTS, BREACH OF

Concurrent liability, § 16:3

INDEX

CONTRACTUAL ENTRANTS, OCCUPIERS' LIABILITY TO

Generally, § 21:11 to § 21:13

CONTRACTUAL LIABILITY

Generally, § 23:2, § 23:24

CONTRACTUAL LIMITATION OF LIABILITY

See disclaimers

CONTRACTUAL RELATIONS, INTERFERENCE WITH

Advice, giving of as basis for liability,
§ 8:11

Causation, § 8:12

Conspiracy distinguished from, § 3:3,
§ 8:2

Contract

awareness of, § 8:8

breach of

acquiescence in by party to contract,
effect of, § 8:11

nature of, § 8:9

necessity for, § 8:1, § 8:9

enforceable, § 8:7

existing, § 8:7

formation of, interference with, § 8:6

performance of, interference with,
§ 8:1, § 8:9

void, § 8:7

Damages

effect of recovery of in contract, § 8:15

measure of, § 8:15

necessity for, § 8:12

non-pecuniary loss, § 8:15

punitive, § 8:15

Defences, § 8:13

justification, § 8:13

moral duty, § 8:13

public interest, § 8:13

public policy, § 8:13

statutory, § 8:11, § 8:13

Direct interference by defendant, § 8:11

Directors, liability of, § 8:18

Elements of cause of action, § 8:6

Employees, liability of, § 8:18

Exemplary damages, § 8:15

Inconsistent dealings as basis of liability,
§ 8:11

Indirect interference by defendant, § 8:11

Inducement, § 8:11

CONTRACTUAL RELATIONS, INTERFERENCE WITH—Cont'd

Intention, § 8:8

Interference with economic interests
distinguished from, § 8:3

Interference with employment relations
distinguished from, § 8:5

Intimidation distinguished from, § 8:4,
§ 13:2

Jurisdiction of court, § 8:19

Knowledge of existence of contract, § 8:8

Nature and scope of action for, § 8:1

Negligence, liability for, § 8:10

Per quod servitium amisit action
distinguished from, § 8:5

Picketing, § 8:11, § 8:13

Public interest, defence of, § 8:13

Public policy, defence of, § 8:13

Recklessness, liability for, § 8:8

Remedies

damages, § 8:15

injunction, § 8:14

specific performance, § 8:16

Shareholders, liability of, § 8:18

Statutory defences, § 8:11, § 8:13

Strikes

damages for, § 8:15

statutory exemption in respect of,
§ 8:13

Unions, liability of, § 8:18

see also picketing; strikes

Unlawful interference with economic
interests distinguished from, § 8:3

Unlawful means in conspiracy action, as,
§ 3:7

Validity of contract, § 8:7

Void contract, effect of, § 8:7

CONTRIBUTION AMONG TORTFEASORS

Basis of apportionment, § 29:28

Common law, § 29:19

Conflict of laws issues, § 29:60

Exemptions, § 29:23 to § 29:26

Ex turpi causa, application of, § 29:20

"Fault," § 29:21

Indemnity, § 29:29

Legislation, § 29:20, § 29:22

Liability, preconditions for, § 29:22

Limitation of action, § 29:27

Mothers, § 29:25

**CONTRIBUTION AMONG
TORTFEASORS—Cont'd**

Non-parties, § 29:21
Spouses, § 29:24
Statutory provisions for, § 29:20, § 29:22
Vicarious liability, § 29:28, § 29:29
Who may claim, § 29:21
Workers' compensation legislation, effect,
§ 29:26

CONTRIBUTION AND INDEMNITY

See also joint and several liability
Generally, § 23:21, § 29:19 to § 29:29

CONTRIBUTORY NEGLIGENCE

Generally, § 2:19, § 2:24, § 2:26, § 5:12,
§ 5:14, § 19A:6, § 21:12, § 21:16,
§ 21:18, § 21:24, § 21:30, § 23:21,
§ 29:46

Admiralty cases, § 17:1, § 17:11
Agent/principal, § 17:16
Airplanes, § 17:4, § 17:8
Appeals, § 17:18
Apportionment of damage
admiralty cases, § 17:1, § 17:11
applicability of Acts, § 17:12, § 17:14,
§ 17:15
costs, § 17:18
degree of fault, determining, § 17:15
fatal accidents, § 17:14
general, § 17:12
last clear chance doctrine, § 17:11,
§ 17:13
retroactivity of statutes, § 17:15
workers' compensation, § 17:14
Assaults/fights, re, § 17:10, § 17:14
Automobile accidents, § 19A:8
Banks, § 17:16
Bicyclists, § 17:4
Burden of proof, § 17:18
Cause in fact
balance of probabilities, § 17:4
breach of statute, § 17:4
general, § 17:4
helmets, § 17:4, § 17:5
life jackets, § 17:8
seat belts/headrests, § 17:4
Children, § 17:6, § 19A:7
parental liability, § 17:5, § 17:16
standard of care (general), § 17:4 to
§ 17:6, § 17:15

**CONTRIBUTORY NEGLIGENCE
—Cont'd**

Common law, § 17:11
Contracts, § 17:14
Costs, § 17:18
Crosswalks, § 17:5
Crown liability, § 17:17
Defamation, § 17:14
Defence of, § 19A:6 to § 19A:9
Definition of, § 17:1
Degree of fault, determining
evidence for, § 17:15
general, § 17:15
inability to determine, § 17:15
joint vs. several liability, § 17:15
question of fact, as, § 17:15
Duty of care, § 17:3, § 17:4, § 17:9
Effect/nature of (common law), § 17:1,
§ 17:11
Effect/nature of (statutory)
applicability of Acts, § 17:14
construction of statutes, § 17:12
fatal accidents, § 17:14
general, § 17:1, § 17:12
last clear chance, § 17:11, § 17:13
retroactivity of statutes, § 17:15
workers' compensation, § 17:14
Electrical installations, § 17:6, § 17:15
see also powerlines/lightning wires
Elements of
cause in fact, § 17:4, § 17:9
duty of care, § 17:3, § 17:4
general, § 17:3
proximate cause, § 17:10
standard of care, § 17:2, § 17:6
Emergencies
generally, § 17:8, § 19A:9
standard of care (general), § 17:8
Fatal accident cases, § 17:14, § 17:16
"Fault," § 17:14
Foreseeability, § 17:9, § 17:10
Fraud cases, § 17:14
Historically, § 17:1, § 17:11
Impaired drivers, riding with, § 17:2,
§ 17:4, § 17:5, § 17:15, § 17:18
Imputed negligence between parties
agent/principal, § 17:16
fatal accidents, § 17:16
general, § 17:16
gratuitous passengers, § 17:16

CONTRIBUTORY NEGLIGENCE

—Cont'd

- Imputed negligence between parties
 - Cont'd
 - parent/child, § 17:16
 - spouses, § 17:16
- Inadvertence/forgetfulness, § 17:5
- Intervening cause, plaintiff's conduct as, § 17:10, § 17:11, § 17:13
- Intoxication, § 17:18
- Last clear chance, § 17:11, § 17:13
- Legislation, provincial, § 17:12
- Life jackets, § 17:8
- Motor vehicles, see also children; pedestrians
 - apportionment of damage, § 17:12, § 17:13, § 17:15
 - emergencies, § 17:8
 - evasive action, § 17:4, § 17:8
 - impaired driving, § 17:4, § 17:5, § 17:15, § 17:18
 - inexperienced drivers, § 17:4, § 17:5, § 17:10
 - onus of proof, § 17:4
 - open doors, § 17:15
 - passenger, duties of, § 17:4, § 17:15, § 17:16, § 17:18
 - proximate cause, § 17:10
 - seatbelts/headrests, § 17:4, § 17:15, § 17:18
- Negligent misrepresentation, § 17:14, § 17:15
- Occupiers' liability, § 21:12, § 21:16, § 21:18, § 21:24, § 21:30
- Onus/burden of proof, § 17:18
- Parties, see imputed negligence between parties
- Pedestrians
 - children, § 17:6
 - crosswalks, § 17:4 to § 17:6, § 17:15
 - curbs, § 17:4
 - dark clothing at night, § 17:4, § 17:5, § 17:15
 - "don't walk" signals, § 17:15
 - duty to keep lookout, § 17:15
 - elderly persons, § 17:15
 - intoxication, § 17:4, § 17:15
 - miscellaneous, § 17:10
 - sidewalks, ice, § 17:4
 - sidewalks, obstructions/imperfections, § 17:4, § 17:5

CONTRIBUTORY NEGLIGENCE

—Cont'd

- Pedestrians—Cont'd
 - stairs, § 17:4, § 17:5
 - vehicles backing up, § 17:4, § 17:10, § 17:15
 - walking on wrong side of road, § 17:3, § 17:15
 - weather conditions, § 17:15
- Pleadings, § 17:18
- Police officers, § 17:4, § 17:7, § 17:10, § 17:14, § 17:15
- Power lines/lightning wires, § 17:4, § 17:15
 - see also electrical installations
- Practice
 - appeals, § 17:18
 - costs, § 17:18
 - onus/burden of proof, § 17:18
 - pleadings, § 17:18
- Proximate cause
 - concurrent negligence, § 17:10
 - foreseeability, § 17:9, § 17:10
 - general, § 17:10
 - intervening cause, plaintiff's conduct as, § 17:10
 - last clear chance doctrine, § 17:11, § 17:13
 - successive negligent acts, § 17:10, § 17:13
- Railways, § 17:6, § 17:10, § 17:11, § 17:15
- Reasonable reliance, § 19:9
- Rescuers, § 17:8
- Seatbelts/headrests, § 17:4, § 17:15, § 17:18
- Standard of care (emergencies), § 17:8
- Standard of care (general), § 17:5
- Standard of care (parents), § 17:4, § 17:5
- Standard of care (risk vs. utility), § 17:7
- Standard of care (children), see also children
 - age, relevance of, § 17:6
 - general, § 17:6
 - intelligence, relevance of, § 17:6, § 17:15
 - intervening acts, § 17:6
 - objective test, § 17:6
 - parents, duty of, § 17:5
 - presumption of incapacity, § 17:6
 - seatbelts, § 17:4

CONTRIBUTORY NEGLIGENCE

—Cont'd

- Standard of care (children), see also children—Cont'd
- subjective test, § 17:6
- Trust, breach of, § 17:14
- Unreasonable risk, taking, § 17:7
- Workers' compensation cases, § 17:14

CONTROL OF OTHERS, DUTIES RELATING TO

- Dangerous animals, § 24:3, § 24:25
- Parents, § 16:9

CONTROL OF PREMISES, EFFECT OF ON LIABILITY AS OCCUPIER

- Generally, § 21:7, § 32:11, § 32:22

CONVENTIONAL AWARD FOR NON-PECUNIARY DAMAGES

- Generally, § 30:24

CONVERSION AND DETINUE

- Abandoned chattels, § 4:13
- Accidental destruction of chattels, § 4:10
- Accounts receivable, conversion of, § 4:8
- Agents, liability of, § 4:25
- Auctioneers, § 4:13, § 4:14
- Bailees
 - gratuitous bailees, § 4:25
 - involuntary bailees, § 4:25
 - liability, § 4:25
 - right of action, § 4:9, § 4:24
- Bailors, § 4:24
- Carriers, liability of, § 4:25
- Cause of action, elements of
 - conversion, § 4:10
 - detinue, § 4:11
 - intention, § 4:1, § 4:7, § 4:10
 - possession by defendant
 - conversion, § 4:10
 - detinue, § 4:11
 - possessory interest in plaintiff, § 4:7, § 4:9
 - specific personal property, § 4:7, § 4:8
 - strict liability, § 4:1, § 4:18
 - wrongful act by defendant
 - conversion, § 4:1, § 4:10
 - detinue, § 4:11
- Cheques, § 4:8
- Children, liability of, § 4:25
- Compensatory damages, § 4:20, § 4:21

CONVERSION AND DETINUE—Cont'd

- Continuing cause of action, § 4:26
- Conversion and detinue distinguished, § 4:1
- Conversion definition, § 4:1
- Conversion distinguished from trespass to chattels, § 25:2, § 25:4
- Corporate liability, § 4:25
- Crown, liability of, § 4:25
- Damages
 - date of assessment, § 4:19 to § 4:21
 - interest, § 4:20
 - measure of damages, § 4:20
 - mitigation, § 4:20
 - nominal damages, § 4:17
 - punitive damages, § 4:22
 - special damages, § 4:20
- Damage to chattels, § 4:10
- Debentures, enforcement of, § 4:24, § 4:25
- Debts, enforcement of, § 4:24, § 4:25
- Defences
 - abandonment by plaintiff, § 4:13
 - conduct of plaintiff, § 4:13
 - contributory negligence, § 4:18
 - delay, § 4:16
 - estoppel, § 4:13
 - ex turpi causa non oritur, § 4:13
 - good faith, § 4:10
 - innocent wrongful act, § 4:1
 - jus tertii, § 4:14
 - laches, § 4:16
 - licence fraud, § 4:13
 - mistake, § 4:10, § 4:12
 - necessity, § 4:15
 - possessory lien, § 4:14
 - reasonable doubt as to plaintiff's right to goods, § 4:10
 - return of chattel, § 4:17, § 4:23
 - right of defendant to goods, § 4:14
 - right of third party to goods, § 4:14
 - statutory, § 4:12
 - waiver, § 4:13
- Delay, § 4:16
- Delivery to third party, § 4:10
- Demand and refusal
 - as evidence of conversion, § 4:10
 - nature of refusal, § 4:10
 - necessity for, § 4:10, § 4:11
 - reasonableness of refusal, § 4:10

CONVERSION AND DETINUE—Cont'd

- Demand and refusal—Cont'd
 - sufficiency of demand, § 4:10
- Destruction of chattels
 - accidental destruction, § 4:10
 - co-owner, by, § 4:24
 - test for, § 4:10
 - wilful, § 4:10
- Detention of goods as conversion, § 4:10
- Detinue
 - definition, § 4:1, § 4:9
 - delay as defence, § 4:16
 - elements, § 4:4, § 4:7 to § 4:11
 - forms of, § 4:23
 - history, § 4:1, § 4:4
 - limitation period, § 4:26
 - remedies, § 4:19, § 4:23
 - valuation of property, § 4:21, § 4:23
- Disposition by non-owner, § 4:10
- Distinguished, § 4:1
- Elements of cause of action, § 4:7
- Employee, § 4:25
- Execution, § 4:24
- Executors, § 4:25
- Exemplary damages, § 4:22
- Fixtures, § 4:8
- Intellectual property, § 4:8
- Intention, § 4:10
- Intermingling of chattels, § 4:10
- Joint liability, § 4:25
- Jus tertii, § 4:14
 - lienholders, liability of, § 4:14, § 4:25
- Limitation of actions, § 4:26
- Lost chattels, § 4:9, § 4:24
- Negligence, § 4:10, § 4:18
- Parties to action, see also right of action
 - conversion of cheque, to, § 4:8
 - defendants, § 4:25
 - joint liability, § 4:25
 - plaintiffs, § 4:24
- Possession by defendant
 - conversion, § 4:10
 - detinue, § 4:11
 - possessory interest in plaintiff, § 4:7, § 4:9
- Property subject to action
 - accounts receivable, § 4:8
 - bank drafts, § 4:8
 - cheques, § 4:8
 - choses in action, § 4:8

CONVERSION AND DETINUE—Cont'd

- Property subject to action—Cont'd
 - fixtures, § 4:8
 - intellectual property, § 4:8
 - knowledge, § 4:8
 - money, § 4:8
 - shares, § 4:8
 - specific personal property, § 4:7
- Punitive damages, § 4:22
- Receivers
 - appointment of as conversion, § 4:24
 - liability of, § 4:25
- Recovery of property action, statutory
 - action for, § 4:5
- Refusal to return chattel, see demand and refusal
- Remedies
 - damages for conversion
 - date of assessment, § 4:19 to § 4:21
 - interest, § 4:20
 - measure of damages, § 4:20
 - mitigation, § 4:20
 - nominal damages, § 4:17
 - punitive damages, § 4:22
 - special damages, § 4:20
 - damages for detinue
 - date of assessment, § 4:19, § 4:21
 - goods increasing in value, § 4:23
 - replaceable goods, § 4:23
 - election of, § 4:19
 - restitution on defendant's application, § 4:17
 - return of chattel, § 4:19, § 4:23
 - self-help, § 4:23
 - waiver of tort, § 4:6
- Replevin
 - availability of action
 - co-executor, § 4:5
 - co-owner, § 4:5
 - defendant in action, § 4:5
 - seller of goods, § 4:5
 - termination of contract making possession wrongful, § 4:5
 - wrongful distress, § 4:5
 - wrongful taking or detention, § 4:5
 - definition, § 4:5
 - demand and refusal, § 4:5
 - distinguished from conversion, § 4:5
 - interim order, § 4:5
 - legislation, § 4:5

CONVERSION AND DETINUE—Cont'd

Replevin—Cont'd

- nature of action for, § 4:5
- ownership, § 4:5
- possession, entitlement to, § 4:5
- property subject to replevin, § 4:5
- wrongful detention, proof of, § 4:5

Restoration of chattel, § 4:17

Right of action

- actual possession as prerequisite to, § 4:9
- bailee, of, § 4:9, § 4:24
- bailor, of, § 4:24
- chattel lessor, of, § 4:9
- chattel mortgagee, of, § 4:9, § 4:24
- co-owner, of, § 4:24
- employee, of, § 4:25
- finder, of, § 4:9, § 4:24
- holder of reversionary interest, § 4:24
- occupier of property, § 4:24
- owner, of, § 4:9
- right to possession as prerequisite to, § 4:9

Sale to third party, § 4:10, § 4:11

Seizure, § 4:11, § 4:24, § 4:25

Shares, conversion of, § 4:20

Statement of claim, sufficiency of, § 4:26

Strict liability, § 4:1

Theft by conversion, § 4:3

Trespass to chattels, § 4:2, § 4:25, § 25:2 to § 25:4

- conversion distinguished from, § 25:2, § 25:4

Trover, § 4:4

Valuation of chattel, § 4:20

Waiver of tort, § 4:6

Withholding possession, § 4:10

CONVICTION

Admissibility of certificate of in conspiracy action, § 3:2

Effect of on damages

- assault and battery, for, § 2:3, § 2:23
- conspiracy, for, § 3:11
- punitive damages, § 3:11
- punitive damages generally, § 30:7
- trespass to land, for, § 26:4

Malicious prosecution, effect of on action for, § 15:8, § 15:9

CORONERS, LIABILITY OF FOR FALSE IMPRISONMENT

Generally, § 7:18

CORPORAL PUNISHMENT AS ASSAULT OR BATTERY

Generally, § 2:18

CORPORATE LIABILITY

Generally, § 4:25

CORPORATIONS

Capacity to sue, § 32:51, § 32:52

Charitable, § 32:53

Defamation, § 32:53

Directors' liability, § 32:53

see also directors, corporate

Liability of

- generally, § 32:53
- conspiracy, for, § 3:14
- conversion/detinue, for, § 4:25
- deceit, for, § 5:18
- defamation, for, § 32:53
- defamation by employee, for, § 6:49
- false imprisonment, for, § 7:20
- injurious falsehood, for, § 9:16
- malicious prosecution, for, § 15:13
- passing off, for, § 22:25
- right of action, § 9:16

Officers

liability of, § 32:53

Parent and subsidiary, § 3:13, § 3:14

Right of action of

- deceit, for, § 5:17
- defamation, for, § 6:64, § 6:80, § 6:82
- injurious falsehood, for, § 9:16
- invasion of privacy, for, § 27:10

Shareholders' action for conspiracy injuring, § 3:13

Tortious liability of, § 32:53

Vicarious liability, § 3:14

COST OF FUTURE CARE, DAMAGES FOR

Assessment

- duration of incapacity, effect of on, § 30:29, § 30:48
- expenses recoverable, examples of, § 30:28
- interest, § 30:31
- principles governing, § 30:28, § 30:48, § 30:49

COST OF FUTURE CARE, DAMAGES FOR—Cont'd

Definition, § 30:27
Gross-up for income tax, § 30:49

COSTS

Generally, § 6:93, § 6:101; § 17:18, § 22:29
Payment of as maintenance and champerty, § 14:2, § 14:6
Recovery of in action for malicious prosecution, § 15:14
Recovery of in maintenance and champerty action, § 14:10

CREDIT, INJURIES TO

Defamation, § 6:11

CREDIT CHECKS, LIABILITY FOR DEFAMATION ARISING FROM

Generally, § 6:36

CREDIT RATING, RECOVERY FOR DAMAGE TO MALICIOUS PROSECUTION

Generally, § 15:14

CRIME, LIABILITY FOR IMPUTATION OF

Generally, § 6:6
Burden of proof in justification of, § 6:27
Nature of imputed offence, § 6:6
Words imputing offence generally, § 6:6
Words imputing propensity for crime, § 6:6

CRIMINAL CODE

Generally, § 27:7, § 27:8

CRIMINAL CONSPIRACY DISTINGUISHED FROM CIVIL CONSPIRACY

Generally, § 3:2

CRIMINAL INJURIES COMPENSATION

Availability, § 2:24
Contributory negligence, effect of, § 2:24
Effect of claim on tort action, § 2:24
Reporting of incident as prerequisite, § 2:24
Time for applying, § 2:24

CRIMINAL LIABILITY FOR

Assault, § 2:3

CRIMINAL LIABILITY FOR—Cont'd

Conspiracy, § 3:2
Contributory negligence, effect of, § 2:24
Effect of on punitive damages, see punitive damages
Maintenance and champerty, for, § 14:1

CRIMINAL NEGLIGENCE

Civil action distinguished, § 16:2

CRIMINAL PROCEEDINGS

Administering surgical or medical treatment, § 18:66
Effect of on punitive damages, § 25:6, § 25:13
Effect on civil action, § 25:6
Evidence of, § 25:6
Medical assistance in dying, § 18:67

CROPS, CONVERSION OF

Generally, § 4:8

CROSSWALKS

Generally, § 17:5

CROWN

Generally, § 1:12, § 6:100
Federal
Attorney General, § 32:7
“Crown,” definition, § 32:1
departments, § 32:9
immunity, § 32:3, § 32:15
invasion of privacy, § 32:13
jurisdiction of Federal Court, § 32:16
jurisdiction of provincial courts, § 32:16
legislation affecting liability, § 28:8, § 32:2, § 32:4 to § 32:6, § 32:8, § 32:11, § 32:12, § 32:17
limitation of actions, § 32:2, § 32:17
Ministers, § 32:6, § 32:7, § 32:9, § 32:30
motor vehicle accidents, § 32:12
occupiers liability, § 32:11
pension schemes, § 32:14
police officers, § 32:2, § 32:6, § 32:7
provincial law applicable to, § 32:2, § 32:5, § 32:12, § 32:14
servants and agents
generally, § 32:7 to § 32:9
Crown corporations, § 32:7
definition, § 32:7, § 32:8
judicial officers, § 32:7

CROWN—Cont'd

Federal—Cont'd

servants and agents—Cont'd
 scope of employment, § 32:10
 vicarious liability for acts of, § 32:6,
 § 32:9

Policy vs. operational decisions, § 28:8,
 § 32:3, § 32:17, § 32:18, § 32:32

Provincial

defences available, § 32:28
 employer, liability as, § 32:21, § 32:29
 immunity, § 32:18
 indemnity and contribution, § 32:27
 judicial duties, § 32:25
 legislation affecting liability of, § 32:18
 non-delegable duty, § 32:19
 occupiers liability, § 32:22
 public officers
 immunity, § 32:25, § 32:26
 liability of, § 32:30
 limitation of action, § 32:25
 right of action against, § 32:18
 servants and agents
 Crown corporations, § 32:20
 definition, § 32:20
 immunity of, § 32:30
 judicial duties, § 32:24, § 32:25
 police, § 32:26, § 32:29
 statutory torts, § 32:23
 vicarious liability for, § 32:18 to
 § 32:20

CROWN, LIMITATION PERIODS

Generally, § 7:22

CROWN, MINISTERS

Generally, § 32:6, § 32:7, § 32:9, § 32:19,
 § 32:29, § 32:30

CROWN COUNSEL

Liability of
 malicious prosecution, for, § 15:7,
 § 15:13
 Vicarious liability for acts of, § 32:7

CROWN LAND

Liability of Crown as occupier of,
 § 21:17, § 21:35, § 32:11
 Trespass to
 possession of plaintiff for purposes of
 action, § 26:7
 right of action for, § 26:14

CROWN LIABILITY

See also duty of care (statutory)
 Generally, § 4:25, § 17:17
 Assault and battery
 aggravated damages, § 2:22
 non-delegable duty, § 2:26
 punitive damages, § 2:23
 vicarious, § 2:26

CROWN SERVANTS

See Crown

CRUMBLING SKULL PLAINTIFF

Generally, § 30:21

CURRENCY OF DAMAGE AWARD

Generally, § 31:36

CUSTOM

See standard of care (reasonable person)
 Generally, § 16:19

DAMAGES

See also family and dependants'
 compensation; personal injury
 Aggravated, § 2:22, § 30:9
 definition, § 30:9
 quantum, § 30:9
 when awarded, § 30:9
 Aggregate, § 31:19
 Apportionment, § 2:22
 Assessment of, § 10:11
 At large, § 30:2, § 30:8, § 30:11
 Availability of, § 14:10
 Causation, § 3:9, § 3:11, § 13:14
 Chattels as conversion, to, § 4:10
 Compensatory, § 1:10, § 2:22, § 10:11,
 § 25:12
 Contemptuous
 definition, § 30:2
 effect of award of, § 30:2
 quantum, § 30:2
 when awarded, § 30:2
 Dependants' claims, § 30:67 to § 30:93
 Deprivation
 exaggeration of injury not grounds to,
 § 30:1
 Double recovery, avoidance of, § 3:11
 Effect of recovery in contract, § 8:15
 Element of cause of action as, § 10:7,
 § 14:5

INDEX

DAMAGES—Cont'd

- Estates
 - administration costs, recovery of, § 30:93
 - recovery of damages against, § 30:66
 - recovery of damages on behalf of, § 30:64, § 30:65
- Foreign currency, in, § 31:36
- Foreseeability of, § 10:6, § 10:11
- General, § 3:11, § 30:11
- Heads of, § 3:11
- Interest, § 30:24, § 30:31, § 30:51
- Loss of opportunity to marry
 - effect on pecuniary losses, § 30:34
- Measure of, § 1:10, § 2:22, § 13:14, § 14:10, § 29:47
- Measure of generally
 - damages exceeding, § 30:12
 - diminution of value, § 30:96
 - inducing breach of contract, § 8:15
 - limitations on, § 30:12
 - limits on recovery, § 30:16
 - nervous shock, § 10:11
 - personal injury, with respect to, § 30:15
 - principle of, § 30:12
 - property damage, with respect to, § 30:94
 - recovery exceeding loss suffered, § 30:12
 - restitutio in integrum, § 30:12
- Mitigation of, § 1:10, § 30:13, § 30:17, § 30:100, § 30:107 to § 30:123
- Moral, § 30:3
- Nature of, § 3:9, § 3:11, § 9:9
- Necessity for, § 2:2, § 2:11, § 3:9, § 8:12, § 25:10
 - at common law, § 9:9, § 9:13
 - statutory provisions affecting, § 9:3, § 9:13
- Non-pecuniary damages, § 2:22, § 3:15
- Non-pecuniary loss, § 8:15
- Parasitic, § 30:10
- Pecuniary losses, § 30:25 to § 30:65
- Personal injury, § 30:14
- Presumption of, § 3:9
- Property damages, § 30:94 to § 30:106
- Property loss or damage
 - measure of damage
 - diminution of value, § 30:96
- Provocation, effect of on, § 2:22

DAMAGES—Cont'd

- Punitive, § 1:11, § 3:11, § 8:15, § 10:12, § 29:35, § 29:47, § 30:5 to § 30:8
- availability
 - generally, § 30:6
 - criminal proceedings taken, where, § 30:7
- Crown, against, § 30:7
- fatal accidents cases, § 30:6, § 30:65, § 30:67
- plaintiff suffering no damage, where, § 30:7
- public deterrence, as means of, § 30:7
- statutory prohibition of, § 30:6
- criminal prosecution, effect of, § 2:3, § 2:23
- defendant profiting from misconduct, § 30:8
- evidence, § 30:8
- grounds for award, § 30:7
- negligence, § 30:7
- provocation, effect of on, § 2:23
- punishable conduct, § 30:7
- purpose of, § 30:5
- quantum, § 30:8
- who to determine, § 30:8

Real, § 30:4

- Reasonably contemplated, § 29:47
- Reasonably foreseeable, § 29:47
- Remoteness, § 2:2, § 2:22, § 3:11, § 10:11, § 29:47
- Requirement of, § 23:22
- Sexual abuse, § 30:44
- Sexual assault, § 2:22, § 2:23, § 2:27
- Special damages, § 30:93
 - calculation, § 30:11
 - definition, § 30:11
 - loss of earnings as, § 30:52
 - pleading, § 30:11
 - pretrial expenses as, § 30:26
 - proof of, § 30:11
 - structured settlements, § 30:63
 - trespass to land, § 30:18, § 30:36
- Sufficiency of evidence of, § 9:9
- Symbolic, § 30:3
- Taxation, effect of, § 30:49, § 30:63, § 30:91
- Travel expenses, recovery of, § 30:93
- Upper limit, § 30:24

DAMAGES—Cont'd

Victims of crime, § 2:24

DAMAGES, COMPENSATORY

See remedies

**DANGEROUS ACTIVITIES,
LIABILITY IN RESPECT OF**

Generally, § 24:11

**DANGEROUS ANIMALS, LIABILITY
IN RESPECT OF**

See animals

**DANGEROUS GOODS, LIABILITY IN
RESPECT OF**

Generally, § 23:24

DANGEROUS OBJECTS, USE OF

Generally, § 16:16

DEATH

Common law, at, § 29:39

Defamation, for, § 6:2, § 6:78

Effect of on cause of action

generally, § 30:64

employee, § 12:1

injurious falsehood, for, § 9:16

invasion of privacy, statutory action for,
§ 27:10

legislation, § 29:39

punitive damages, for, § 30:65

survival of actions, for, § 29:39,
§ 30:64 to § 30:66

Pension benefits paid on, effect of on right
of action against Crown, § 32:14

Plaintiff, effect of, § 9:16

Wrongful, action in respect of, see family
and dependants' compensation

**DEBENTURES, ENFORCEMENT OF
AS CONVERSION**

Generally, § 4:24

DEBT COLLECTION

Generally, § 14:6

DEBTS, ENFORCEMENT OF

Abuse of process, as, § 1:8

Conversion, as, § 4:24, § 4:25

False imprisonment, as, § 7:13

Maintenance and champerty, as, § 14:2,
§ 14:6

DEBTS, ENFORCEMENT OF—Cont'd

Trespass to chattels, as

damages for, where wrongful, § 25:12,
§ 25:13

defences relating to, § 25:11

Trespass to land during, § 26:12

DECEIT

Generally, § 19:2

Accord and satisfaction and, § 5:14

Active concealment, § 5:7, § 5:8

Agents

duty of disclosure of, effect of, § 5:8

liability for acts of, § 5:18

personal liability of, § 5:18

Bribery, § 5:2

Burden of proof, § 5:21

Cause of action

definition, § 5:1, § 5:6

distinguished from

fraud as ground of equitable relief,
§ 5:2

injurious falsehood, § 5:5, § 9:2

negligence, § 5:4

passing off, § 22:1, § 22:9

elements of

damage, § 5:13

false representation of fact, § 5:7

fraud, § 5:1

inducement

extinguished, § 5:12

necessity for, § 5:12

proof of, § 5:12

intention, § 5:1, § 5:11

knowledge of falsity

carelessness as evidence of, § 5:10

necessity for, § 5:10

recklessness as, § 5:1, § 5:6, § 5:10

misrepresentation

form of, § 5:7, § 5:8

materiality

necessity for, § 5:12

question of fact, as, § 5:12

reliance on representation

availability of means of ascertain-
ing truth, effect of, § 5:12

independent inquiry, effect of,
§ 5:12

inference from character of state-
ment, § 5:12

necessity for, § 5:12

INDEX

DECEIT—Cont'd

- Cause of action—Cont'd
 - misrepresentation—Cont'd
 - reliance on representation—Cont'd
 - presumption of, § 5:12
 - subject-matter of
 - opinion, § 5:9
 - promise, § 5:9
 - sales talk, § 5:9
 - statement of fact, § 5:9
 - statement of law, § 5:9
 - writing, statutory requirement of, § 5:8
 - nature and purpose, § 5:1
- Class, representation to, § 5:11
- Compensation order in criminal proceeding, § 5:14
- Conduct, representation by, § 5:7
- Contributory negligence, § 5:12, § 5:14
- Corporations
 - liability of, § 5:18
 - right of action of, § 5:17
- Damages
 - bankruptcy, effect of, § 5:19
 - heads of, § 5:19
 - interest, § 5:19
 - loss of profits, for, § 5:19
 - measure of, § 5:19
 - mitigation of, § 5:19
 - necessity for, § 5:1, § 5:13
 - punitive, § 5:20
 - remoteness, § 5:19
 - time of assessment, § 5:19
- Defences, § 5:14, § 5:15
 - accord and satisfaction, § 5:14
 - availability of means of discovery to plaintiff, § 5:15
 - compensation order in criminal proceeding, § 5:14
 - contract, § 5:14
 - contributory negligence inapplicable, § 5:14
 - estoppel, § 5:14
 - negligence of plaintiff, § 5:12
 - Statute of Frauds, § 5:14
 - statutory requirement of writing, § 5:8
- Defendants
 - agents, § 5:18
 - corporation, § 5:18
 - infant, § 5:18

DECEIT—Cont'd

- Defendants—Cont'd
 - joint tortfeasors, § 5:18
- Estoppel, defence of, § 5:14
- Exclusion clauses, § 5:14
- Fiduciary duty of disclosure, effect of, § 5:8
- Fraud
 - bankruptcy, § 5:19
 - contractual remedies for, § 5:3
 - equitable or constructive, § 5:2
 - nature of, § 5:2
 - pleading, § 5:21
 - proof of, § 5:21
- Independent inquiry, effect of, § 5:12
- Infants, liability of, § 5:18
- Injurious falsehood distinguished from, § 5:5, § 9:2
- Intention, § 5:11
- Invasion of privacy and, § 27:2
- Joinder, § 5:18
- Knowing assistance, § 5:2
- Knowing receipt, § 5:19
- Knowledge of falsity
 - carelessness as evidence of, § 5:10
 - necessity for, § 5:10
 - recklessness as, § 5:10
- Law, misrepresentation of, § 5:9
- Limitation of actions, § 5:21
- Loss of profits, recoverability of, § 5:19
- Motive, relevance of, § 5:11
- Negligence distinguished from, § 5:4, § 5:10
- Negligent misstatement, § 19:2
- Onus of proof, § 5:21
- Opinion, liability for statement of, § 5:9
- Parties
 - defendants, § 5:18
 - plaintiffs, § 5:17
- Passing off distinguished from, § 22:1, § 22:9
- Privacy, § 27:10
- Puffery, § 5:9
- Recklessness, liability for, § 5:10
- Remoteness of damage, § 5:19
- Representation
 - communication of, § 5:11, § 5:17
 - concealment of facts, by, § 5:8
 - conduct, by, § 5:7

DECEIT—Cont'd

Representation—Cont'd
 failure to advise of change in
 circumstance, by, § 5:8
 failure to correct false statement, by,
 § 5:8
 half-truths, by, § 5:8
 materiality, § 5:12
 non-compliance with duty of
 disclosure, § 5:8
 reliance on, § 5:12, § 5:13
 silence, by, § 5:8
 subject matter of
 opinion, § 5:9
 promise, § 5:9
 sales talk, § 5:9
 statement of fact, § 5:9
 statement of law, § 5:9
 suppression of information, by, § 5:8
 writing, statutory requirement of, § 5:8
 Shareholders, right of action of, § 5:17
 Silence, representation by, § 5:8
 Standard of proof of, § 5:21
 Statute of Frauds, § 5:8, § 5:14
 Statutory duty to disclose, effect of, § 5:8
 Suppression of facts, § 5:8
 Third party, representation relating to,
 § 5:8
 Vicarious liability for, § 5:18

DECLARATION

Generally, § 9:15

DEFAMATION

Generally, § 17:14
 Absolute privilege
 agents, § 6:32
 general, § 6:26, § 6:28
 inferior court proceedings, § 6:30
 judicial proceedings, § 6:29
 legislative proceedings, § 6:31
 malice, effect of on, § 6:29
 official communications, § 6:32
 quasi-judicial proceedings, § 6:30
 reports of, § 6:29
 statements during course of, § 6:29
 statements preceding initiation of,
 § 6:29, § 6:33
 solicitor-client, § 6:33
 standard of review on appeal, § 6:28

DEFAMATION—Cont'd

Administrative proceedings, privilege in
 respect of, § 6:30
 Administrative tribunals, right of action of
 for, § 6:84
 Agent, by, § 6:49
 Apology, § 6:62, § 6:74, § 6:76
 Association, right of action of for, § 6:82
 Business, disparagement of reputation in,
 § 6:7, § 6:11
 Business interest, privilege pertaining to
 communications in pursuance of,
 § 6:40
 Calling
 disparagement of reputation in, § 6:7,
 § 6:11
 what constitutes, § 6:7
 Cause of action
 purpose and nature, § 6:1
 threshold for, § 6:16
 Charter issues, § 6:1
 Class, of
 injunctive relief for, § 6:75
 right of action for, § 6:23 to § 6:25,
 § 6:85
 Common law and statute
 general, § 6:1
 presumption of damage, § 6:4
 Concurrent tortfeasors, § 6:21
 Consent to defamation of, § 6:58
 Construction and interpretation, see
 defamatory meaning
 Corporations
 actions by, § 6:64, § 6:80, § 6:82,
 § 6:83
 malice of employee, vicarious liability
 for, § 6:49
 Costs, § 6:93, § 6:97, § 6:101
 Counsel, absolute privilege of, § 6:29
 Court, jurisdiction of, § 6:101
 Credit, statements injuring, § 6:11
 Credit checks, liability arising from,
 § 6:36
 Criminal conduct, imputation of
 burden of proof in justification of,
 § 6:27
 nature of imputed offence, § 6:6
 words imputing offence generally,
 § 6:6
 words imputing propensity for crime,
 § 6:6

INDEX

DEFAMATION—Cont'd

Crown, § 6:81, § 6:100
Damages, § 6:59 to § 6:74
 aggravated, § 6:61, § 6:62
 apology, effect of on, § 6:74
 character of plaintiff, relevance of, § 6:69
 contemptuous damages, § 6:66
 corporate plaintiff, § 6:64
 damages previously recovered, effect of on, § 6:73
 equitable relief, § 6:76
 extemporaneous comments, effect of on, § 6:72
 internet publication affecting, § 6:62
 jury assessment, § 6:100
 mitigation
 apology, § 6:60, § 6:64, § 6:74
 damages recovered for similar libel, § 6:73
 lack of planning, § 6:72
 plaintiff's reputation, § 6:69
 provocation, § 6:68
 republishing, § 6:71
 unintentional defamation, § 6:70
 nominal damages, § 6:65
 provocation, effect of on, § 6:68
 punitive damages, § 6:64, § 6:67
 republishing, effect of on, § 6:71, § 6:74
 special damages, § 6:2, § 6:4, § 6:5, § 6:61
 unintentional defamation, effect of on, § 6:70
 words actionable per se
 factors in assessment
 apology, § 6:62
 conduct of defendant, § 6:62
 economic consequences, § 6:62
 extent of publication, § 6:62
 parties' community standing, § 6:62
 political context, § 6:62, § 6:67
 upper limit, § 6:62
 general principles, § 6:5, § 6:60
 heads of damage, § 6:61
 presumption of damage, § 6:59
 words not actionable per se, where, § 6:63, § 6:64
Death, effect of on cause of action for, § 6:78

DEFAMATION—Cont'd

Defamatory meaning
 categories of statement, § 6:11
 circumstances, relevance of in determining, § 6:10
 defined, § 6:10
 determining, § 6:10, § 6:14
 function of jury, § 6:15
 inferential, § 6:12
 innuendo, § 6:12, § 6:13
 intention of defendant, relevance of in determining, § 6:16
 judge, function of, § 6:15
 jury, function of, § 6:15
 natural and ordinary meaning, § 6:12, § 6:92
 objective test of, § 6:10, § 6:15, § 6:16
 ordinary meaning, § 6:12
 pleading, § 6:95
 standard of opinion, § 6:10, § 6:16
 surrounding circumstances, § 6:2
 question of law, capacity for as, § 6:15
 reasonableness of interpretation alleged to constitute, § 6:15, § 6:16
 time for ascertaining, § 6:19
Defences
 absolute privilege, § 6:28 to § 6:33
 consent, § 6:58
 election to proceed with as admission of publication, § 6:19
 fair comment, § 6:50 to § 6:56, § 6:92, § 6:96
 justification, § 6:27, § 6:90, § 6:96
 qualified privilege, § 6:34 to § 6:49
 responsible communication on matters of public interest, § 6:57
Defendant's identity, § 6:26, § 6:95
Defendant's liability, § 6:26, § 6:95
Discovery
 defamation during course of, § 6:29
 fair comment on particulars, § 6:91
 internet defendants, § 6:95
 jurisdiction, § 6:90
 newspaper rule, § 6:89
 particulars of justification, § 6:90
 responsible communication defence, § 6:101
 state of mind, § 6:92
Disease, imputation of, § 6:8, § 6:9

DEFAMATION—Cont'd

- Dishonesty in business or calling, imputation of, § 6:7, § 6:11
- Dismissal of employee, privilege pertaining to communications relating to, § 6:36
- Distinguished from injurious falsehood, § 9:3
- Elected officials, privilege of, § 6:31
- Elements of tort
 - defamation, § 6:3
 - injurious falsehood, § 6:2
 - libel or slander, § 6:3
- Email, § 6:4, § 6:18, § 6:88
- Employment reference checks, privilege pertaining to, § 6:36
- Evidence
 - hearsay, § 6:19
- Fair comment
 - authorities, § 6:56
 - basis in fact, § 6:51
 - discovery, § 6:92
 - fairness, § 6:54
 - function of jury, § 6:56
 - general, § 6:50
 - judge, function of, § 6:56
 - justification, distinguished from, § 6:27
 - loss of
 - character of comment, by, § 6:52
 - character of imputation, by, § 6:55
 - erroneous facts, by, § 6:51
 - intermingling of facts and opinion, by, § 6:52
 - malice, by, § 6:50, § 6:55
 - onus on defendant, § 6:50
 - opinion
 - comment recognizable as, § 6:52
 - necessity for honest belief in, § 6:50, § 6:54
 - pleading of, § 6:96
 - public interest, necessity for, § 6:53
 - website postings, § 6:51
- False innuendo, § 6:13
- Falsity of words, presumption of, § 6:27
- Financial interest, privilege pertaining to communications in pursuance of, § 6:40
- General, § 6:1
- Hatred, promotion of as basis for injunctive relief, § 6:75
- Immorality, imputation of, § 6:9, § 6:11

DEFAMATION—Cont'd

- Imputations of crime
 - burden of proof, § 6:27
 - general, § 6:6
 - slander, § 6:6
 - when defamatory, § 6:11
- Imputations of disease, § 6:8
- Injunctions, § 6:75, § 6:100
- Injurious falsehood
 - distinguished from libel and slander, § 6:2
 - elements of action, § 6:2
 - nature of action, § 6:2
 - survival of action, § 6:2
- Innuendo
 - defamatory meaning, § 6:12, § 6:13
 - false, § 6:12
 - ignorance of facts giving rise to, § 6:13
 - language used giving rise to, § 6:12
 - pleading and proof, § 6:13, § 6:16, § 6:19, § 6:95
 - publication to persons aware of facts giving rise to, § 6:19
 - true, § 6:13
- Internet
 - damages, § 6:62
 - discovery, § 6:95
 - practice matters, § 6:88, § 6:95, § 6:101
 - publication on, § 6:10, § 6:18, § 6:21, § 6:51
 - service providers, § 6:77, § 6:95
- Joinder of actions, § 6:98
- Joint tort, § 6:22
- Journalist source privilege, § 6:89
- Judges, privilege of, § 6:29
- Judicial proceedings
 - fair and accurate reports of, privilege pertaining to, § 6:42
 - privilege in respect of, § 6:29
- Jurisdiction of court, § 6:83, § 6:101
- Jury trials
 - assessing damages, § 6:100
 - defamatory meaning, § 6:15, § 6:100
 - fair comment, § 6:56
 - function of judge, § 6:15, § 6:57
 - general verdict, § 6:100
 - malice, § 6:48
 - proof of publication, § 6:19

DEFAMATION—Cont'd

- Jury trials—Cont'd
 - responsible communication defence, § 6:57
 - when available, § 6:100
- Justification
 - generally, § 6:26, § 6:27
 - authorities, § 6:27
 - burden of proving, § 6:27
 - criminal offence and, § 6:27
 - discovery of particulars, § 6:90
 - fair comment, distinguished from, § 6:27
 - injunctions, § 6:75
 - onus of proof, § 6:27
 - pleadings, § 6:96
 - provincial legislation, § 6:27
 - subsequent facts, relevance of, § 6:27
 - substantial truth, sufficiency of proof of, § 6:27
- Lawyers, see solicitors, privilege of in judicial proceedings
- Legal innuendo, see true innuendo
- Legislative proceedings
 - privilege pertaining to, § 6:31
 - reports of, privilege pertaining to, § 6:43
- Libel and slander
 - damages, § 6:4
 - distinction between, § 6:4
 - publication, § 6:4
 - reasonable knowledge of, § 6:88
- Limitation periods, § 6:87, § 6:88, § 6:101
- Loss of reputation, § 6:69
- Malice
 - actual malice, § 6:46
 - agent's liability for, § 6:49
 - aggravated damages, § 6:62
 - burden on plaintiff, § 6:46
 - definition, § 6:46, § 6:47
 - discovery, § 6:92
 - evidence
 - disbelief by defendant, § 6:47
 - dominant motive, § 6:47
 - extrinsic or intrinsic, § 6:47
 - recklessness, § 6:47
 - relevancy of words, § 6:47
 - strong language, § 6:47
 - fair comment, § 6:50

DEFAMATION—Cont'd

- Malice—Cont'd
 - function of judge and jury, § 6:48
 - imputed, § 6:49
 - joint malice, § 6:49
- Media, § 6:18, § 6:22, § 6:45, § 6:89
- Notice of action, § 6:88
- Parties
 - associations, § 6:83
 - class actions, § 6:25, § 6:85
 - corporations
 - generally, § 6:80
 - municipal, § 6:81
 - non-profit, § 6:80, § 6:82
 - deceased persons, § 6:78
 - general, § 6:77
 - government, § 6:81
 - mentally ill persons, § 6:79
 - municipalities, § 6:81
 - non-profit corporations, § 6:80, § 6:82
 - police officers, § 6:86
 - professional organizations, § 6:84
 - trade unions, § 6:83
- Pleadings
 - general, § 6:94
 - statement of claim
 - general, § 6:95
 - identity of defendant, § 6:89, § 6:95
 - intention of defendant, § 6:95
 - material facts, § 6:95
 - meaning of words, § 6:13, § 6:95
 - particulars, § 6:95
 - reference to plaintiff, § 6:24, § 6:95
 - specific words, § 6:95
 - statement of defence
 - fair comment, § 6:96
 - general, § 6:96
 - particulars of justification, § 6:96
 - qualified privilege, § 6:96
 - rolled-up plea, § 6:96
- Presumption of damage, § 6:4
- Privilege, see absolute privilege; journalist source privilege; qualified privilege
- Professional organizations, of, § 6:84
- Professional reputation, disparagement of, § 6:7, § 6:11
- Publication
 - accidental or inadvertent, § 6:20
 - agent, to, § 6:18

DEFAMATION—Cont'd

Publication—Cont'd

- apology and retraction, § 6:74
- burden of proving, § 6:19
- deemed admission of by proceeding with defence, § 6:19
- definition, § 6:18
- evidence
 - admission by defendant, § 6:19
 - burden of proof, § 6:19
 - hearsay, § 6:19
 - inference of from proven facts, § 6:19
 - knowledge of third persons, § 6:19
 - proof essential, § 6:17
 - subsequent facts, § 6:19
 - understandability, § 6:19
- indirect, § 6:18, § 6:22
- inferred, § 6:19
- internet, § 6:10, § 6:18, § 6:21, § 6:51, § 6:101
- joint, § 6:22
- lawyer, to, § 6:18
- libel or slander, § 6:4
- means of publication, § 6:16 to § 6:18
- place of publication, § 6:18, § 6:101
- reference to plaintiff
 - evidence, § 6:24
 - general, § 6:23
 - group defamation, § 6:25
 - specific only in subsequent publication, § 6:24
- remedies, see damages
- republication, § 6:18, § 6:22
- single publication rule, § 6:21
- what constituting, § 6:18
 - slander, of, § 6:4
 - successive actions in respect of, § 6:21

Public interest

- fair comment, § 6:53
- responsible communication defence, § 6:57
- strategic litigation against public participation, § 6:97

Public interest responsible journalism defence, § 6:45

- see also responsible communication on matters of public interest

Public meetings, privilege pertaining to reports of, § 6:43

DEFAMATION—Cont'd

Public officials

- allegations of misconduct by, privilege pertaining to, § 6:39
- privilege of, § 6:32

Qualified privilege

- common interest, § 6:34, § 6:40
- communication to general public, § 6:45
- duty, statements in discharge of
 - answers to inquiries, § 6:36
 - general, § 6:35
 - moral or social duty, § 6:35
 - public duty, § 6:38, § 6:45
 - sexual abuse, suspicions re, § 6:35
 - statutory duty, § 6:37
 - voluntary statements, § 6:39
- effect of, § 6:44
- effect of on inference of malice, § 6:34
- excessive publication, § 6:44
- fair comment distinguished from, § 6:45
 - informing public, § 6:43, § 6:45
 - judicial proceedings, § 6:42
 - legislative proceedings, § 6:43
 - public meetings, § 6:43
- general, § 6:34
- government publications, reports of, § 6:43
- judicial proceedings, reports of, § 6:42
- legislative proceedings, reports of, § 6:43
- loss of
 - excessive publication, by, § 6:44
 - malice, by, § 6:34, § 6:42, § 6:46 to § 6:49
 - onus of proving, § 6:34
 - protection of own interest, § 6:41
 - public meetings, reports of, § 6:43
 - public officials, complaints relating to conduct of, § 6:39
- media, § 6:18, § 6:34, § 6:45, § 6:89
- municipal councillors, § 6:38
- onus of proving damage from, § 6:44
- protection of own interest, § 6:41
- public or private duty
 - answers to inquiries, § 6:36
 - general, § 6:35
 - public duty, § 6:38
 - sexual abuse, suspicions re, § 6:35

DEFAMATION—Cont'd

- Qualified privilege—Cont'd
 - public or private duty—Cont'd
 - statutory duty, § 6:37
 - voluntary statements, § 6:39
 - work references, § 6:36
 - quasi-judicial proceedings, privilege in respect of, § 6:30
 - race, injunctive relief against libel based on, § 6:75
 - standard of review on appeal, § 6:34
 - when arising, § 6:34
- Reference to plaintiff
 - necessity for, § 6:23
 - proof of
 - where plaintiff not named, § 6:24
 - where words defamatory of group or class, § 6:25
- Remedies
 - damages, § 6:59 to § 6:74
 - injunction, § 6:75
 - publication of apology, § 6:76
- Representative action for, § 6:75, § 6:85
- Republication
 - liability of original publisher for, § 6:22
 - liability of republisher for, § 6:27, § 6:71, § 6:74
 - words intended for, § 6:4
- Responsible communication on matters of public interest, § 6:57
- Rolled-up pleas, § 6:96
- Self-defence, malice in context of, § 6:47
- Self-interest, privilege pertaining to communications in protection of, § 6:41
- Sexual abuse, suspicions re, § 6:35
- Slander, actionable per se
 - libel distinguished from, § 6:4
 - general, § 6:5
 - imputations of crime, § 6:6
 - imputations of disease, § 6:8, § 6:9
 - injury to reputation, § 6:7
 - unchastity, § 6:9
- Slander of goods
 - nature of action, § 6:2
 - special damages required, § 6:2
- Slander of title, § 6:2, § 9:3
- Solicitor-client communications, privilege pertaining to, § 6:33
- Solicitors, privilege of in judicial proceedings, § 6:29

DEFAMATION—Cont'd

- Special damage
 - necessity for in respect of slander, § 6:4, § 6:5
 - recovery of, § 6:63
- Statement of claim, see pleadings
- Statement of defence, see pleadings
- Survival of actions
 - injurious falsehood, § 6:2
 - libel or slander, § 6:2, § 6:78
- Television, § 6:4, § 6:14, § 6:22
- Trade, disparagement of plaintiff's reputation in, § 6:7
- Trade unions, right of action of, § 6:83
- Trial, § 6:100, § 6:101
- True innuendo
 - categories of, § 6:13
 - definition, § 6:13
- Truth of words
 - complete defence, as, § 6:27
 - imputations, of, § 6:27
 - multiple allegations, of, § 6:27
 - onus on defendant, § 6:27
 - opinion, of, § 6:27
 - presumption against, § 6:27
 - presumption of falsity, § 6:26
 - repetition of slander, § 6:27
 - subsequent facts, § 6:27
 - trust or substance, of, § 6:27
- Unchastity of, § 6:9
- Venue, change in, § 6:99
- Witnesses, § 6:29, § 6:33

DEFAMATORY MEANING

- Categories of statement, § 6:11
- Definition, § 6:10
- Function of jury, § 6:15
- Innuendo, § 6:13
- Ordinary meaning, § 6:12
- Pleading, § 6:95
- Standard of opinion, § 6:10, § 6:16
- Surrounding circumstances, § 6:10

DEFENCES

- See also absolute privilege, consent, fair comment, justification, qualified privilege, responsible communication on matters of public interest
- Consent, § 19A:2
 - express, § 19A:4
 - implied, § 19A:3

DEFENCES—Cont'd

Contributory negligence, § 19A:6
 automobile accidents, § 19A:8
 children, § 19A:7
 emergencies, § 19A:9
 Illegality, § 19A:5
 Inevitable accident, § 19A:10

DEFENCES TO

Charity, § 14:8
 Common interest, § 14:7
 Kinship, § 14:9

DEFENDANTS

See also plaintiffs; third parties
 Agents, § 5:18
 Corporation, § 5:18
 Directors/officers, § 19:6, § 19:12
 Foreseeability, § 19:6, § 19:9
 General, § 19:6
 Government officials, § 19:6, § 19:7,
 § 19:41
 Infant, § 5:18
 Joint tortfeasors, § 5:18
 Professionals, § 19:1

DEFENDANT'S IDENTITY

Generally, § 6:26, § 6:95

DEGREE OF FAULT, DETERMINING

Evidence for, § 17:15
 General, § 17:15
 Inability to determine, § 17:15
 Joint vs. several liability, § 17:15, § 17:18
 Question of fact, as, § 17:15

DELAY

Generally, § 4:16
 In prosecution of action, solicitor's
 liability for, § 18:15

DELEGATION OF DUTIES

Negligence, effect of on liability for,
 § 16:26

DELIVERY TO THIRD PARTY

Generally, § 4:10

DEMAND AND REFUSAL

As evidence of conversion, § 4:10
 Nature of refusal, § 4:10
 Necessity for, § 4:10
 Reasonableness of refusal, § 4:10
 Sufficiency of demand, § 4:10

**DEMAND FOR PAYMENT,
 UNREASONABLE TIME FOR
 COMPLIANCE WITH**

Generally, § 4:24

DENTISTS

See medical practitioners

DEPENDENT ADULTS

See damages; family and dependants'
 compensation; limitation of actions,
 disability of plaintiff; mentally dis-
 abled persons

DEPRECIATION, DAMAGES FOR

Generally, § 30:95, § 30:96
 Trespass to land, in action for, § 26:11

DERIVATIVE ACTIONS

Contributory negligence, effect of on,
 § 17:16, § 30:67
 Dependants' compensation claim as,
 § 30:67
 Expiry of, § 31:34
 Wrongful death action as, § 30:67

**DESCRIPTIVE LANGUAGE, RIGHTS
 IN FOR PURPOSES OF PASSING
 OFF ACTION**

Generally, § 22:14

DESIGN, DEFECTS

Generally, § 23:8

**DESIGN, LIABILITY FOR
 DEFECTIVE**

Architects, of, § 18:86
 Products liability, in action for, § 23:8

DESTRUCTION OF CHATTELS

Conversion, as
 accidental destruction, § 4:10
 co-owner, by, § 4:24
 test for, § 4:10
 wilful, § 4:10

Damages for, see property loss or dam-
 age, damages for

**DETENTION OF GOODS AS
 CONVERSION**

Generally, § 4:10

**DETENTION WITHOUT ARREST AS
 FALSE IMPRISONMENT**

Generally, § 7:7, § 7:12

INDEX

DETINUE

- See conversion and detinue
- Definition, § 4:1, § 4:9
- Distinguished from trespass to chattels, § 25:2, § 25:3
- Forms of, § 4:23

DEVELOPING TORTS

- Abuse of public office, see misfeasance in public office
- Appropriation of personality, see also privacy, invasion of
- Breach of confidence
 - confidential information, § 27:17, § 27:21
 - defences
 - consent to disclosure, § 27:18
 - equitable estoppel, § 27:18
 - public interest, § 27:18
 - required by law, § 27:18
 - detriment, § 27:17
 - duty of confidentiality
 - personal information, § 27:16
 - unintentional breach, § 27:17
 - when absent, § 27:17
 - when arising, § 27:16
 - elements of, § 27:17, § 27:21
 - equity, § 27:16, § 27:19
 - financial compensation, § 27:19
 - general, § 27:16
 - injunction, § 27:19
 - measure of damages of, § 27:19
 - nature of, § 27:16
 - parties, § 27:20
 - remedies, § 27:19
 - sui generis hybrid, § 27:16
 - trade secrets, § 27:16
 - unpatented inventions, § 27:16
- Consent, see breach of confidence; privacy, invasion of
- Criminal Code, § 27:7, § 27:8
- Damages
 - appropriation of personality, § 27:4, § 27:10
 - breach of confidence, § 27:19
 - interference with economic interests, § 27:24, § 27:26
 - misfeasance in public office, § 27:32
 - privacy, invasion of, § 27:3, § 27:4, § 27:10
 - proof of, § 27:4, § 27:11

DEVELOPING TORTS—Cont'd

- Damages—Cont'd
 - punitive, § 27:3, § 27:7, § 27:10, § 27:26
- Deceit
 - invasion of privacy and, § 27:2
- Discrimination
 - Charter, § 27:35
 - development of, § 27:35
 - human rights legislation and, § 27:35
 - sexual harassment, § 27:35
- Duty of confidentiality, see breach of confidence
- Electronic surveillance, § 27:2, § 27:7, § 27:10
- Harassment, § 27:35
- Immunity of government officials, § 27:6, § 27:31
- Inducing breach of contract, distinguished from, § 27:29
- Injurious falsehood
 - invasion of privacy and, § 27:2
- Interference with economic interests, see interference with economic interests
- Invasion of privacy, see privacy, invasion of
- Misfeasance in public office
 - damages for, § 27:32
 - defences to, § 27:31, § 27:34
 - development of, § 27:29
 - elements of
 - bad faith conduct, § 27:30
 - improper purpose, § 27:30
 - malice and intent, § 27:30
 - failure to act, § 27:30
 - limitation of actions, § 27:34
 - pleadings, § 27:33, § 27:34
 - policy and political decisions, § 27:30
 - public officer, § 27:33
 - purpose of, § 27:29
 - rationale for tort, § 27:30
 - ultra vires action, § 27:30
- Nuisance, invasion of privacy and, § 27:2
- Parties, § 27:27
- Passing off, see appropriation of personality; privacy, invasion of
- Privacy, definition, § 27:1
- Privacy, invasion of, see also appropriation of personality
 - appropriation of personality
 - damages, § 27:4

DEVELOPING TORTS—Cont'd

Privacy, invasion of, see also appropriation of personality—Cont'd
 appropriation of personality—Cont'd
 defamation and, § 27:4
 defences, § 27:4
 elements, § 27:4, § 27:11
 passing off, and, § 27:4
 remedies, § 27:4
 right of publicity, § 27:4
 right of survivorship, § 27:4
 statutory, § 27:1, § 27:11
 Charter, and, § 27:1, § 27:9
 common law tort, generally, § 27:1, § 27:2
 criminal offences, § 27:7
 cyberbullying, § 27:5, § 27:12
 deceit, and, § 27:2
 defamation and, § 27:2, § 27:4
 defences
 common law, at, § 27:4
 statutory tort, to, § 27:10
 electronic surveillance, § 27:2, § 27:7, § 27:10
 false light doctrine, § 27:1
 freedom of information, § 27:13
 injurious falsehood, and, § 27:2
 intimate images, distribution of, § 27:12
 intrusion upon seclusion, § 27:1, § 27:3, § 27:10
 nuisance, and, § 27:2
 other countries, developments in, § 27:1
 passing off, and, § 27:4
 personal information protection legislation
 federal, § 27:6 to § 27:9
 provincial, § 27:13
 public disclosure of private facts, § 27:1, § 27:5
 Quebec, § 27:10
 statutory tort, federal, § 27:6
 statutory tort, provincial
 damages, § 27:10
 defences, § 27:10
 elements of, § 27:10
 limitation of actions, § 27:10
 other legislation, relationship to, § 2:18
 parties, § 27:10, § 27:13

DEVELOPING TORTS—Cont'd

Privacy, invasion of, see also appropriation of personality—Cont'd
 statutory tort, provincial—Cont'd
 remedies, § 27:10
 right of survivorship, § 27:10, § 27:11
 trespass, and, § 27:2
 voyeurism, § 27:7
 Privacy legislation
 federal, § 27:6 to § 27:8
 provincial, § 27:10 to § 27:13
 Public interest
 defence as, § 27:4, § 27:10, § 27:18
 Punitive damages
 abuse of office, § 27:32
 Qualified privilege
 defence, § 27:10
 Remedies, § 27:26
 see also damages
 appropriation of personality, § 27:10
 breach of confidence, § 27:19
 equitable, availability of, § 27:16
 misfeasance in public office, § 27:32
 Right of publicity, § 27:4
 see also privacy, invasion of
 Scope of tort, § 27:23, § 27:24
 Sexual harassment, § 27:35
 Statutory breaches, § 27:24
 Tort injury to economic interests, see interference with economic interests
 Trade secrets, breach of confidence, § 27:16
 Ultra vires action, see misfeasance in public office
 Unlawful interference with economic interests, see unlawful means
 Unlawful means tort
 criminal offences, § 27:24
 defences, § 27:25
 development of, § 27:23
 elements of, § 27:24
 damages, proof of, § 27:24
 intent to injure, § 27:24
 interference through third party, § 27:24
 “unlawful means,” § 27:23, § 27:24
 “Wilkinson principle”
 privacy interests protected by, § 27:2

INDEX

DIRECT INTERFERENCE

As basis of action, § 25:7
Forms of, § 25:9

DIRECTORS, CORPORATE

Injuries to, corporation's right of action for, § 10:3
Liability of
generally, § 3:14, § 8:18, § 32:53
conspiracy, for, § 3:14
interference with contractual relations, for, § 8:18
passing off, for, § 22:25

DIRECTORS/OFFICERS

Generally, § 19:6, § 19:12

DISABILITY

Limitation of actions and effect of, § 31:29
limitation periods affected by, § 31:29
personal representative, where, § 31:29
physical, where, § 31:29
temporary, where, § 31:29
what constitutes, § 31:29
when arising, § 31:29
Negligence, effect of on liability for mental disability, § 16:12
physical disability, § 16:11

DISALLOWANCE OF LIMITATION DEFENCE UNDER NOVA SCOTIA LIMITATIONS LEGISLATION

Generally, § 31:33

DISCLAIMERS

See also releases; voluntary assumption of risk; concurrent tort/contract liability
Deceit, as defence to, § 5:14
Duty negated by, § 19:11
Reliance negated by, § 19:11

DISCLAIMERS/EXCLUSION CLAUSES

See contracts, breach of; releases; sports-related injuries; volenti non fit injuria

DISCOUNTING OF DAMAGE AWARD

Generally, § 30:47, § 30:90

DISCOVERABILITY RULE

Generally, § 31:26
Application of, § 31:34
Defamation re, § 6:87

DISCOVERABILITY RULE—Cont'd

Nature and effect, § 31:26

DISCOVERY

Generally, § 2:27, § 15:16
Fair comment on particulars, § 6:91
Internet defendants, § 6:95
Jurisdiction, § 6:90
Newspaper rule, § 6:89
Particulars of justification, § 6:90
State of mind, § 6:92

DISCRIMINATION

Charter, § 27:35
Development of, § 27:35
Human rights legislation and, § 27:35
Liability for, § 27:35
Sexual harassment, § 27:35

DISEASE, LIABILITY FOR IMPUTATION OF

Generally, § 6:8

DISHONESTY IN BUSINESS OR CALLING, LIABILITY FOR IMPUTATION OF

Generally, § 6:7, § 6:11

DISMISSAL

Of case, effect of, § 15:7
Of employee, privilege pertaining to communications relating to, § 6:36

DISPOSITION BY NON-OWNER

Generally, § 4:10

DISTINCTIVE WORDS OR MARKS, LOSS OF RIGHT TO EXCLUSIVE USE OF

Generally, § 22:14

DOCTORS

See health practitioners; medical malpractice; medical treatment

DOGS

See also animals, dangerous
Generally, § 24:12, § 24:15 to § 24:17, § 24:25
At large, § 24:15
Cattle, as, § 24:12
Liability in respect of, § 24:12, § 24:15, § 24:16, § 24:25
Statutory liability for, § 24:15, § 24:17
Trespasser's knowledge of, § 24:25

**DOMESTICATED ANIMALS,
LIABILITY FOR INJURIES
CAUSED BY**

Generally, § 24:3, § 24:15, § 24:17

DONOGHUE V. STEVENSON, RULE IN

Generally, § 16:22, § 23:1, § 23:6,
§ 23:10, § 23:22

DRUNKENNESS

See intoxication

DUTY OF CARE (GENERAL)

See also elements of; negligent misrepresentation; statements

Generally, § 16:22

Anns test, § 16:23

Burden of proof, § 16:23

Cooper v. Hobart, § 16:23

Donoghue v. Stevenson, § 16:22

Proximity, § 16:25

Reasonable foreseeability, § 16:24

Residual policy issues, § 16:26

**DUTY OF CONFIDENTIALITY,
LIABILITY FOR BREACH OF**

See breach of confidence

DUTY TO WARN, SCOPE OF

See warning

**EARNING CAPACITY, DAMAGES
FOR LOSS OF**

See damages, pecuniary damages

EASEMENT

Interference with, liability for, § 20:9,
§ 26:14

Nuisance as, § 20:18

Right to as defence to trespass action,
§ 26:8

**ECONOMIC INTERESTS, UNLAWFUL
INTERFERENCE WITH**

See interference with economic interests

ECONOMIC LOSS

Generally, § 19:15

Duty of care, § 16:26

Recovery of consequential economic
losses, § 19:16

Recovery of pure economic losses

generally, § 19:17

negligent misrepresentation, § 19:18

ECONOMIC LOSS—Cont'd

Recovery of pure economic losses

—Cont'd

negligent performance of service,
§ 19:19

negligent supply of shoddy products,
§ 19:20

Relational economic loss, § 19:21

ECONOMIC LOSS, RECOVERY OF

Consequential losses, § 19:16

Products liability, in action for, § 23:22 to
§ 23:24

Pure economic losses, § 19:17 to § 19:21

Rylands v. Fletcher, in action based on,
§ 24:26

EDUCATION

See teachers/school boards

EDUCATIONAL MALPRACTICE

Generally, § 16:20

**EFFECT/NATURE OF (COMMON
LAW)**

Generally, § 17:1, § 17:11

EFFECT/NATURE OF (STATUTORY)

Applicability of Acts, § 17:14

Construction of statutes, § 17:12

Fatal accidents, § 17:14

General, § 17:1, § 17:12

Last clear chance, § 17:11, § 17:13

Retroactivity of statutes, § 17:15

Workers' compensation, § 17:14

EJECTMENT

Generally, § 26:14

**ELECTED OFFICIALS, PRIVILEGE
OF FOR DEFAMATORY
STATEMENTS**

Generally, § 6:31

ELECTION OF REMEDIES

Contract or tort, § 29:45 to § 29:47

Conversion or detinue, § 4:19

Restitutionary remedy, § 31:17 to § 31:22

ELECTRICAL INSTALLATIONS

See powerlines/lightning wires

ELECTRONIC SURVEILLANCE

Generally, § 27:2, § 27:7, § 27:10,
§ 32:13

INDEX

ELECTRONIC SURVEILLANCE

—Cont'd

Protection against unlawful, § 27:2,
§ 27:7, § 27:10

ELEMENTS OF

Cause in fact, § 17:4, § 17:9

Cause of action, see also duty of care
(general)

generally, § 19:5

damages, § 19:10

duty of care, § 19:6

standard of care, § 19:8

Negligence, § 16:6

see also damages; duty of care (gen-
eral); proximate cause/remoteness
of damage; standard of care (rea-
sonable person)

Negligent misrepresentation, § 19:7

reliance on misrepresentation, § 19:9

duty of care, § 17:3, § 17:4

general, § 17:3

Proximate cause, § 17:10

Reliance, § 19:9

Standard of care, § 17:2, § 17:6

Tort

injurious falsehood, § 6:2

libel or slander, § 6:3, § 6:26

EMAIL

Generally, § 6:4, § 6:18, § 6:88

EMERGENCIES

See also rescuers; standard of care

Ambulances, § 16:21

Duty to intervenors, § 19:43

Fires, § 17:8

Rescuers (people), § 17:8

Standard of care (general), § 16:21,
§ 17:8

EMPLOYEES

See also employers

Generally, § 4:25

Agents distinguished from, § 29:36

Duty of confidentiality of, § 27:16

Liability for acts of, see also employers

Liability of, § 8:18

indemnification of employer, § 29:29,
§ 29:34

interference with contractual relations,
for, § 8:18

nuisance, for, § 20:24

EMPLOYER AND EMPLOYEE

Common law liability, § 32:49

Workers' compensation legislation,
§ 32:50

EMPLOYERS

See also employees

right of action of for injury to

employee, see employees

vicarious liability of, see also Crown

Assistance from as maintenance and
champerty, § 14:9

Indemnification by employee, right to,
§ 29:29, § 29:34

Liability for injuries to employees,
§ 32:48 to § 32:50

Liability of, § 2:26, § 15:7, § 15:10,
§ 15:13

Strict liability for acts of, § 24:22

Vicarious liability of, see also Crown

acts prohibited by employer, for,
§ 29:32

assault or battery, for, § 2:26

borrowed employees, for acts of,
§ 29:33

course of employment, acts committed
during, § 29:32

effect of, § 29:31

employment relationship, § 29:31,
§ 29:33

indemnification of for, § 29:29, § 29:34

intentional acts, for, § 29:32

malicious prosecution, for, § 15:7,
§ 15:13

nature of liability, § 29:31

negligent acts, for, § 29:32

passing off, for, § 22:25

theft, for, § 29:32

trespass, for, § 26:15

EMPLOYMENT

See vicarious liability

EMPLOYMENT REFERENCE

CHECKS, PRIVILEGE PERTAINING TO

Generally, § 6:36

ENFORCEABLE CONTRACT, NECESSITY FOR

Generally, § 8:7

ENGINEERS

See architects and engineers

**ENTRANCE FEE, EFFECT OF ON
STATUS OF ENTRANT**

Generally, § 21:11

**EQUALITY RIGHTS, EFFECT OF ON
LIMITATION PERIODS**

Generally, § 31:25

ERROR IN JUDGMENT, DEFENCE OF

Architects and Engineers, § 18:60

ESCAPE

Availability of means of, § 7:7

Use of force in effecting, § 7:15

**ESCAPE OF DANGEROUS THINGS,
STRICT LIABILITY FOR**

See strict liability

**ESTATE ADMINISTRATION COSTS,
RECOVERY OF**

Generally, § 30:93

ESTOPPEL

Generally, § 5:14, § 29:41

EVIDENCE

See causation; onus/burden of proof; standard of care (reasonable person); res ipsa loquitur

Generally, § 2:27

Admissibility

character evidence, § 15:9

Agreement, of, § 3:6, § 3:15

Certificate of conviction as, § 3:2

Co-conspirators, admissions of, § 3:15

Discovery, § 15:16

Onus of adducing, § 3:10

Onus of proof, § 15:2, § 15:16

Provision of as maintenance and champerty, § 14:2

Termination of proceedings, § 15:16

EXCAVATIONS

Generally, § 17:5

EXCLUSION CLAUSES

See also contracts, breach of; releases; res ipsa loquitur; volenti non fit injuria; voluntary assumption of risk

Deceit, as defence to, § 5:14

EXCLUSION OF DUTY OF CARE

See defences, statutory

EXECUTION

Generally, § 4:24

Abuse of process, as, § 1:8

Assistance in as maintenance and champerty, § 14:2

Damages for wrongful execution, § 25:12, § 25:13

Defences relating to, § 25:11

Trespass to chattels, as

damages for, § 25:12, § 25:13

defences relating to, § 25:11

Trespass to land during, § 26:12

EXECUTION, EXCESSIVE

Generally, § 1:8

EXECUTORS, CONVERSION BY

Generally, § 4:25

EXEMPLARY DAMAGES

See punitive damages

Generally, § 3:11, § 4:22, § 5:20, § 8:15, § 10:11, § 15:15

EXPECTATION OF LIFE, LOSS OF

Generally, § 30:16

EXPROPRIATION, WRONGFUL

Generally, § 26:6, § 26:10, § 26:11

**EXTENSION OF LIMITATION
PERIOD**

See limitation of actions; limitation periods

EXTINCTION OF LIABILITY

See also cause of action estoppel; issue estoppel

Accord and satisfaction, § 29:40

Assignment, § 29:42

Death, § 29:39

Judgment, § 29:41

Release, § 29:40

EX TURPI CAUSA

See illegality, defence of

Generally, § 2:21, § 29:20

Assault or battery, for, § 2:21

Conspiracy, to, § 3:10

FAILURE TO PROSECUTE

Generally, § 15:4

INDEX

FAIR COMMENT

- Authorities, § 6:56
- Basis in fact, § 6:51
- Corrupt motives, imputation of, § 6:55
- Defence of
 - defamation, to, § 6:50 to § 6:56, § 6:92, § 6:96
 - invasion of privacy, to, § 27:10
- Discovery, § 6:92
- Fairness, § 6:54
- Function of jury, § 6:56
- General, § 6:50
- Matter of public interest, § 6:53
- Onus on defendant, § 6:50
- Pleading, § 6:96
- Recognizable as criticism, § 6:52
- Website postings, § 6:51

FALSE ARREST

- Generally, § 7:5

FALSE IMPRISONMENT

- Abuse of process distinguished from, § 1:5
- Acquiescence, see consent
- Agent, act of as basis of liability, § 7:10, § 7:20
- Arrest
 - assistance in, § 7:12
 - Criminal Code, under, § 7:12
 - definition, § 7:12
 - lawfulness of, § 7:12
 - common law, § 7:12
 - Criminal Code, under, § 7:12
 - onus of proving, § 7:12
 - reasons for, § 7:12
 - right of
 - police officer, § 7:12
 - private citizen, § 7:12
 - property trespass, § 7:12
 - warrant for
 - notice of, § 7:12
 - validity of, § 7:12
- Assistance, duty to render, § 7:13
- Cause of action
 - definition, § 7:1, § 7:6
 - distinguished from
 - malicious process, § 7:3
 - malicious prosecution, § 7:2
 - wrongful process of law, § 7:4

FALSE IMPRISONMENT—Cont'd

- Cause of action—Cont'd
 - elements
 - compulsion by legal authority, § 7:8
 - confinement
 - agreement, by, § 7:8
 - availability of means of escape, § 7:7
 - extent of, § 7:7
 - mental health facility, § 7:7
 - nature of, § 7:7
 - non-action, by, § 7:8
 - plaintiff's awareness of, § 7:9
 - reasonableness of means of escape, § 7:7
 - segregated custody, § 7:7
 - direct act of defendant, § 7:10
 - intention, § 7:10
 - negligent act of defendant, § 7:10
 - physical contact, § 7:8
- Confinement
 - awareness of, § 7:9
 - extent of, § 7:7
 - failure to provide assistance, by, § 7:8
 - plaintiff having means of escaping from, § 7:7
 - segregated custody, § 7:7
 - voluntary submission to, § 7:8, § 7:9
- Consent
 - absence of as element of cause of action, § 7:9
 - confinement, to, § 7:8, § 7:9
 - reality of, § 7:8
- Contact, requirement of, § 7:8
- Coroners, liability of, § 7:18
- Corporations, liability of, § 7:20
- Crown
 - limitation periods, § 7:22
- Damages
 - aggravated damages, § 7:14
 - considerations in awarding, § 7:14
 - heads of damage recoverable, § 7:14
 - jury, role of, § 7:22
 - measure of damages, § 7:14
 - presumption of damage, § 7:14
 - punitive damages, § 7:14
 - unaware plaintiff, § 7:14
- Debts, enforcement of, § 7:13

FALSE IMPRISONMENT—Cont'd

Defences, § 7:11 to § 7:13
 lawful arrest/detention
 Criminal Code, under, § 7:12
 provincial legislation, under, § 7:12
 legal authority, § 7:12
 mistake, § 7:10, § 7:12
 onus of proving, § 7:11
 pleading, § 7:22
 reasonable conditions for release,
 § 7:13
 Definition, § 7:1
 Detention without arrest, § 7:7, § 7:12
 Distinguished from malicious prosecution,
 § 15:2
 Escape
 availability of means of, § 7:7
 use of force in effecting, § 7:15
 False arrest, § 7:5
 Habeas corpus, § 7:16
 Intention, § 7:10
 Intervening acts, § 7:10
 Joint tortfeasors, § 7:17
 Judges, liability of for, § 7:18
 Judicial act, effect of, § 7:10
 Jurisdiction of court, § 7:22
 Jury, role of, § 7:22
 Justification, see defences, statutory
 Legal authority
 assertion of as means of imprisonment,
 § 7:8
 defence, as, § 7:12
 detention without arrest, § 7:12
 Limitation of actions, § 7:22
 Magistrates, liability of for, § 7:18
 Malicious process distinguished from,
 § 7:3
 Malicious prosecution distinguished from,
 § 7:2
 Mistake, § 7:10, § 7:12
 Motor vehicle legislation, § 7:12
 Municipal corporations
 liability of, § 7:21
 limitation periods, § 7:22
 Negligence, § 7:10
 Onus of proof, § 7:2, § 7:11, § 7:12,
 § 7:22
 Parties
 corporations, § 7:20
 joint tortfeasors, § 7:17

FALSE IMPRISONMENT—Cont'd

Parties—Cont'd
 judicial officers, § 7:18
 municipal corporations, § 7:21, § 7:22
 police, § 7:19
 Pleadings, § 7:22
 Police
 intervention of, § 7:10
 liability of, § 7:12, § 7:19
 Questions of fact, § 7:22
 Questions of law, § 7:22
 Remedies
 aggravated damages, § 7:14
 compensatory damages, § 7:14
 habeas corpus, § 7:16
 punitive damages, § 7:14
 self-help, § 7:15
 Restraint, means of
 failure to act, § 7:8
 moral pressure, § 7:8
 physical contact, § 7:8
 Self-help, § 7:15
 Solitary confinement/segregated custody,
 § 7:7
 Statutory protection
 judicial officers, § 7:18
 peace officers, § 7:12
 private citizen effecting arrest, § 7:12
 Vicarious liability for, § 7:20
 Wrongful process of law distinguished
 from, § 7:4

FALSE INNUENDO

Generally, § 6:13

FAMILY, ASSISTANCE FROM

Generally, § 14:8, § 14:9

**FAMILY AND DEPENDANTS'
COMPENSATION**

Acceleration of inheritance, § 30:80,
 § 30:86
 Accumulated wealth, loss of, § 30:80
 Apportionment of loss, § 30:88
 Beneficiaries entitled to cohabitee,
 § 30:68
 common-law spouse, § 30:68
 divorced spouse, § 30:68
 illegitimate child, § 30:68
 person in loco parentis, § 30:68
 Child, loss of or injury to, § 30:81

FAMILY AND DEPENDANTS' COMPENSATION—Cont'd

Collateral benefits
 employment benefits, § 30:92
 government assistance, § 30:92
 gratuitous provision of services generally, § 30:79
 parenting services, § 30:84
 insurance proceeds, § 30:92
 Contingencies, § 30:89
 Discounting of award, § 30:90
 Duration of dependency, § 30:87
 Employment, effect of beneficiaries obtaining, § 30:85
 Estate administration costs, recovery of, § 30:93
 Funeral expenses, recovery of, § 30:93
 Gross-up for income tax, § 30:91
 Guidance, care and companionship
 non-pecuniary loss, as, § 30:77
 pecuniary loss, as, § 30:76
 quantum, § 30:77
 recoverability of damages for, § 30:75 to § 30:77
 Homemaker, loss of services of, § 30:78, § 30:79
 Income, loss of dependency on
 deductions, § 30:73
 gross income, § 30:72
 portion of income available to dependants, § 30:73, § 30:74
 Income tax, effect of, § 30:91
 Inheritance
 acceleration of, § 30:80, § 30:86
 loss of, § 30:80
 Marriage breakdown, deduction for possibility of, § 30:89
 Medical expenses, recovery of, § 30:93
 Nature of claim, § 30:67, § 30:88
 Non-pecuniary losses, recoverability of, § 30:69, § 30:77
 Ontario Family Law Act, under, § 30:26
 Parents
 loss of services of, § 30:75, § 30:76, § 30:79
 surrogate, § 30:84, § 30:89
 Pecuniary benefit, loss of
 as basis of claim, § 30:69
 factors considered in quantifying, § 30:69
 loss of child, in respect of, § 30:81

FAMILY AND DEPENDANTS' COMPENSATION—Cont'd

Punitive damages, § 30:6, § 30:67
 Quantification of claim
 loss of child, § 30:81
 loss of dependency on income, § 30:71 to § 30:74
 loss of guidance, care and companionship, § 30:77
 loss of homemaker, § 30:78
 loss of inheritance, § 30:80
 loss of opportunity, § 30:69
 period of loss, § 30:87
 Reasonable expectation of benefit as grounds for, § 30:69
 Remarriage, effect of on, § 30:83, § 30:89
 Scope of recovery, § 30:69
 Services, loss of dependency on
 gratuitous provision of replacement services, effect of, § 30:79, § 30:84, § 30:89
 guidance, care and companionship, § 30:77
 nature of services for which damages recoverable, § 30:75
 services of child, § 30:81
 services of homemaker, § 30:78
 services of parent, § 30:76
 Special damages, § 30:93
 Taxation, effect of, § 30:91
 Travel expenses, recovery of, § 30:93

FAMILY LAW DISPUTES

Generally, § 10:1

FARM LAND, DAMAGES FOR TRESPASS TO

Generally, § 26:11

FATAL ACCIDENTS

Generally, § 16:5
 Cases, § 17:14, § 17:16

FATAL INJURY DAMAGES

See damages; family and dependants' compensation

FAULT

Generally, § 17:14, § 17:15

FEDERAL COURT, JURISDICTION OF

Generally, § 2:27
 Federal Crown, in action against, § 32:16
 Passing off, in action for, § 22:27

FEDERAL COURT, JURISDICTION OF
—Cont'd

Trespass, in action for, § 26:16

FEDERAL LEGISLATION, ACTIONS UNDER

Canada Business Corporations Act, § 22:5

Competition Act, § 22:4

Consumer protection legislation, § 22:6

Copyright Act, § 22:7

Criminal Code, § 22:3

Trade-marks Act, § 22:2

FERAE NATURAE

Generally, § 24:3

FERTILITY, LOSS OF

Generally, § 30:16

FIDUCIARY DUTIES

Accountants, of, § 18:37

Barristers and solicitors, of, § 18:4

Breach of, § 2:5

FIDUCIARY DUTY

See accountants; barristers and solicitors

FIDUCIARY DUTY TO DISCLOSE, EFFECT OF

Generally, § 5:8

FIGHTS

See assaults/fights

FINANCIAL ASSISTANCE IN LITIGATION

See maintenance and champerty

FINANCIAL INTEREST

See common interest

FINANCIAL STATEMENTS, LIABILITY FOR NEGLIGENT PREPARATION OF

See accountants

FINANCIAL STATEMENTS, RELIANCE ON

Generally, § 19:6 to § 19:8

FINDER, RIGHT OF ACTION OF FOR CONVERSION

Generally, § 4:9, § 4:24

FIRE, STRICT LIABILITY FOR

Generally, § 24:2

FIRST NATIONS LAND

Trespass to, § 26:8, § 26:14 to § 26:16

FIXTURES

Conversion of, § 4:8

Defective, liability in respect of injuries caused by, § 23:5

FOETUS, PROTECTION OF

Generally, § 16:26

FORCIBLE ENTRY, EFFECT OF IN TRESPASS ACTION

Generally, § 26:6, § 26:10

FOREIGN LAND, JURISDICTION OVER TORTS INVOLVING

Generally, § 29:49

FOREIGN TORTS

See conflict of laws

FORESEEABILITY

See also duty of care (general); nervous shock; proximate cause/remoteness of damage

Generally, § 16:24, § 17:9, § 17:10, § 19:6, § 19:9, § 23:5, § 23:16

Damage, of, § 2:1, § 2:2, § 2:22

Duty of care and, § 16:24

Nervous shock, of, § 10:6, § 10:11, § 19:24

Proximate cause/remoteness of damage, § 16:33

FORESEEABLE DANGER

Generally, § 21:24

FORMATION OF CONTRACT, EFFECT OF INTERFERENCE WITH

Generally, § 8:6

FRANCHISES

See business

FRAUD

Contractual remedies for, § 5:3

Equitable or constructive, § 5:2

Nature of, § 5:2

Pleading, § 5:21

Proof of, § 5:21

FRAUD CASES

Generally, § 17:14

INDEX

“FRAUD ON THE MARKET” THEORY
Generally, § 19:9

**FRAUDULENT CONCEALMENT OF
CAUSE OF ACTION, EFFECT OF
ON LIMITATION PERIODS**
Generally, § 31:28

**FRAUDULENT
MISREPRESENTATION**
See deceit

FUMES, LIABILITY FOR ESCAPE OF
See also nuisance
Generally, § 24:8

**FUNCTIONAL APPROACH
ASSESSING DAMAGES**
Generally, § 30:15

FUNERAL EXPENSES, RECOVERY OF
Generally, § 30:93

FUTURE EVENT
Generally, § 19:7

**GARNISHMENT AS ABUSE OF
PROCESS**
Generally, § 1:9

GENERAL DAMAGES
Generally, § 3:11

**GEOGRAPHIC OR PHYSICAL
ORIGIN, RIGHT TO EXCLUSIVE
USE OF WORDS DESCRIBING**
Generally, § 22:14

GOVERNMENT OFFICIALS
Generally, § 19:6, § 19:7, § 19:41

**GROSS-UP FOR INCOME TAX,
AVAILABILITY OF**
Generally, § 30:49, § 30:91

GUIDANCE
Care and companionship, damages for
loss of, § 30:77
Care and training, damages for loss of,
§ 30:75, § 30:76

HABEAS CORPUS
Generally, § 7:16

HARASSMENT
Generally, § 27:35

**HATRED, PROMOTION OF AS BASIS
FOR INJUNCTIVE RELIEF**
Generally, § 6:75

**HAZARDOUS ACTIVITIES,
LIABILITY IN RESPECT OF**
Generally, § 24:11

HEALTH PRACTITIONERS
See also medical malpractice
Duty of care, § 16:26
Intervening medical error, § 16:35

HEDLEY BYRNE
Generally, § 19:1, § 19:6, § 19:11

**HIGHWAYS, LIABILITY FOR
NON-REPAIR OF**
See streets and highways, liability for
non-repair of

HISTORICAL DEVELOPMENT
See nature of action
Generally, § 19:1

**HISTORY OF TRESPASS TO
CHATTELS**
Generally, § 25:1, § 25:2

**HOMEMAKER, DAMAGES FOR LOSS
OF SERVICES**
Generally, § 30:16, § 30:32, § 30:78,
§ 30:79

HORSES
Generally, § 24:3, § 24:15

HOSPITALS
See health practitioners; medical malprac-
tice

**HOSPITALS, LIABILITY OF HEALTH
PRACTITIONERS; MEDICAL
MALPRACTICE**
See medical practitioners

HUNTING LICENCE
Generally, § 26:10

HUSBAND
Immunity of in tort, § 29:24, § 32:61
Right of action of
wife, for injury to, § 30:75 to § 30:79

HUSBAND AND WIFE
Common law liability between, § 32:60
Doctrine of unity, § 32:60

HUSBAND AND WIFE—Cont'd

Interspousal immunity, § 32:60, § 32:61

IGNORANCE

Generally, § 20:16

ILLEGALITY, DEFENCE OF

Generally, § 19A:5

Assault or battery, to, § 2:21

Conspiracy, to, § 3:10

**IMMORALITY, LIABILITY FOR
IMPUTATION OF**

Generally, § 6:9, § 6:11

IMMUNITY FROM LIABILITY

Generally, § 9:17

IMMUNITY FROM SUIT

Conspiracy, in action for, § 3:10, § 3:14

Crown, of, § 32:15, § 32:25

Government officials, of, see also public
authorities or officers

abuse of office, in action for, § 27:31

Privacy Act, § 27:6

Spouses, § 29:24, § 32:61

**IMMUNITY OF GOVERNMENT
OFFICIALS**

Generally, § 27:6, § 27:31

IMPAIRED DRIVERS, RIDING WITH

Generally, § 17:2, § 17:5, § 17:18

IMPAIRED DRIVING

Vendors, duty of, § 16:18, § 16:26

IMPECUNIOSITY

Effect of on duty to mitigate, § 30:122

Litigant, of

maintenance and champerty, as defence
to, § 14:8

Plaintiff, of

effect of on duty to mitigate, § 30:122

IMPUTATIONS OF CRIME

Burden of proof, § 6:27

Slander, § 6:6

When defamatory, § 6:11

IMPUTATIONS OF DISEASE

Generally, § 6:8

**IMPUTED NEGLIGENCE BETWEEN
PARTIES**

Agent/principal, § 17:16

**IMPUTED NEGLIGENCE BETWEEN
PARTIES—Cont'd**

Fatal accidents, § 17:16

General, § 17:16

Gratuitous passengers, § 17:16

Parent/child, § 17:16

Spouses, § 17:16

INADVERTENCE/FORGETFULNESS

Generally, § 17:5

INCOME

See also profits, loss of

Loss of dependency on, § 30:71 to
§ 30:74

Loss of earning capacity, damages for,
§ 30:33 to § 30:50

Loss of earnings, damages for, § 30:52 to
§ 30:54

Loss of property producing, damages for,
§ 30:99 to § 30:104

INCOME, LOSS OF

See damages

Generally, § 30:72 to § 30:74

**INCOME TAX, EFFECT OF ON
AWARD OF DAMAGES**

Generally, § 30:49, § 30:55, § 30:91

**INCONSISTENT DEALINGS AS BASIS
FOR LIABILITY**

Generally, § 8:11

INCONVENIENCE, DAMAGES FOR

Nuisance, in action for, § 20:21

**INDEMNIFICATION OF LITIGANT AS
MAINTENANCE AND
CHAMPERTY**

Generally, § 14:2

INDEMNITY

Contractual, § 29:29

Contribution and, § 29:29

Employer/employee, § 29:34

Joint tortfeasors, § 29:29

Vicarious liability, § 29:29

INDEMNITY, RIGHT OF

See joint and several liability

INDEPENDENT CONTRACTORS

Collateral negligence of, § 29:37

Hazardous activities, § 29:37

INDEPENDENT CONTRACTORS

—Cont'd

- Highways, § 29:37
- Liability for acts of, § 2:26, § 25:15
- Limitation on liability, § 29:37
- Miscellaneous cases, § 29:37
- Non-delegable duties, § 29:37
- Nuisance, § 29:37
 - inaction for, § 20:24
- Occupiers, liability for, § 21:24
- Rylands v. Fletcher, in action based on, § 24:22
- Trespass to chattels, in action for, § 25:15
- Unauthorized act, § 29:37

INDEPENDENT INQUIRY, EFFECT OF

- Generally, § 3:3

INDIAN LANDS

- Jurisdiction in actions relating to, § 26:16
- Trespass to
 - band members, by, § 26:8, § 26:15
 - right of action for trespass to, § 26:14

INDUCEMENT DEFINITION

- Generally, § 8:11

INDUCING BREACH OF CONTRACT

- See contractual relations, interference with
 - unions, liability of
 - see also picketing; strikes
- Advice, giving of as basis for liability, § 8:11
- Breach of contract, necessity for, § 8:1, § 8:9
- Cause of action
 - distinguished from
 - conspiracy, § 3:3, § 8:2
 - interference with employment relations, § 8:5
 - intimidation, § 8:4
 - unlawful interference with economic interests, § 8:3
- elements, § 8:6 to § 8:12
 - breach of contract, § 8:9
 - acquiescence in by party to contract, effect of, § 8:11
 - nature of, § 8:9
 - necessity for, § 8:1, § 8:9
 - causation, § 8:12
 - contact, valid and enforceable, § 8:7

INDUCING BREACH OF CONTRACT

—Cont'd

- Cause of action—Cont'd
 - elements, § 8:6 to § 8:12—Cont'd
 - damage, § 8:12
 - direct interference by defendant, § 8:11
 - existing contract, § 8:6
 - indirect interference by defendant, § 8:11
 - inducement, § 8:11
 - intention, § 8:8, § 8:10
 - knowledge of existence of contract
 - actual knowledge, § 8:8
 - imputed knowledge, § 8:8
 - malice, § 8:8, § 8:10
 - negligence, § 8:10
 - nature and scope, § 8:1
- Conspiracy, distinguished from, § 8:2
- Damages
 - effect of recovery in contract, § 8:15
 - measure of, § 8:15
 - necessity for, § 8:12
 - non-pecuniary loss, § 8:15
 - punitive damages, § 8:15
- Defences, § 8:13
 - justification, § 8:13
 - moral duty, § 8:13
 - public interest, § 8:13
 - public policy, § 8:13
 - statutory, § 8:11, § 8:13
- Directors, liability of, § 8:18
- Distinguished from conspiracy, § 3:3
- Employees, liability of, § 8:18
- Enforceable contract, necessity for, § 8:7
- Exemplary damages, § 8:15
- Formation of contract, effect of interference with, § 8:6
- Inconsistent dealings as basis for liability, § 8:11
- Inducement definition, § 8:11
- Injunction, § 8:14
- Intention, § 8:8
- Interference with economic interests, distinguished from, § 8:3
- Interference with employment relations, distinguished from, § 8:5
- Intimidation, distinguished from, § 8:4, § 13:2
- Jurisdiction of court, § 8:19

INDUCING BREACH OF CONTRACT

—Cont'd

- Malice, § 8:8, § 8:10
- Motive for, § 8:10
- Negligence, liability for, § 8:10
- Performance of contract, interference with, § 8:1, § 8:9
- Per quod servitium amisit action, distinguished from, § 8:5
- Picketing, § 8:11, § 8:13
- Plaintiffs, § 8:17
- Public interest as defence, § 8:13
- Public policy as defence, § 8:13
- Punitive damages, § 8:15
- Recklessness, liability for, § 8:8
- Remedies
 - damages, § 8:15
 - effect of recovery in contract, § 8:15
 - measure of, § 8:15
 - non-pecuniary loss, § 8:15
 - punitive damages, § 8:15
 - injunction, § 8:14
 - specific performance, § 8:16
- Shareholders, liability of, § 8:18
- Specific performance, § 8:16
- Statutory defences, § 8:11, § 8:13
- Strikes
 - damages for, § 8:15
 - statutory exemption in respect of, § 8:13
- Unions, liability of, § 8:18
- Unlawful means, as, § 3:7
- Validity of contract, § 8:7
- Void contract, effect of, § 8:7

INDUSTRY PRACTICE

- See custom

INDUSTRY STANDARDS

- Generally, § 23:10

INEVITABLE ACCIDENT

- See defences, statutory

INEVITABLE ACCIDENT, DEFENCE OF

- Generally, § 19A:10, § 25:11
- Trespass to chattels, to, § 25:11
- Unlawful means as, § 3:7

INEVITABLE DAMAGE, DEFENCE OF TO NUISANCE CLAIM

- Generally, § 20:17

INFANTS

- See children
- Liability of, § 3:14, § 5:18

INFORMANT, LIABILITY OF

- Evidence, § 15:16
- False imprisonment, for, § 7:10
- Malicious prosecution, for, § 15:7

INFORMATION

- Laying of, § 15:7
- Provision of, § 14:2
- Withdrawal of, § 15:7

INFORMED CONSENT

- Generally, § 2:2, § 19:32
- Causation, § 19:36
- Disclosure, § 19:34
- General rule, § 19:33
- Pharmaceutical products, § 19:37
- Reibl v. Hughes, § 19:32, § 19:33, § 19:35
- Standard of care, § 19:35
- Therapeutic privilege, § 19:35

INHERENTLY DANGEROUS ACTIVITIES, STRICT LIABILITY IN RESPECT OF

- See also independent contractors
- Generally, § 24:11

INHERENTLY DANGEROUS THINGS, LIABILITY IN RESPECT OF

- Generally, § 16:16, § 23:10, § 23:11, § 24:8

INHERITANCE

- Acceleration of, § 30:80, § 30:86
- Loss of, damages for, § 30:80, § 31:21

INJUNCTIONS

- See also remedies
- Generally, § 2:24, § 8:14, § 13:15, § 22:20, § 22:21, § 26:13
- Appellate review of, § 31:1
- Assault and battery, in action for, § 2:25
- Availability of alternative remedies damages, § 31:2
- Balance of convenience, § 31:3, § 31:11, § 31:13
- Conspiracy, for, § 3:12
- Crown, against, § 31:1, § 31:8
- Damages in lieu of, § 31:16
- Defamation, in action for, § 6:75, § 6:100

INDEX

INJUNCTIONS—Cont'd

- Delay in applying, effect of, § 31:6
 - Injurious falsehood, in action for, § 9:14
 - Interference with contractual relations, for, § 8:14
 - Interim, § 31:7
 - Interlocutory
 - availability
 - considerations, § 31:1, § 31:8
 - balance of convenience, § 31:3, § 31:11
 - irreparable harm, § 31:10
 - merits of claim, § 31:9
 - preservation of status quo, § 31:13
 - where constituting entire relief sought, § 31:13
 - definition, § 31:7
 - undertaking as to damages, § 31:12
- Intimidation, for, § 13:15
- Judicial supervision, effect of necessity for, § 31:5
- Jurisdiction to grant, § 31:1
- Mandatory, § 31:9, § 31:14, § 31:15
- Mareva, § 31:9, § 31:13
- Multiple actions, avoidance of, § 31:4
- Nuisance, in action for
 - effect of, relevance of, § 20:20
 - entitlement to, § 20:20
 - interlocutory, § 20:20
 - limited, § 20:20
 - mandatory, § 20:20
 - prohibitory, § 20:20
 - public nuisance, in action by Attorney General for, § 20:5
 - quia timet, § 20:20
- Passing off, in action for
 - interlocutory or interim, § 22:20, § 22:21
 - permanent, § 22:21
- Permanent, § 31:14, § 31:15
- Prejudice to defendant, effect of, § 31:2, § 31:3
- Premature application for, effect of, § 31:6
- Quia timet, § 31:6
- Time for application, § 31:6
- Trespass, for, § 26:13

INJURIOUS FALSEHOOD

- Generally, § 19:3

INJURIOUS FALSEHOOD—Cont'd

- Case, injurious falsehood as action on, § 9:9
 - Cause of action
 - definition, § 9:1, § 9:6
 - distinguished from
 - deceit, § 5:5, § 9:2
 - defamation, § 9:3
 - passing off, § 9:4
 - elements of
 - damage
 - nature of, § 9:9
 - necessity for, § 9:3, § 9:9, § 9:13
 - sufficiency of evidence of, § 9:9
 - false statement
 - effect of honest belief in, § 9:8
 - subject matter of statement, § 9:7
 - intention, § 9:2, § 9:12
 - malice, § 9:8
 - definition, § 9:8
 - improper motive as, § 9:8
 - proof of, § 9:8
 - recklessness as, § 9:8
 - onus of proving, § 9:3
 - pleading, § 9:17
 - publication to third party, § 9:1, § 9:2
 - scope of, § 9:1
 - survival of, § 9:16
- Comparative advertising as, § 9:7, § 9:10
- Corporations
 - liability of, § 9:16
 - right of action of, § 9:16
- Damages
 - nature of, § 9:9
 - necessity for
 - at common law, § 9:9, § 9:13
 - statutory provisions affecting, § 9:3, § 9:13
 - particulars of, § 9:17
 - sufficiency of evidence of, § 9:9
- Death of plaintiff, effect of, § 9:16
- Deceit distinguished from, § 5:5, § 9:2
- Declaration, § 9:15
- Defamation, distinguished from, § 6:2, § 9:3
- Defamation, distinguished from libel and slander, § 6:2
- Defences
 - assertion of defendant's own rights, § 9:11

INJURIOUS FALSEHOOD—Cont'd

- Defences—Cont'd
 - privilege, § 9:10
 - comparative advertising, § 9:7, § 9:10
 - judicial proceedings, § 9:10, § 9:17
 - legislative proceedings, § 9:17
- Immunity from liability, § 9:12
- Injunction, § 9:14
- Inmates, see prisoners
- Intention, § 9:2
- Invasion of privacy and, § 27:2
- Lis pendens, filing of as, § 9:10
- Malice, § 9:1, § 9:8
 - definition, § 9:8
 - improper motive as, § 9:8
 - proof of, § 9:8, § 9:17
 - recklessness as, § 9:8
- Nature of action, § 6:2
- Negligent misstatement, § 19:3
- Onus of proof of, § 9:3, § 9:17
- Particulars, § 9:17
- Parties, § 9:16
- Passing off, distinguished from, § 9:4, § 22:10
- Pleadings, § 9:17
- Remedies
 - damages, § 9:13
 - declaration, § 9:15
 - injunction, § 9:14
- Slander of title, § 9:1, § 9:7
- Statutory tort, § 9:5
- Survival of action for, § 6:2, § 9:16

INNUENDO

- Defamatory meaning, § 6:13, § 6:14
- Definition, § 6:13
- Ignorance of facts giving rise to, § 6:13
- Language used giving rise to, § 6:12
- Pleading and proof, § 6:13, § 6:16, § 6:19, § 6:95
- Publication to persons aware of facts giving rise to, § 6:19

INSANITY, DEFENCE OF

- Generally, § 32:46

INSPECTIONS

- See intervening causes; standard of care (reasonable person)
- Effect of opportunity of in products liability cases, § 23:10, § 23:11

INSURANCE

- Generally, § 17:4, § 17:16

INSURANCE BENEFITS, EFFECT OF ON DAMAGE AWARD

- Generally, § 30:61, § 30:92

INTELLECTUAL PROPERTY, CONVERSION OF

- Generally, § 4:8

INTENTION

- Generally, § 2:7, § 2:19, § 4:10, § 8:8, § 10:6, § 26:5
- Accident negating, § 29:1
- Actual intent, § 10:6
- Constructive, § 10:6, § 29:3
- Conversion and detainee, in action for, § 4:1, § 4:7, § 4:10
- Deceit, in action for, § 5:11
- False imprisonment, in action for, § 7:10
- Injurious falsehood, in action for, § 9:2
- Interference with contractual relations, in action for, § 8:8
- Intimidation, in action for, § 13:9
- Meaning, § 29:2
- Mistake, relationship, § 29:7
- Motive distinguished, § 29:6
- Passing off, in action for, § 22:1, § 22:15
- Transferred, § 29:4
- Trespass to chattels, requirement of, § 25:7, § 25:9
- Trespass to land, in action for, § 26:1, § 26:5
- Volition distinguished, § 29:5
- Where means lawful, § 3:8
- Where means unlawful, § 3:8

INTENTIONAL INFLECTION OF NERVOUS SHOCK

- See nervous shock, intentional infliction of

INTENTIONAL TORTS

- Battery, § 29:4
- Defences
 - consent, § 29:7
 - mistake, § 29:7
- Employer's vicarious liability, § 29:32
- Right of action after death, § 29:39

INTENTION OF DEFENDANT

- See motive

INDEX

INTERCEPTION OF PRIVATE COMMUNICATIONS

- Invasion of privacy, as, § 27:2, § 27:7, § 27:10
- Liability of Crown in respect of, § 32:13

INTERFERENCE WITH DOMESTIC RELATIONS

- See domestic relations, interference with

INTERFERENCE WITH ECONOMIC INTERESTS

- Breach of corporate policy, § 27:24
- By illegal or unlawful means, § 27:23, § 27:24
- Damages, § 27:24, § 27:26
- Defences, absence of, § 27:25
- Development of, § 27:23
- Elements of, § 27:24
 - intention to injure, § 27:24
 - proof of damages, § 27:24
 - “unlawful means,” § 27:23, § 27:24
- General, § 27:23
- Inducing breach of contract, distinguished from, § 8:3
- Interference with contractual relations distinguished from, § 8:3
- Intimidation and, § 27:23, § 27:24
- Intimidation distinguished from, § 13:4
- Parties, § 27:26
- Problems regarding, § 27:24
- Remedies, § 27:26

INTERFERENCE WITH EMPLOYMENT RELATIONS, DISTINGUISHED FROM

- See employment relations, interference with

INTERIM INJUNCTIONS

- See injunctions

INTERLOCUTORY INJUNCTIONS

- See injunctions

INTERMEDIATE EXAMINATION, EFFECT OF OPPORTUNITY OF IN PRODUCTS LIABILITY ACTION

- Generally, § 23:10

INTERMINGLING OF CHATTELS AS CONVERSION

- Generally, § 4:10

INTERNET

- Generally, § 6:10, § 6:18, § 6:62, § 6:77, § 6:88, § 6:101

INTERVENING ACTS

- Generally, § 16:35
- Criminal acts, § 16:35
- False imprisonment, in action for, § 7:10
- Medical error, § 16:35
- Negligence, of, § 16:35
- Plaintiff, of, § 16:35
- Products liability, in action for, § 23:10, § 23:20
- Rescuers, of, § 16:35
- Third parties, of, § 16:35

INTERVENING CAUSE, PLAINTIFF'S CONDUCT AS

- Generally, § 17:10, § 17:11, § 17:13

INTERVENING CAUSES

- See also causation; foreseeability; proximate cause/remoteness of damage
- Criminal acts, § 16:35
- Human intervention/rescue, § 16:35
- Medical errors, § 16:35
- Negligence of another party, § 16:35
- “Novus actus interveniens,” § 16:35
- “Thin-skull” cases, § 16:35

INTIMIDATION

- See interference with economic interests
- Agents, liability for acts of, § 13:13
- Attempt, § 13:10
- Cause of action
 - availability
 - breach of contract threatened, § 13:8
 - lawful act threatened, § 13:8
 - threat not acted upon, § 13:10
 - distinguished from
 - conspiracy, § 13:3
 - inducing breach of contract, § 8:4, § 13:2
 - unlawful interference with economic interests, § 13:4
 - elements of
 - generally, § 13:7
 - compliance with threat, § 13:10
 - damage, § 13:11
 - intention, § 13:9

INTIMIDATION—Cont'd

- Cause of action—Cont'd
 - elements of—Cont'd
 - threat of unlawful act
 - conduct, by, § 13:8
 - what constitutes, § 13:8
 - unlawful act, § 13:8
 - nature and purpose, § 13:1
- Conspiracy, distinguished from, § 13:3
- Contract
 - adequacy of remedies under, § 13:8
 - breach of as unlawful act, § 13:8
 - inducing breach of, § 13:2
- Damages, § 13:14
- Defences, § 13:12
- Inducing breach of contract, distinguished from, § 8:4, § 13:2
- Injunctions, § 13:15
- Intention, § 13:9
- Jurisdiction of court, § 13:16
- Justification, defence of, § 13:12
- Labour legislation
 - breach of as unlawful act, § 13:8
 - conduct prohibited under, § 13:5
- Nature and purpose, § 13:1
- Picketing, § 13:5
- Plaintiff, who may be, § 13:13
- Remedies
 - damages
 - causation, § 13:11
 - measure of, § 13:14
 - injunctions, § 13:15
- Right of action
 - where contractual remedies adequate, § 13:8
 - where lawful act threatened, § 13:8
 - where plaintiff acts unreasonably, § 13:12
 - where threat not acted upon, § 13:10
- Threat
 - assertion of legal right as, § 13:8
 - compliance with, § 13:10
 - conduct, by, § 13:8
 - what constitutes, § 13:8
- Three-party intimidation, § 13:6, § 13:8, § 13:11
- Two-party intimidation, § 13:6, § 13:8, § 13:11
 - breach of contract, effect of, § 13:8
 - definition, § 13:6

INTIMIDATION—Cont'd

- Unlawful acts
 - breach of contract as, § 13:8
 - defined, § 13:8
 - labour legislation, breach of, § 13:8
- Unlawful interference with economic interests distinguished from, § 13:4
- Vicarious liability, § 13:13

INTOXICATED PERSONS, USE OF FORCE IN DETENTION OF

Generally, § 2:18

INTOXICATION

- Contributory negligence, § 17:5, § 17:18
- Liability for supplying alcohol causing, § 16:18, § 16:26

INVASION OF PRIVACY

See privacy, invasion of

INVESTMENT COUNSELLING FEES

Generally, § 30:50

INVESTMENTS

- See banks/financial institutions; financial statements, reliance on
- Duty of care, § 16:18, § 16:23, § 16:25, § 16:26

IRREPARABLE HARM AS PREREQUISITE TO INJUNCTIVE RELIEF

Generally, § 31:10

ISSUE ESTOPPEL

- See also cause of action estoppel; extinction of liability
- Generally, § 29:41, § 31:23

JOINDER OF ACTIONS

Generally, § 6:98

JOINDER OF PARTIES, CONCURRENT TORTFEASORS

Generally, § 29:15

JOINT ACTION, AVAILABILITY OF

Generally, § 15:12

JOINT AND SEVERAL LIABILITY

- Concurrent tortfeasors, § 29:10, § 29:13
- Contribution between tortfeasors
 - apportionment of fault, § 29:28
 - availability, § 29:21 to § 29:26
 - common law, at, § 29:19

JOINT AND SEVERAL LIABILITY

—Cont'd

- Contribution between tortfeasors—Cont'd
 - conflict of laws and, § 29:56, § 29:59, § 29:60
 - Crown, liability of, for, § 32:27
 - definition, § 29:29
 - limitation of actions, § 29:27
 - spouses, between, § 29:24, § 32:61
 - statutory provisions, for, § 29:20
- Conversion/detinue, for, § 4:25
- False imprisonment, for, § 7:17
- Indemnity
 - availability of, § 29:29
 - definition, § 29:29
- Joinder of parties, § 5:18, § 29:15
- Joint liability, § 4:25
- Joint tort, § 6:22
- Joint tortfeasors
 - definition, § 26:15, § 29:11
 - judgment against, effect of, § 29:16
 - liability of, § 16:31, § 29:13
 - release of, effect of, § 29:17
- Onus of proof in cases of, § 29:18
- Several tortfeasors, see also joint tortfeasors
 - definition, § 29:12
 - judgment against, effect of, § 29:16
 - release of, § 29:17

JOINT TORTFEASORS

- Generally, § 2:26
- Common design, § 16:31, § 29:11, § 29:12
- Concurrent tortfeasors, § 29:10, § 29:13
- Contribution among, see contribution among tortfeasors
- False imprisonment, § 7:17
- Jointly and severally liable, § 29:13, § 29:14
- Judgment merger, § 29:16
- Meaning, § 29:11
- Onus of proof, § 29:18
- Release, § 29:17
- Several tortfeasors, distinguished, § 29:10, § 29:12

JUDGES

- Generally, § 32:7, § 32:24, § 32:25
- Defamation, privilege of pertaining to, § 6:29

JUDGES—Cont'd

- False imprisonment, liability of, § 7:18
- Statutory protection from suit, § 32:24, § 32:25

JUDGMENT

- See also cause of action estoppel; extinction of liability; issue estoppel
- Abuse of process, § 29:41
- Assignment of as maintenance and champerty, § 14:6
- Currency of, § 31:36
- Damages, § 29:40, § 29:41
- Extinction of liability, § 29:16, § 29:41
- Res judicata
 - basis of doctrine, § 29:41
 - consent order, § 29:41
 - default judgment, effect of, § 29:41
 - estoppel by record, § 29:41
 - expiration of limitation period, § 29:41
 - historical background, § 29:41
 - jurisdiction of courts, § 29:49, § 29:50
 - question of law, § 29:41
 - rules of, § 29:41
- Structured, § 30:63

JUDICIAL ACT, EFFECT OF

- Generally, § 7:10

JUDICIAL OFFICERS, LIABILITY OF

- Generally, § 1:6

JUDICIAL PROCEEDINGS

- Fair and accurate reports of, privilege pertaining to, § 6:42
- Privilege in respect of, § 6:29

JURISDICTION

- Generally, § 3:15, § 6:83, § 6:101; § 7:22, § 8:18, § 8:19
- Court, § 22:27
- Court to prevent, § 1:7
- Effect of absence of, § 15:7
- Intimidation, § 13:16

JURY, ROLE OF

- Generally, § 7:22

JURY TRIALS

- Function of judge, § 6:15
 - assessing damages, § 6:100
 - defamatory meaning, § 6:15
 - limitation periods, § 6:87
 - malice, § 6:48

JURY TRIALS—Cont'd

Function of judge, § 6:15—Cont'd
proof of publication, § 6:19
when available, § 6:100

JUS TERTII, DEFENCE OF

Not a defence, § 20:23
Nuisance, in action for, § 20:23
trespass to land, in action for, § 26:7,
§ 26:8

JUSTIFICATION, DEFENCE OF

See defences, statutory
Generally, § 6:27
Authorities, § 6:27
Criminal offence and, § 6:27
Defamation, in action for, § 6:26, § 6:27
effect of on discovery, § 6:90
injunction, effect of on availability of,
§ 6:75
pleading of, § 6:27
Discovery of particulars, § 6:90
Injunctions, § 6:75
Onus of proof, § 6:27
Pleadings, § 6:96
interference with contractual relations,
in action for, § 8:13
intimidation, in action for, § 13:12
Provincial legislation, § 6:27
Trespass to land, in action for
onus of proving, § 26:10
preservation of life or property, § 26:10
repossession of stolen property, § 26:10
statutory authority, § 26:10

LABOUR LEGISLATION

Breach of as unlawful act in intimidation
action, § 13:8
Conduct prohibited under intimidation
action, § 13:5
Damage action under, § 3:4
Limitations on conspiracy action under,
§ 3:10

LANDLORDS

Liability of
nuisance, for, § 20:24
occupier, as, § 21:6, § 21:14, § 21:24
wrongful distress, for, § 26:11, § 26:12
Right of action of
nuisance, for, § 20:23
trespass to land, for, § 26:14

LAST CLEAR CHANCE

Generally, § 17:11, § 17:13

LATENT DEFECTS

Nuisance, liability for in action for, § 20:8
Occupiers' liability for, § 21:13

LAW, MISREPRESENTATION OF

See barristers and solicitors; deceit;
negligent misrepresentation
Generally, § 5:9

LAWSUIT

See litigation

LAWYERS

Breach of contract, § 18:3
Breach of trust, § 18:1
Duties, § 18:3
Legal malpractice, § 18:1
Retainer, § 18:3

Elements of Cause of Action

Duty of Care
Duty to clients, § 18:5
Duty to non-clients, § 18:6
Duty to other, § 18:6

Remedies

Generally, § 18:20
Measure of damages, § 18:21
Cost of rectifying the solicitor's
mistake, § 18:27
Criminal liability, § 18:28
Diminution in value of property,
§ 18:23
Inconvenience and distress,
§ 18:30
Loss of opportunity to acquire or
renew an interest in property,
§ 18:22
Loss of opportunity to bring
proceedings, § 18:24
Loss of opportunity to defend
proceedings, § 18:25
Loss of some other financial
advantage, § 18:26
Mitigation of damage, § 18:31
Nominal damages, § 18:32
Punitive damages, § 18:33
Wasted expenditure, § 18:29

Standard of Care

Carelessness
Acting for parties with opposed
interests, § 18:10

INDEX

LAWYERS—Cont'd

- Elements of Cause of Action—Cont'd
 - Standard of Care—Cont'd
 - Carelessness—Cont'd
 - Creating unnecessary risks, § 18:9
 - Giving wrong advice, § 18:11
 - Causation, § 18:16
- Defences
 - Acting on client's instructions, § 18:18
 - Contributory negligence, § 18:19
 - Failing to give advice, § 18:12
 - General standard, § 18:7
 - Making settlements, § 18:15
 - Mishandling litigation, § 18:13
 - Mishandling non-contentious business, § 18:14
 - Conveyancing, § 18:14
 - Investment counselling, § 18:14
 - Mortgages, § 18:14
 - Wills and estates, § 18:14
 - Negligence, § 18:7
 - Obligations of standard, § 18:7
 - Reasonable skill and care, § 18:7
 - Remoteness, § 18:17
 - Specialist, § 18:8
 - Specialized and technical expertise, § 18:7
- Fiduciary Duties
 - Breach of, § 18:4
 - Duty of loyalty, § 18:4
 - Equitable duty, § 18:4

LEASED PREMISES, LIABILITY FOR INJURIES ON

- Generally, § 21:6, § 21:14, § 21:24

LEAVE TO BRING ACTION

- Generally, § 2:27

LEGAL ADVICE

- Effect of on liability for malicious prosecution, § 15:9
- Evidence of, § 15:9
- Negligent, see barristers and solicitors

LEGAL AUTHORITY

- See also statutory authority
 - abuse of, liability for, see misfeasance in public office
- Abuse of as trespass ab initio, § 26:8

LEGAL AUTHORITY—Cont'd

- Assertion of as means of effecting false imprisonment, § 7:8
- Defence as
 - false imprisonment, in action for, § 7:12
- Defence of
 - conspiracy, in action for, § 3:10
 - invasion of privacy, in action for, § 27:10
 - trespass to chattels, in action for, § 25:11

LEGAL COSTS, RECOVERY OF

- Generally, § 15:14

LEGAL JUSTIFICATION, DEFENCE OF

- Generally, § 25:11

LEGAL PROCEEDINGS

- Costs of, see costs
- Encouragement of as cause of action, see maintenance and champerty
- Fair and accurate reports of, privilege pertaining to defamatory statements in, § 6:42
- Improper use of, see abuse of process; malicious prosecution
- Privilege in respect of defamatory statements during course of, § 6:29

LEGISLATION, PROVINCIAL

- Generally, § 17:12

LEGISLATIVE AUTHORITY, DEFENCE OF

- See defences, statutory; statutory authority

LEGISLATIVE PROCEEDINGS

- Privilege pertaining to defamation during, § 6:31
- Reports of, privilege pertaining to defamation in, § 6:43

LESSEE

- See tenants

LIABILITY

- Accord and satisfaction, § 29:40
- Agents, liability of, § 29:36
- Apportionment
 - between concurrent tortfeasors, § 29:28

LIABILITY—Cont'd

Apportionment—Cont'd
 between separate causes of action, § 29:46
 contributory negligence, § 29:46
 Basis of, § 29:41
 Collateral negligence of independent contractors, § 29:37
 Conflict of laws
 choice of law, § 29:51 to § 29:53
 class actions, § 29:49
 concurrent liability, § 29:43
 contribution, § 29:60
 court, constitutional jurisdiction, § 29:61
 defences
 contributory negligence, § 29:56
 exemption clauses, § 29:57
 general, § 29:54
 limitation periods, § 29:55
 statutory provisions, § 29:58
 defined, § 29:48
 foreign judgments, recognition, § 29:62
 jurisdiction, § 29:49, § 29:50
 forum non-conveniens, § 29:49
 forum of necessity, § 29:49
 forum selection clauses, § 29:50
 land, § 29:49
 real and substantial connection, § 29:49
 place of tort, § 29:53
 probate, § 29:39
 Contract and tort
 apportionment of liability, § 29:46
 assignment of right of action, § 29:42
 concurrent or alternative, § 29:43
 contribution, § 29:22
 damages in, § 29:47
 limitation of actions, § 29:45
 Contribution among tortfeasors
 basis of apportionment, § 29:28
 common law, § 29:19
 conflict of laws issues, § 29:60
 exemptions, § 29:23 to § 29:26
 ex turpi causa, application of, § 29:20
 “fault,” § 29:21, § 29:28
 indemnity, § 29:29
 legislation, § 29:20, § 29:22
 liability, preconditions for, § 29:22
 limitation of action, § 29:27

LIABILITY—Cont'd

Contribution among tortfeasors—Cont'd
 mothers, § 29:25
 non-parties, § 29:21
 spouses, § 29:24
 statutory provisions for, § 29:20, § 29:22
 vicarious liability, § 29:28, § 29:29
 who may claim, § 29:21
 workers' compensation legislation, effect, § 29:26
 Contributory negligence, § 29:46
 Damages
 measure of, § 29:47
 punitive, § 29:35, § 29:47
 tests for
 reasonably foreseeable, § 29:47
 remoteness, § 29:47
 Death
 common law, § 29:39
 legislation, § 29:39
 survival of action, § 29:39
 Estoppel, § 29:41
 Extinction of liability
 accord and satisfaction, § 29:40
 assignment, § 29:42
 death, § 29:39
 judgment, § 29:41
 release, § 29:40
 Ex turpi causa, § 29:20
 Indemnity
 conflict of laws and, § 29:60
 contractual, § 29:29
 contribution and, § 29:29
 employer/employee, § 29:34
 joint tortfeasors, § 29:29
 vicarious liability, § 29:29
 Independent contractors
 collateral negligence of, § 29:37
 hazardous activities, § 29:37
 highways, § 29:37
 limitation on liability, § 29:37
 non-delegable duties, § 29:37
 nuisance, § 29:37
 unauthorized act, § 29:37
 vicarious liability generally, § 29:37
 Intention
 accident negating, § 29:1
 constructive, § 29:3
 meaning, § 29:2

LIABILITY—Cont'd

Intention—Cont'd

- mistake, relationship, § 29:7
- motive distinguished, § 29:6
- transferred, § 29:4
- volition distinguished, § 29:5

Intentional torts

- battery, § 29:4
- defences
 - consent, § 29:7
 - mistake, § 29:7
- employer's vicarious liability, § 29:32
- right of action after death, § 29:39

Issue estoppel, § 29:1, § 29:41

- see also cause of action estoppel; extinction of liability; issue estoppel

Joinder of parties, concurrent tortfeasors, § 29:15

Joint tortfeasors

- common design, § 16:31, § 29:11, § 29:12
- concurrent tortfeasor, § 29:10, § 29:13
- contribution among, see contribution among tortfeasors
- jointly and severally liable, § 29:13, § 29:14
- judgment merger, § 29:16
- meaning, § 29:11
- onus of proof, § 29:18
- release, § 29:17
- several tortfeasors, distinguished, § 29:10, § 29:12

Judgment, see also cause of action estoppel; extinction of liability; issue estoppel

- abuse of process, § 29:41
- damages, § 29:40, § 29:41
- extinction of liability, § 29:41
- res judicata
 - basis of doctrine, § 29:41
 - consent order, § 29:41
 - default judgment, effect of, § 29:41
 - estoppel by record, § 29:41
 - expiration of limitation period, § 29:41
 - historical background, § 29:41
 - jurisdiction of courts, § 29:49, § 29:50
 - question of law, § 29:41
 - rules of, § 29:41

LIABILITY—Cont'd

Limitation of actions

- conflict of laws, § 29:55
- contract, § 29:45
- contribution among tortfeasors, § 29:27
- res judicata, § 29:41
- tort, § 29:45

Malice

- intention and, § 29:6

Mistake, § 29:7

Motive, § 29:6

Motor vehicles, § 29:30, § 29:58

Negligence - see also vicarious liability

- basis of liability, § 29:8
- contributory negligence
 - contribution among tortfeasors, § 29:20, § 29:28
- definition, § 29:8

Non-delegable duties, § 29:32, § 29:37

Non profit organization, § 29:32

Onus of proof, § 29:18

Parents, vicarious liability of, § 29:38

Principal and agent

- distinct from master servant relationship, § 29:36
- vicarious liability, § 29:36

Release

- extinction of liability, § 29:40
- joint tortfeasors, § 29:17

Requirements for, § 29:41

Res judicata, see judgment

Several tortfeasors, see joint tortfeasors

Sexual abuse, § 29:32, § 29:37

Spouses, § 29:24

Strict liability

- conditions for
 - abnormally dangerous activities, § 29:9
 - escape, § 29:9
 - non-natural use, § 29:9
- function of, § 29:9
- meaning, § 29:9

Vicarious liability, see also independent contractors

- agents, § 29:36
- apportionment of fault, § 29:28
- automobile owners, § 29:30
- borrowed employees, § 29:33
- conflict of laws issues, § 29:59
- criminal offences, § 29:30

LIABILITY—Cont'd

Vicarious liability, see also independent contractors—Cont'd
 duty and, § 29:30, § 29:32
 employer, of, § 29:31 to § 29:35
 course of employment, § 29:32
 employee/employer relationship, § 29:31
 employee of two employers, § 29:33
 tests for, § 29:31, § 29:32
 indemnity, § 29:29, § 29:34
 prohibited activity, for, § 29:32
 scope of employment, § 29:32
 workers compensation, § 29:30, § 29:32, § 29:34
 immunity, § 29:31
 indemnity, § 29:29, § 29:34
 independent contractors, § 29:37
 non-delegable duties, § 29:37
 intentional wrongs, § 29:32
 nature of, § 29:30
 non-delegable duties, § 29:32, § 29:37
 non profit organizations, § 29:32
 parents, § 29:38
 pleading, § 29:30
 policy considerations, § 29:30
 sexual abuse, § 29:32
 statutory imposition, § 29:30
 Workers compensation, § 29:26, § 29:30, § 29:32, § 29:34

LIBEL

See also defamation
 Generally, § 1:8, § 1:9

LIBEL AND SLANDER

Damages, § 6:4
 Distinction between, § 6:4
 Publication, § 6:4
 Reasonable knowledge of, § 6:88

LICENSEES

Duty owed to, see occupiers' liability
 Liability of
 entry by for unauthorized purpose, § 26:9
 failure of to leave after revocation of licence, § 26:6, § 26:9
 nuisance, for, § 20:24
 Right of action of
 nuisance, for, § 20:23

LICENSEES—Cont'd

Right of action of—Cont'd
 Rylands v. Fletcher, under, § 24:27
 trespass to land, for, § 26:14

LICENSORS, LIABILITY OF FOR NUISANCE

Generally, § 20:24

LIENHOLDERS, LIABILITY OF FOR CONVERSION

Generally, § 4:14, § 4:25

LIENS, WRONGFUL FILING OF AS ABUSE OF PROCESS

Generally, § 1:8

LIMITATION OF ACTIONS

Generally, § 2:2, § 2:5, § 2:27
 Absence of defendant from jurisdiction, effect of, § 31:30
 Accrual of cause of action, § 31:26
 Acknowledgment of cause of action, effect of, § 31:31
 Against Crown, § 32:2, § 32:17, § 32:25
 Case, actions on the, § 31:25
 Charter, effect of, § 31:25
 Children, § 31:29
 Confirmation of cause of action, effect of, § 31:31
 Conflict of laws, § 29:55
 Continuing causes of action generally, § 31:26
 Continuing trespass, for, § 26:16
 Contract, § 29:45
 Contribution among tortfeasors, § 29:27
 Conversion, for, § 4:26
 Crown, in actions against federal, § 32:2, § 32:17
 Deceit, for, § 5:21
 Defamation, in action for, § 6:87
 Disability of plaintiff
 effect of, § 31:29
 limitation periods affected by, § 31:29
 nature of, § 31:29
 notice to proceed, § 31:29
 personal representative, where, § 31:29
 when arising, § 31:29
 Discoverability rule, § 31:26, § 31:27, § 31:34
 Equality rights, infringement of, § 31:25
 Equitable claims, § 31:25, § 31:28

LIMITATION OF ACTIONS—Cont'd

False imprisonment, in action for, § 7:22
 Fiduciary duty, breach of, § 31:25,
 § 31:26
 Fraudulent concealment, effect on,
 § 31:28
 Invasion of privacy, statutory action for,
 § 27:10
 Legislation, interpretation of, § 31:24
 Limitation periods, § 1:13, § 6:87,
 § 10:14, § 22:26
 see practice
 acknowledgment of cause of action,
 effect of on, § 31:31
 basis on which imposed, § 31:25
 commencement of, § 31:26
 discoverability of cause of action,
 on, § 31:26, § 31:27, § 31:34
 discoverability of fraud, § 31:28
 minors, in respect of, see children
 conflicting, § 31:25
 constitutionality of, § 31:25
 expiry of, effect of, § 31:24
 extension of
 confirmation of cause of action, by,
 § 31:31
 court, by
 Manitoba Limitation of Actions
 Act
 availability, § 31:32
 evidence on application,
 § 31:32
 “material facts,” § 31:32
 reasonableness of plaintiff’s
 actions, § 31:32
 Nova Scotia Limitation of Actions
 Act, under, § 31:33
 Ontario legislation, under
 Family Law Act, § 31:34
 Limitations Act, § 31:35
 nature and effect of, § 31:24
 postponement of
 absence from province, by, § 31:30
 B.C. Limitations Act, under, § 31:27
 disability, by, § 31:29
 fraudulent concealment of cause
 of action, by, § 31:28
 sexual assault, § 31:26, § 31:27
 trespass to chattels, § 25:16
 ultimate limitation period, § 31:26,
 § 31:27, § 31:29

LIMITATION OF ACTIONS—Cont'd

Malicious prosecution, for, § 15:16
 Mental incapacity, effect of, § 31:29
 Minors, see children
 Municipal corporations
 capacity to sue, § 32:31
 duty of care, § 32:32
 immunity
 statutory authority, § 32:32
 limitation of actions, § 32:34, § 32:38
 notice requirements, § 32:33
 parties, § 32:34
 parties to collect agreement, § 32:54
 ratepayers actions, § 32:31
 statutory authority, § 32:31
 tortious liability of, § 32:32
 Nervous shock, for intentional infliction
 of, § 10:14
 Nuisance, for, § 20:25
 Occupiers’ liability, in relation to, § 21:36
 Passing off, for, § 22:26
 Payment in respect of plaintiff’s claim,
 effect of, § 31:31
 Physical disability, effect of, § 31:29
 Public officers, § 32:25
 Public Trustee, service of notice to
 proceed on, § 31:29
 Purpose of legislation, § 31:24
 Temporary disability, effect of, § 31:29
 Tort, § 29:45
 Trespass and case, § 31:25
 Trespass to chattels, for, § 25:16
 Trespass to land, for, § 26:16

LIMITATION PERIODS

See also practice
 Generally, § 1:13, § 6:87, § 6:101,
 § 10:14, § 20:25, § 21:36, § 22:26,
 § 25:16
 Defamation, § 6:87, § 6:88, § 6:101

LIQUIDATORS

Generally, § 32:66

**LIQUOR CONTROL LEGISLATION AS
DEFENCE TO ASSAULT OR
BATTERY**

Generally, § 2:18

LIQUOR SALES

See also impaired driving
 Generally, § 16:18, § 16:26

LIS PENDENS

Abuse of process, filing of as, § 1:8, § 1:9
Injurious falsehood, filing of as, § 9:10

LITIGATION

See also legal proceedings
Assistance in conduct of, § 14:1, § 14:2
Commencement prior to involvement of defendant, § 14:3
Common interest in, § 14:7
Costs of, § 14:2, § 14:6
Financial interest in, § 14:7
Financing of, § 14:2 to § 14:4
Funding, § 14:6, § 14:7
Intermeddling in, § 14:1, § 14:3
Sharing proceeds of, § 14:1, § 14:6

LOANS

Generally, § 14:3

LOCALITY, EFFECT OF

Nuisance, on liability for, § 20:11,
§ 20:19

LOSS OF PROFITS, DAMAGES FOR

Deceit, recoverability of, § 5:19
Trespass to land, in action for, § 26:11

LOSS OF REPUTATION

Generally, § 6:69

LOST CHATTELS, CONVERSION OF

Generally, § 4:9, § 4:24

MAGISTRATES, LIABILITY OF

False imprisonment, for, § 7:18
Statutory protection against, § 32:24,
§ 32:25

**MAIL, LIABILITY FOR
MISHANDLING OF**

Generally, § 32:7

MAINTENANCE AND CHAMPERTY

Assets, disclosure of, § 14:2
Assignments of claim as, § 14:6, § 14:7
Barratry, § 14:1
Cause of action
assignment of, § 14:6, § 14:7
damage, requirement for, § 14:5
defences to, § 14:7 to § 14:9
elements of, § 14:2 to § 14:6
nature of, § 14:1
Champerty, definition, § 14:1, § 14:6
Charity, § 14:8

MAINTENANCE AND CHAMPERTY

—Cont'd

Common interest
commercial interest, § 14:7
definition, § 14:7
familial relationship, § 14:8, § 14:9
Common law offence, § 14:1
Contingency fees as
accountants' fees, § 14:3
legal fees, § 14:6
Contracts
contingency fees, § 14:3, § 14:6
enforceability generally, § 14:1
Costs
payment of, § 14:2
recovery of, § 14:10
Criminal liability, § 14:1
Damages
availability, § 14:10
element of cause of action, as, § 14:5
measure of, § 14:10
Defence, as, § 14:12
Defences to
charity, § 14:8
common interest, § 14:7
kinship, § 14:9
Definitions
champerty, § 14:1, § 14:6
maintenance, § 14:1
Employer, assistance from, § 14:9
Evidence, provision of, § 14:2
Execution, assistance in, § 14:2
Family, assistance from, § 14:8, § 14:9
Financial assistance, see litigation
Financial interest, see common interest
Impecuniosity of litigant, § 14:8
Indemnification of litigant, § 14:2
Information, provision of, § 14:2
Judgment, assignment of, § 14:6
Lawsuit, see litigation
Litigation
assistance in conduct of, § 14:1, § 14:2
commencement prior to involvement of defendant, § 14:3
common interest in, § 14:7
costs of, § 14:2
financial interest in, § 14:7
financing of, § 14:2 to § 14:4
funding, § 14:6, § 14:7

MAINTENANCE AND CHAMPERTY

—Cont'd

Litigation—Cont'd

funding agreements, § 14:1, § 14:6,
§ 14:7

intermeddling in, § 14:1, § 14:3

sharing proceeds of, § 14:1, § 14:6

Loans, § 14:3

Malice, § 14:4

Motive, § 14:4, § 14:8

Nature of, § 14:1, § 14:12

Parties to action, § 14:11

Policy considerations, § 14:1, § 14:7

Relationship of parties, § 14:7, § 14:9

Relatives, assistance from, § 14:9

Remedies, § 14:10

Special damage, § 14:5, § 14:10

Success of proceedings, § 14:11

Third party funding agreements, § 14:1,
§ 14:6, § 14:7

Witnesses, location of, § 14:2, § 14:3

MALICE

Abuse of process, in action for, § 1:2,
§ 1:5, § 1:9

Actual malice, § 6:46

Agent's liability for, § 6:49

Burden on plaintiff, § 6:46

Defamation, in action for

absence of, necessity for proof of in
mitigation of damages, § 6:74

circumstances, relevance of in proving,
§ 6:47

co-defendants, of, § 6:49

corporation, of, § 6:49

definition, § 6:46, § 6:47

discovery, effect of on scope of, § 6:92

evidence of, § 6:47

false statement alone as, § 6:47

false statement believed to be true as,
§ 6:47

false statement known to be false as,
§ 6:47

false statement made recklessly as,
§ 6:47

improper motive as, § 6:47

irrelevant or extraneous statements as,
§ 6:47

joint malice, § 6:49

judge, function of in determining,
§ 6:48

MALICE—Cont'd

Defamation, in action for—Cont'd

jury, function of in determining, § 6:48

onus of proving, § 6:46

vicarious liability for, § 6:49

Definition, § 6:46, § 6:47, § 15:10

Evidence

disbelief by defendant, § 6:47

dominant motive, § 6:47

extrinsic or intrinsic, § 6:47

recklessness, § 6:47

relevancy of words, § 6:47

strong language, § 6:47

Fair comment, § 6:50

Function of judge and jury, § 6:48

Imputed, § 6:49

Injurious falsehood, in action for, § 9:1,
§ 9:8, § 9:12, § 9:17

Intention and, § 29:6

Joint malice, § 6:49

Maintenance and champerty, in action for,
§ 14:4

Malicious prosecution, in action for
definition, § 15:10

determination of as question of fact,
§ 15:10

evidence of, § 15:10

jury's role in determining, § 15:10

necessity for, § 15:10

onus of proving, § 15:2, § 15:16

pleading, § 15:16

Necessity for, § 8:8

Nervous shock, in action for intentional
infliction of, § 10:6

Notice of action, § 6:88

MALICIOUS ARREST

Generally, § 1:1

MALICIOUS FALSEHOOD

See injurious falsehood

MALICIOUS INTENT

See malice

MALICIOUS PROCESS

Generally, § 1:3

False imprisonment distinguished from,
§ 7:3

Malicious prosecution distinguished from,
§ 7:2, § 15:3

MALICIOUS PROSECUTION

- Abuse of process distinguished from, § 15:5
- Acquittal, § 15:8, § 15:9
- Adverse consequences to plaintiff, necessity for, § 15:7
- Agent, act of as basis of liability, § 15:7, § 15:13
- Appeal
 - effect of availability of, § 15:8
 - favourable result obtained on, § 15:9
- Attorney General, liability of, § 15:13
- Bankruptcy proceedings as, § 15:7
- Barristers and solicitors, see also Crown counsel; legal advice
 - evidence of, § 15:9
 - liability of, § 15:7
- Burden of proof, § 15:9, § 15:16
- Case, malicious prosecution as action on, § 15:2, § 15:16
- Cause of action
 - definition, § 15:1
 - distinguished from
 - abuse of process, § 15:5
 - false imprisonment, § 15:2
 - malicious process, § 15:3
 - elements of, § 15:6 to § 15:10
 - adverse consequences to plaintiff, § 15:7
 - damage, § 15:14
 - definition, § 15:6
 - malice, § 15:6, § 15:10, § 15:11, § 15:16
 - onus of proving, § 15:2, § 15:9
 - pleading, § 15:16
 - prosecution
 - completion of, § 15:7
 - continuation of, § 15:7, § 15:9
 - extent of, § 15:7
 - institution of, § 15:7
 - nature of, § 15:7
 - validity of, § 15:8
 - what constitutes, § 15:7
 - reasonable and probable cause, § 15:9
 - absence of as prerequisite to action, § 15:9
 - acquittal, effect of on, § 15:9
 - continuing assessment, § 15:7, § 15:9

MALICIOUS PROSECUTION—Cont'd

- Cause of action—Cont'd
 - elements of, § 15:6 to § 15:10—Cont'd
 - reasonable and probable cause, § 15:9—Cont'd
 - defendant's actual belief in effect of absence of, § 15:9
 - evidence of, § 15:9
 - necessity for, § 15:9
 - relevant time of, § 15:9
 - definition, § 15:9
 - determination of as question of law, § 15:9
 - discovery, § 15:16
 - evidence of
 - admissibility of, § 15:9
 - conviction as, § 15:9
 - sufficiency, § 15:9
 - jury's role in determining, § 15:9
 - mistake of law, effect of, § 15:9
 - onus of proving, § 15:2, § 15:9
 - pleading, § 15:16
 - termination of proceedings in plaintiff's favour, § 15:8
 - nature of, § 15:1
- Character of plaintiff, admissibility of evidence as to, § 15:9
- Civil proceedings, of, § 1:2
- Civil proceedings as basis of action, § 15:7
- Complainant, liability of, § 15:7
- Conviction, effect of, § 15:8, § 15:9
- Corporation, liability of, § 15:13
- Credit rating, recovery for damage to, § 15:14
- Crown, liability of, § 15:13
- Crown counsel, liability of, § 15:7, § 15:13
- Damages, § 15:14, § 15:15
- Defences
 - conviction of plaintiff, § 15:8
 - Crown immunity, § 15:13
 - pleading, § 15:16
 - reasonable and probable cause, § 15:9
 - types of, § 15:11
- Definition, § 15:1
- Discovery, § 15:16
- Dismissal of case, effect of, § 15:7, § 15:8
- Distinguished from abuse of process, § 1:1, § 1:2

INDEX

MALICIOUS PROSECUTION—Cont'd

- Elements of cause of action, § 15:6
- Employer, liability of, § 15:7, § 15:13
- Evidence
 - admissibility of character evidence, § 15:9
 - discovery, § 15:16
 - onus of proof, § 15:2, § 15:9, § 15:16
 - termination of proceedings, § 15:16
- Exemplary damages, § 15:15
- Failure to prosecute, § 15:4
- False imprisonment distinguished from, § 7:2, § 15:2
- Informant
 - evidence of, § 15:16
 - liability of, § 15:7
- Information
 - laying of, § 15:7
 - withdrawal of, § 15:7
- Joint action, availability of, § 15:12
- Legal advice, § 15:9
- Legal costs, recovery of, § 15:14
- Limitation periods, § 15:16
- Malice
 - definition, § 15:10
 - determination of as question of fact, § 15:10
 - evidence of, § 15:10
 - jury's role in determining, § 15:10
 - necessity for, § 15:10
 - onus of proving, § 15:10, § 15:16
 - pleading, § 15:16
- Malicious process, distinguished from, § 15:3
- Mental distress, recovery for, § 15:14
- Mistake of law, effect of, § 15:9
- Nature of, § 15:1
- Onus of proof
 - generally, § 15:16
 - malice, § 15:2, § 15:10, § 15:16
 - reasonable and probable cause, § 15:2, § 15:9
- Parties, § 15:12, § 15:13
 - Attorney General, § 15:13
 - company, § 15:13
 - Crown, § 15:13
 - employer, § 15:13
- Pecuniary loss to plaintiff, § 15:7
- Pleadings, § 15:16
- Policy, § 15:1

MALICIOUS PROSECUTION—Cont'd

- Principal, liability of, § 15:7, § 15:13
- Prosecution
 - completion of, § 15:7
 - continuation of, § 15:7, § 15:9
 - disciplinary bodies, § 15:7
 - nature of, § 15:7
 - what constitutes, § 15:7
- Prosecutor of proceedings, see also Crown counsel
 - complainant as, § 15:7
 - definition, § 15:7, § 15:13
 - employer, § 15:7, § 15:13
 - informant as, § 15:7
 - nature of involvement giving rise to liability, § 15:7
 - non-party as, § 15:13
 - principal, § 15:7, § 15:13
 - swearing of information, § 15:7
 - witness as, § 15:7
- Punitive damages, § 15:15
- Reasonable and probable cause for prosecution
 - absence of as prerequisite to action, § 15:9
 - acquittal, effect of on, § 15:9
 - defendant's actual belief in effect of absence of, § 15:9
 - evidence of, § 15:9
 - necessity for, § 15:9
 - relevant time of, § 15:9
 - definition, § 15:9
 - determination of as question of law, § 15:9
 - evidence of
 - admissibility of, § 15:9
 - conviction as, § 15:9
 - sufficiency, § 15:9
 - jury's role in determining, § 15:9
 - mistake of law, effect of, § 15:9
 - onus of proving, § 15:2, § 15:9
 - pleading, § 15:16
- Remedies
 - compensatory damages, § 15:14
 - punitive damages, § 15:15
- Reputation, injury to, § 15:7
- Settlement of proceedings, effect of, § 15:8
- Statement of claim, § 15:16
- Statement of defence, § 15:16

MALICIOUS PROSECUTION—Cont'd

Termination of proceedings, § 15:8
 acquittal, by, § 15:8, § 15:9
 agreement, by, § 15:8
 conviction, by, § 15:8
 ex parte proceedings, § 15:8
 irregularity in proceedings, by, § 15:8
 nature of proceedings precluding,
 § 15:8
 necessity for, § 15:8
 partial, § 15:8
 peace bond, § 15:8
 plea bargain, § 15:8
 pleading of, § 15:16
 proof of, § 15:16
 settlement, by, § 15:8
 withdrawal of charges, by, § 15:8
 Trespass and case, § 15:2, § 15:16
 Vicarious liability, § 15:7, § 15:13
 Warrant for arrest, effect of invalidity of,
 § 15:7
 Withdrawal of information, effect of,
 § 15:7
 Witness, liability of, § 15:7, § 15:16

**MALICIOUS USE OF LEGAL
PROCESS**

See abuse of process; malicious prosecution

MANAGEMENT FEE

Generally, § 30:50

MANDATORY INJUNCTIONS

Generally, § 31:14, § 31:15

MANSUETAE NATURAE

Generally, § 24:3

MANUFACTURER'S LIABILITY

For injuries caused by defective product,
 see products liability

MANUFACTURING DEFECTS

Generally, § 23:7, § 23:10, § 23:11

MARK, DESCRIPTIVE

Generally, § 22:14

MARKETING DEFECTS

Generally, § 23:6

**MASTER-SERVANT RELATIONSHIP,
INTERFERENCE WITH**

See employment relations, interference
 with

MEASURE OF

General and special, § 30:11
 Limits on recovery, § 30:12
 Recovery exceeding loss suffered,
 § 30:12
 Restitutio in integrum, § 30:12

MEASURE OF DAMAGES

Generally, § 25:12

MEDICAL CLINICS

See medical practitioners

MEDICAL EMERGENCIES

See emergencies

MEDICAL MALPRACTICE

See Informed Consent
 Generally, § 17:10
 Ambulance attendants, § 16:21
 Causation, § 16:32
 Emergencies, § 16:21
 Intervening act, errors as, § 16:35

MEDICAL PRACTITIONERS

Generally, § 18:64
 Defences
 Contributory Negligence, § 18:89
 Ex Turpi Causa, § 18:90
 Practice
 Application, § 18:93
 Related Actions
 Breach of Contract, § 18:69
 Criminal Proceedings
 Administering Surgical or Medical
 Treatment, § 18:66
 Criminal Negligence, § 18:65
 False Imprisonment, § 18:68
 Medical Assistance in Dying,
 § 18:67
 Fiduciary Duty, § 18:70
 Remoteness, § 18:87
 Res Ipsa Loquitur, § 18:88
 Standard of Care, § 18:76
 Approved Practice, § 18:77
 Causation, § 18:86
 Error of Judgment, § 18:78
 General Practitioners, § 18:79

INDEX

MEDICAL PRACTITIONERS—Cont'd

Related Actions—Cont'd

Standard of Care, § 18:76—Cont'd

Locality, § 18:81

Novices, § 18:82

Operations, § 18:85

Prescribing and Administering
Drugs, § 18:84

Reliance on Others, § 18:83

Specialists, § 18:80

Tort Actions, § 18:71

Battery, § 18:72

Duty of Care, § 18:74

Informed Consent, § 18:75

Negligence, § 18:73

Remedies

Compensatory Damages, § 18:91

Punitive Damages, § 18:92

MEDICAL PRODUCTS

Generally, § 23:2, § 23:11

MEDICAL TREATMENT

Battery, as, § 2:2

Consent as defence, § 2:20

see medical practitioners

Emergencies, § 2:20

Limitation periods applying to, § 2:2,
§ 2:27

Mental incompetence, effect of, § 2:26

Mistake as defence, § 2:16

Motive, relevance of, § 2:26

Necessity as defence, § 2:17

Negligence as, § 2:2

Occupier of property

liability of, § 2:15

Onus of proof, § 2:1, § 2:2, § 2:18,
§ 2:20, § 2:27

Recovery for pain and suffering resulting
from, § 30:19

MEDICARE BENEFITS, EFFECT OF ON DAMAGE AWARD

Generally, § 30:62

MENTAL DISABILITY

Effect of on limitation periods, see limita-
tion of actions

Liability, § 16:12

Onus of proof of, § 16:12

MENTAL DISTRESS

See also nervous shock,
intentional infliction of, see nervous
shock

Damages for, recoverability of, § 30:10,
§ 30:17, § 30:106

Malicious prosecution, recovery for in
action for, § 15:14

MENTAL INCOMPETENCE, EFFECT OF

Generally, § 2:26

MENTAL INSTITUTION, COMMITTAL TO

Generally, § 7:12

MENTALLY DISABLED PERSONS

Committal of as false imprisonment,
§ 7:12

Defences available to, § 32:45, § 32:46

Legislation affecting, § 32:44

Liability of

generally, § 32:45 to § 32:47

assault and battery, for, § 2:26

negligence, for, § 16:12

Limitation periods applying to, see limita-
tion of actions

Right of action of, § 32:44

Tortious liability of

generally, § 32:45

intentional torts, § 32:46

negligence, § 32:47

MESNE PROFITS

Generally, § 26:11, § 26:16

MINERALS, CONVERSION OF

Generally, § 4:8

MINORS

See children

MISCHIEF

Generally, § 24:8

Distinguished from trespass to chattels,
§ 25:6

MISFEASANCE IN PUBLIC OFFICE

Generally, § 28:7

Administrative decisions, § 27:30

Breach of statutory duty, § 27:30

Damages, § 27:32

Development of, § 27:29

MISFEASANCE IN PUBLIC OFFICE

—Cont'd

- Elements, § 27:30
 - improper purpose, § 27:30
 - intent, § 27:30
- Failure to act, § 27:30
- Immunity from prosecution, § 27:31
- Invasion of privacy and, § 27:2
- Negligence as, § 27:30
- Parties, § 27:33
- Purpose, § 27:29
- Ultra vires action, § 27:30

MISLEADING ADVERTISING

- See injurious falsehood; passing off

MISREPRESENTATION

- See deceit; negligent misrepresentation; passing off

MISTAKE, DEFENCE OF

- Generally, § 25:9, § 25:11, § 29:7
- Assault or battery, in action for, § 2:16
- Conspiracy, in action for, § 3:10
- Conversion, in action for, § 4:10, § 4:12
- Defence as, § 10:8
- False imprisonment, in action for, § 7:10, § 7:12
- Injurious falsehood, in action for, § 9:12
- Liability re, § 29:7
- Mistake of law, effect of
 - malicious prosecution, in action for, § 15:9
- Nervous shock, for intentional infliction of, § 10:8
- Trespass to chattels, in action for, § 25:9, § 25:11
- Trespass to land, in action for, § 26:8

MITIGATION OF DAMAGES

- See damages

MORTGAGEE

- Right of action of for trespass to land, § 26:14
- Trespass by, § 26:15

MOTIVE

- Abuse of public office, in action for, § 27:30
- Conspiracy, in action for, § 3:8, § 3:10
- Deceit, in action for, § 5:11
- Defendant, of, § 1:8

MOTIVE—Cont'd

- Inducing breach of contract, § 8:10
- Intention distinguished from, § 29:6
- Liability re, § 29:6
- Maintenance and champerty, in action for, § 14:4, § 14:8
- Nervous shock, for intentional infliction of, § 10:6
- Relevance of, § 2:7, § 5:11, § 29:6

MOTOR VEHICLES

- See also children; duty of care (statutory); impaired driving; liquor sales; pedestrians; standard of care (reasonable person); vicarious liability; volenti non fit injuria
- Apportionment of damage, § 17:12, § 17:13, § 17:15
- Emergencies, § 17:8
- Impaired driving, § 17:18
- Legislation, § 7:12
- Liability re, § 29:30, § 29:58
- Onus of proof, § 17:4
- Proximate cause, § 17:10
- Seatbelts/headrests, § 17:4, § 17:15, § 17:18

MULTIPLE CAUSES

- Generally, § 30:21

MUNICIPAL CORPORATIONS

- Actions by officers, § 32:31
- Capacity to sue, § 32:31
- Discretionary power or function, immunity re, § 32:32
- Duty of care, § 32:32
- Immunity, § 32:32
 - statutory authority, § 32:32
- Liability of
 - duty of care, § 32:32
 - false imprisonment, for, § 7:21
 - immunity from, § 32:32
 - operational vs. policy decisions, § 32:32
 - torts, § 32:32
- Limitation of actions, § 32:34
- Limitation periods, § 7:22
- Notice of action against, § 32:33
- Notice requirements, § 32:33
- Parties to collect agreement, § 32:54
- Policy decisions by
 - immunity re, § 32:32

MUNICIPAL CORPORATIONS

—Cont'd

- Ratepayers' actions, § 32:31
- Right of action of, § 3:13
 - generally, § 32:31
 - conspiracy, § 3:13
 - defamation, for, § 6:81, § 32:31
 - public nuisance, for, § 20:5, § 32:31
- Statutory authority, defence of, § 20:17, § 32:32
- Tortious liability of, § 32:58

MUNICIPALITIES

- See also building permits; by-laws; inspections; tax inquiries; zoning inquiries

NAMES, UNAUTHORIZED USE OF

- Appropriation of personality, as, § 27:4
- Passing off, as, § 22:14

**NATURAL HAZARDS, LIABILITY IN
NUISANCE IN RESPECT OF**

- Generally, § 20:8

NATURE OF ACTION

- Generally, § 16:1, § 25:1, § 25:2, § 25:7

**NATURE OF MAINTENANCE AND
CHAMPERTY**

- Generally, § 14:1, § 14:12

NATURE OF TORT

- Charter of Rights and Freedoms
 - contract law, distinguished from, § 15A:1
 - criminal law, distinguished from, § 15A:1
 - effect on tort generally, § 15A:4
 - maritime law, § 15A:3
- Tort definition, § 15A:1
- Tort law, constitutional context, § 15A:3
- Tort law, purposes of
 - generally, § 15A:5
 - compensation, § 15A:6
 - deterrence, § 15A:6
 - justice, § 15A:7
 - ombudsman, § 15A:8
 - other, § 15A:2
- Tort law, sources of, § 15A:2
- Tort law, theories of, § 15A:8

NECESSITY, DEFENCE OF

- Generally, § 2:17, § 4:15

NECESSITY, DEFENCE OF—Cont'd

- Nervous shock, for intentional infliction of, § 10:9
- Trespass to land, in action for, § 26:10

NEGLIGENCE

- See also standard of care
- Generally, § 2:2, § 23:4, § 23:5, § 24:2, § 24:5
- Basis of liability, § 29:8
- Contribution among tortfeasors, § 29:20, § 29:28
- Definition, § 29:7, § 29:8, § 29:18, § 29:45

NEGLIGENCE (GENERAL)

- Generally, § 16:1
- Agony of collision, § 16:21
- Alcohol
 - commercial host liability, § 16:18, § 16:26
 - vendors, § 16:26
- Ambulances, § 16:21
 - transport of schizophrenic patients, § 16:33
- Animals, highway, on, § 16:20
- Burden of proof, see onus/burden of proof
- Causation
 - generally, § 16:27
 - basic rule, § 16:28
 - “but for” test, § 16:28 to § 16:33
 - “causa causans,” § 16:28
 - Cook v. Lewis, rule in, § 16:30
 - inferences, § 16:28
 - joint liability, § 16:31
 - loss of chance, § 16:32
 - material contribution, § 16:30
 - nexus, § 16:28
 - onus of proof, shifting of, § 16:23
 - operating cause, § 16:28
- Commercial host liability, § 16:18, § 16:26
- Contract, § 16:3
- Criminal negligence, § 16:2
- Custom, § 16:19
- Dangerous objects, use of, § 16:16
- Duty of care
 - generally, § 16:22
 - Anns test, § 16:23
 - Donoghue v. Stevenson, § 16:22
 - “neighbour” principle, § 16:6, § 16:22

NEGLIGENCE (GENERAL)—Cont'd

- Duty of care—Cont'd
 - proximity, § 16:25
 - question of law, § 16:22
 - reasonable foreseeability, § 16:24
 - residual policy, § 16:26
- Elements of, § 16:6
- Fatal accidents, § 16:5
- Novus actus interveniens, § 16:34
- Remoteness
 - generally, § 16:33
 - intervening act, § 16:35
 - thin-skull exception, § 16:34
- Standard of care
 - custom, § 16:19
 - emergencies, § 16:21
 - reasonable person
 - generally, § 16:7
 - age, § 16:13
 - amateurs and professionals, § 16:10
 - mental capability, § 16:12
 - parenting skills, § 16:9
 - physical capability, § 16:11
 - statutory standards, § 16:20
 - unreasonable risk
 - generally, § 16:14
 - burden of precautions, § 16:17
 - likelihood of injury, § 16:15
 - seriousness of anticipated harm, § 16:16
 - social importance, § 16:18
- Teachers
 - standard of care, § 16:9
 - statutory obligations, § 16:20
- Trespass to the person, § 16:4
- Unreasonable risk
 - generally, § 16:14
 - burden of precautions, § 16:17
 - likelihood of injury, § 16:15
 - seriousness of anticipated harm, § 16:16
 - social importance, § 16:18

NEGLIGENT CONSTRUCTION

- Generally, § 23:5

NEGLIGENT MISREPRESENTATION

- See also Economic Loss, Statements
- Generally, § 17:14, § 17:15
- Class actions, § 19:9
- Omission, by, § 19:7

NEGLIGENT MISSTATEMENT

- See Statements

NEGLIGENT TRESPASS

- Generally, § 25:7, § 25:9, § 25:12

NEIGHBOUR PRINCIPLE

- See also duty of care (general)
- Generally, § 16:6, § 16:22

NERVOUS SHOCK

- See also damages; nervous shock, intentional infliction of
- Generally, § 19:22
- Defined, § 19:23
- Duty of care, § 19:24
- Foreseeability, § 19:24, § 19:25
- Proximity, § 19:24, § 19:25
- Remoteness, § 19:25

NERVOUS SHOCK, INTENTIONAL INFLECTION OF

- Assault, distinguished from, § 10:2
- Bystanders/witnesses, § 10:11
- Case, trespass and, § 10:14
- Cause of action
 - distinguished from
 - assault, § 10:2
 - negligence, § 10:3
 - elements of, § 10:4 to § 10:7
 - conduct of defendant, § 10:5
 - employment disputes, § 10:11
 - intention, § 10:6
 - physical illness, § 10:7
 - family law disputes, § 10:1
 - origin of, § 10:1
- Conduct
 - directed at third parties, § 10:2, § 10:13
 - pleadings, § 10:14
 - required for tort, § 10:5
- Consent as defence, § 10:10
- Constructive intent, § 10:6
- Damages
 - aggravated, § 10:11
 - assessment of, § 10:11
 - compensatory, § 10:11
 - element of cause of action, § 10:7
 - exemplary, § 10:11
 - foreseeability of, § 10:6, § 10:11
 - measure of, § 10:11
 - necessity for, § 10:7
 - punitive, § 10:12

NERVOUS SHOCK, INTENTIONAL INFLICTION OF—Cont'd

- Damages—Cont'd
 - remoteness, § 10:11
- Damages for, recoverability of, § 30:106
- Defences
 - consent, § 10:10
 - mistake, § 10:8
 - necessity, § 10:9
- Family law disputes, § 10:1
- Foreseeability, § 10:6, § 10:11
- Intention, § 10:6
 - actual intent, § 10:6
 - constructive intent, § 10:6
- Jurisdiction of court, § 10:15
- Limitation periods, § 10:14
- Malice, § 10:6
- Mistake as defence, § 10:8
- Motive, § 10:6
- Nature of, § 10:1, § 10:14
- Necessity as defence, § 10:9
- Negligence, distinguished from, § 10:3
- Origin of, § 10:1
- Parties, § 10:13
- Physical illness as element of cause of action, § 10:7
- Pleadings, § 10:14
- Punitive damages, § 10:11
- Recklessness, § 10:6
- Remedies, see damages
- Third party as object of defendant's act, § 10:2, § 10:13
- Trespass and case, § 10:14

NEWSPAPER RULE

- Generally, § 6:89

NOISE, LIABILITY FOR

- Generally, § 20:9

NOMINAL DAMAGES

- See damages
- Defamation, in action for, § 6:65
- Grounds for, § 30:1
- Purpose of action for, § 30:1
- Quantum, § 30:1
- Trespass to chattels, for, § 25:10
- Trespass to land, for, § 26:11
- When awarded
 - actual damages suffered, when, § 30:1
 - insufficient evidence as to damages, § 30:1

NOMINAL DAMAGES—Cont'd

- When awarded—Cont'd
 - no damages suffered, where, § 30:1

NON-DELEGABLE DUTIES

- Generally, § 29:32, § 29:37
- Assault and battery, § 2:26

NON-FEASANCE

- Generally, § 19:38
- Duty to intervenors, § 19:43
- Exceptions
 - creation and control, § 19:40
 - implied responsibilities, § 19:42
 - paternalistic relationships, § 19:41
- General rule, § 19:39

NON-NATURAL USE

- Generally, § 24:2, § 24:7

NON-NATURAL USE OF LAND

- See strict liability

NON-PECUNIARY DAMAGES

- See damages; family and dependants' compensation; property loss or damage, damages for
- Recoverability of, § 3:11

NON-PROFIT CORPORATIONS, RIGHT OF ACTION OF FOR DEFAMATION

- Generally, § 6:80, § 6:82

NON-PROFIT ORGANIZATIONS

- Generally, § 29:32

NOTICE OF ACTION

- Crown, in action against, § 32:10, § 32:11
- Defamation, in action for, § 6:88
- Municipal corporation, in action against, § 32:33

NOVUS ACTUS INTERVENIENS

- See intervening acts; intervening causes
- Generally, § 23:20, § 24:2, § 24:4

NUISANCE

- Abatement, see remedies
- Cause of action
 - adoption of nuisance, § 20:8
 - continuation of nuisance, § 20:8
 - damage, tangible, § 20:4, § 20:8
 - discomfort or inconvenience, § 20:4, § 20:9

NUISANCE—Cont'd

Cause of action—Cont'd
distinguished from
negligence, § 20:4
strict liability, § 20:3, § 24:2, § 24:4
trespass, § 20:2
duty to act, occupier's, § 20:8
failure to remedy nuisance, § 20:8
fault, § 20:8, § 20:19
foreseeability, § 20:8, § 20:9
general, § 20:8
hazard, natural, § 20:8
knowledge of defendant, § 20:8,
§ 20:12
latent defect, § 20:8
nature of, § 20:1
negligence and, § 20:4
private nuisance, see private nuisance
public nuisance, private action for, see
public nuisance, private action for
stranger, act of, § 20:8
strict liability, act of, § 20:8
trespasser, act of, § 20:8
Class actions, § 20:25
Continuing nuisance, § 20:25
Damages, see remedies
Defences
benefit to public, § 20:16
conduct of the plaintiff, § 20:19
character of the neighbourhood,
§ 20:19
consent of the plaintiff, § 20:19
contributory negligence, § 20:19
delay in bringing action, § 20:19
general, § 20:16
ignorance, § 20:16
jus tertii not a defence, § 20:23
legislative authority
availability of, § 20:17
express exemption, § 20:17
general, § 20:17
inevitable damage, § 20:17
strict construction of, § 20:17
prescription
abolition, statutory, § 20:18
duration of activity, § 20:18
easement, § 20:18
private nuisance and, § 20:18
public nuisance, not a defence to,
§ 20:18

NUISANCE—Cont'd

Defences—Cont'd
prescription—Cont'd
"reasonable user," § 20:16
Definition, § 20:6, § 20:14
Distinguished from
occupiers' liability, § 21:4
trespass to land, § 26:2
Injunctions, see remedies
Invasion of privacy and, § 27:2
Legislative authority, see defences, statu-
tory
Limitation periods, § 20:25
Municipality, right of action of for public
nuisance, § 20:5, § 32:31
Negligence, distinguished from, § 20:4
Onus, § 20:4, § 20:10, § 20:17, § 20:25
Parties
defendants
employee, § 20:24
landlords, § 20:24
licensee, § 20:24
licensor, § 20:24
occupier's liability for granting
entry, § 20:24
independent contractors, § 20:24
tenants, § 20:24
plaintiffs
assignee of nuisance claim, § 20:23
family members, § 20:23
holder of easement or profit, § 20:23
landlord, § 20:23
licensee, § 20:23
person in possession, § 20:23
reversioner, § 20:23
tenant, § 20:23
Practice
class action, § 20:25
continuing nuisance, § 20:25
general, § 20:25
limitation period, § 20:25
onus, reverse, § 20:4, § 20:25
Private nuisance
damages for injury to person or
personal property, § 20:21
discomfort or inconvenience, § 20:9 to
§ 20:12
distinguished from public nuisance,
§ 20:8
environmentalists and, § 20:5

INDEX

NUISANCE—Cont'd

Private nuisance—Cont'd

interference with use and enjoyment of property, § 20:9

material injury to property, § 20:9 to § 20:11, § 20:21

origin of nuisance, § 20:9

Public health, § 20:6, § 20:14

Public nuisance, private action for abatement, § 20:22

balancing interests, § 20:14

class, effect on, § 20:14

class action, § 20:25

damages for injury to person or personal property, § 20:21

distinguished from private nuisance, § 20:8

environmentalists, § 20:5

fact, question of, § 20:14

factors considered, § 20:14

general, § 20:1

highways and, § 20:14

municipalities and, § 20:5

particular damage requirement, § 20:4, § 20:15

economic loss, § 20:15

established where, § 20:15

prescription and, § 20:18

standards of behaviour, § 20:14

what constitutes public nuisance, § 20:14

Related actions

civil proceedings by the Attorney General, § 20:5, § 20:8

injunctions in, § 20:5

judicial review, no, § 20:5

right to sue, unlimited, § 20:5

criminal prosecution, § 20:6

common law nuisances as crimes, § 20:6

common nuisance, offence of, § 20:6

definition of nuisance, § 20:6

private prosecution, limits on, § 20:6

negligence, § 20:4

Rylands v. Fletcher, rule in, § 20:3

statutory nuisance, § 20:7

strict liability, § 20:3

trespass, § 20:2

NUISANCE—Cont'd

Remedies

abatement

alternative to damages, § 20:22

duty, no, § 20:22

entry onto land, § 20:22

general, § 20:22

nature of act, § 20:22

notice, § 20:22

obstruction, § 20:22

public nuisance, of, § 20:22

reasonable force, use of, § 20:22

where sole remedy, § 20:22

damages

assessment of, § 20:21

delayed repairs and, § 20:21

exemplary, § 20:21

foreseeability, § 20:21

inconvenience, for, § 20:21

injury to person or personal property, § 20:21

in lieu of injunction, § 20:21

prospective, § 20:21

punitive, § 20:20, § 20:21

real property, damage to, § 20:21

diminution in value, § 20:21

where awarded, § 20:21

injunctions

effectiveness of, § 20:20

entitlement to, § 20:20

interlocutory, § 20:20

test for, § 20:20

limited, § 20:20

mandatory, § 20:20

prohibitory, § 20:20

“public good” and, § 20:20

quia timet, § 20:20

damages in lieu, § 20:20

imminent damage, § 20:20

refusal of, § 20:20

Strict liability, distinguished from, § 20:3

Tree roots, § 20:8, § 20:9

Trespass, distinguished from, § 20:2, § 26:2

Trespass to land, distinguished from, § 26:2

Unreasonableness of interference

abnormal sensitivity, § 20:12

balancing conflicting interests, § 20:10, § 20:11

NUISANCE—Cont'd

- Unreasonableness of interference
 - Cont'd
 - character of neighbourhood, § 20:10, § 20:11, § 20:19
 - damage to property, material, § 20:11
 - discomfort or inconvenience, § 20:11
 - factors considered, § 20:10, § 20:11, § 20:13
 - general, § 20:4, § 20:9, § 20:10
 - harm, gravity, § 20:10, § 20:11
 - knowledge of defendant, § 20:12
 - legislation and, § 20:11
 - nature of interference, § 20:10
 - standard of locality, § 20:11
- Utility of defendant's conduct, § 20:10, § 20:11, § 20:13
- View, loss of, § 20:9

NURSES

- See medical practitioners

OCCUPIERS

- See also occupiers' liability
- Right of action of for trespass, § 26:7
- Right to possession of chattels found on property, § 4:24

OCCUPIERS' LIABILITY

- Generally, § 24:17
- "Allurement," doctrine of, § 21:23
- Assault or battery, for, § 2:15
- Assumption of risk, see defences, statutory
- Boats, § 21:9
- Cause of action
 - causation, § 21:26
 - damage, § 21:27
 - distinguished from
 - negligence, § 21:3
 - nuisance, § 21:4
 - duty of care (common law), § 21:10
 - children
 - invitees and licensees, § 21:22
 - standard of care, § 21:22
 - accompanied by adult, where, § 21:22
 - reasonable foresight, § 21:22, § 21:23
 - unusual dangers, § 21:22
 - trespassers, § 21:23
 - standard of care, § 21:23

OCCUPIERS' LIABILITY—Cont'd

- Cause of action—Cont'd
 - duty of care (common law), § 21:10
 - Cont'd
 - children—Cont'd
 - trespassers, § 21:23—Cont'd
 - "allurement," doctrine of, § 21:23
 - reasonable foresight, § 21:23
 - warning, § 21:23
- contractual entrants
 - contributory negligence of, § 21:12
 - definition, § 21:11
 - nature and scope of duty, § 21:12
 - plaintiff's duty, § 21:12
 - purpose of the contract, § 21:11, § 21:13
 - standard of care, § 21:13
- exclusion of liability, § 21:32
- invitees, § 21:11, § 21:13
 - character of premises and, § 21:9, § 21:14
 - circumstantial evidence and, § 21:16
 - common interest of, § 21:14
 - contributory negligence, § 21:16
 - defendant not liable to, § 21:16
 - definition, § 21:14
 - distinguished from licensee, § 21:17
 - nature and scope of duty to, § 21:15
 - standard of care, § 21:16
 - unusual dangers, § 21:16
 - invitee's knowledge of, § 21:16
 - occupier's knowledge of, § 21:16
 - status, loss of, § 21:14
 - students as, § 21:14
 - tenants' visitors, § 21:14
- licensees, § 21:14
 - contributory negligence, § 21:18
 - definition, § 21:17
 - nature of the license, § 21:17
 - onus on plaintiff to prove a, § 21:17
 - standard of care, § 21:18
 - status, loss of, § 21:17
 - tenants' visitors, § 21:14

OCCUPIERS' LIABILITY—Cont'd

- Cause of action—Cont'd
 - duty of care (common law), § 21:10
 - Cont'd
 - licensees, § 21:14—Cont'd
 - unusual dangers, § 21:18
 - trespassers, § 21:14
 - common humanity test, § 21:21
 - definition, § 21:19
 - knowledge of occupier and, § 21:20
 - nature and scope of duty, § 21:20
 - New Brunswick, statutory reform, § 21:21
 - standard of care, § 21:21
- duty of care (statutory)
 - generally, § 21:9, § 21:24
 - activity on premises, § 21:24
 - boats, § 21:9
 - condition of premises, § 21:24
 - contributory negligence of visitor, § 21:24
 - drinking establishment, § 21:24
 - exclusion of liability, § 21:32
 - foreseeable danger, § 21:24
 - independent contractor's negligence, for, § 21:24
 - inspection and maintenance, § 21:24, § 21:36
 - landlords, of, § 21:24, § 24:17
 - personal property, § 21:25
 - reasonable for that fact situation, § 21:24
 - scope of, § 21:24
 - sidewalks, § 21:24
 - snowmobiles, and, § 21:24
 - standard of care, § 21:24
 - trespassers, to, § 21:24
 - property, in respect of, § 21:25
- Contributory negligence, § 21:12, § 21:16, § 21:18, § 21:24, § 21:30
- Damages, see remedies
- Defences
 - assumption of risk
 - common law, at, § 21:28
 - statute under, § 21:29, § 21:30
 - contributory negligence, § 21:30
 - exclusion of duty of care, § 21:32
 - exemption from liability, § 21:24
 - plaintiff's conduct, § 21:28

OCCUPIERS' LIABILITY—Cont'd

- Defences—Cont'd
 - assumption of risk—Cont'd
 - warning, § 21:31
- Elements of, § 21:5
- Exclusion of duty of care, see defences, statutory
- Foreseeable danger, § 21:24
- Inspection system, § 21:24
- Landlords, § 21:6, § 21:24
- Limitation period, § 21:36
- Nature of
 - common law, at, § 21:1
 - duty of care, § 21:1
 - standard of care, § 21:1
 - statutory reform, § 21:2
- Negligence, distinguished from, § 21:3
- Nuisance, distinguished from, § 21:4
- Occupiers, § 21:6
 - common law, at, § 21:6
 - control by, § 21:6
 - landlords, position of, § 21:6
 - definition, § 21:7
 - premises, § 21:8
 - common law, at, § 21:8
 - statute, under, § 21:9
 - statute, under, § 21:7
 - control, § 21:7
 - definition of occupier, § 21:7
- Occupiers, defined
 - common law, at, § 21:6
 - statute under, § 21:7
- Onus of proof, § 21:24, § 21:36
- Parties
 - Crown, as occupier, § 21:35
 - limitation period, § 21:36
- Plaintiff's conduct, see defences, statutory
- Premises
 - character of, effect of on entrant's status, § 21:14
 - what constitutes, § 21:8, § 21:9
- Previous accidents, relevance of, § 21:36
- Recreational property, § 21:24
- Related actions
 - negligence, § 21:3
 - nuisance, § 21:4
- Remedies
 - compensatory damages, § 21:33
 - punitive damages, § 21:34
- Snowmobiles, § 21:24

OCCUPIERS' LIABILITY—Cont'd

Strict liability, § 24:9, § 24:28
 Unusual dangers, § 21:16, § 21:18,
 § 21:22
 Warning, § 21:16, § 21:23, § 21:31

ODOURS, LIABILITY FOR

Generally, § 20:9

OFFENCE AS

Generally, § 3:2, § 3:4

**OFFICIAL COMMUNICATIONS,
 PRIVILEGE PERTAINING TO**

Generally, § 6:32

ONUS, REVERSE

Generally, § 20:4, § 20:10, § 20:17,
 § 20:25, § 26:1, § 26:8, § 26:10

ONUS/BURDEN OF PROOF

See also *res ipsa loquitur*
 Generally, § 17:18
 Causation, § 16:27 to § 16:30
 Cook v. Lewis, § 16:30
 Fires, § 16:59
 General, § 16:28
 Mental disability, re, § 16:17
 Motor vehicle accidents, § 16:26
 Post-accident evidence, § 16:26
 Shifting of, § 16:23

ONUS OF PROOF

Generally, § 2:1, § 2:2, § 2:18, § 2:20,
 § 2:27, § 7:2, § 7:11, § 7:12, § 7:22,
 § 15:16, § 29:18
 Conspiracy, in action for, § 3:10
 Contributory negligence, § 17:18
 Deceit, § 5:21
 Direct interference, § 25:7
 Injurious falsehood, § 9:3, § 9:17
 Malice, § 15:2
 Negligence, in action for
 generally, § 16:28
 causation, of, § 16:27 to § 16:30
 custom, of, § 16:19
 intention of negligence, § 25:7
 mental disability, of, § 16:12
 shifting, § 16:23
 Reasonable and probable cause, § 15:2,
 § 15:9
 Trespass to land, in action for, § 26:1,
 § 26:8, § 26:10

**OPERATIONAL DECISIONS,
 LIABILITY OF PUBLIC BODIES
 IN RESPECT OF**

Generally, § 16:35, § 32:18

OPINION, LIABILITY FOR

Deceit, for statement of, § 5:9
 Defamation, in action for, § 6:50, § 6:52,
 § 6:54

OPINIONS

Generally, § 19:7

**OPPORTUNITY, DAMAGES FOR
 LOSS OF**

Opportunity to earn income, § 30:34,
 § 30:37
 Opportunity to make profit, loss of,
 § 30:53
 Opportunity to sell property, § 30:101,
 § 30:102

OUSTER OF CO-OWNER

Generally, § 26:14

OVERT ACT

Lawfulness of, § 3:7
 Proof of, § 3:2
 Torts as, § 3:1, § 3:7, § 3:9, § 3:10

**OWNER OF CHATTELS, RIGHT OF
 TO BRING ACTION FOR
 CONVERSION OR DETINUE**

Generally, § 4:9

OWNERSHIP OF GOODS

Generally, § 25:8

**PAIN AND SUFFERING, DAMAGES
 FOR**

Generally, § 30:16, § 30:19

PARASITIC DAMAGES

See damages

PARENTS

Discipline by, § 2:18
 Duty to protect children, § 16:9
 Duty to supervise children, § 16:9
 Foetus, protection of, § 16:26
 duty of to control children, § 29:38
 Liability for act of child, § 2:26
 Liability for sexual assault of child, § 2:5,
 § 2:26
 Liability of
 assault or battery by child, § 2:26

INDEX

PARENTS—Cont'd

- Liability of—Cont'd
 - child generally, to, § 30:53
 - corporal punishment of child, for, § 2:18
 - failure to supervise child, for, § 29:38
- Loss of, damages for, § 30:75, § 30:76
- Standard of care of, § 16:9
- Surrogate, effect of on child's claim for damages, § 30:84, § 30:89
- Vicarious liability of, § 29:38

PARLIAMENTARY PROCEEDINGS

- Defamatory reports of, privilege pertaining to, § 6:43
- Defamatory statements during, privilege pertaining to, § 6:31

PARTIES

- Bankrupt
 - capacity to sue, § 32:62
 - tortious liability of, § 32:63
- Children
 - actions
 - generally, § 32:35, § 32:36
 - against others, § 32:37, § 32:43
 - against parents, § 32:37, § 32:43
 - against third parties, § 32:38
 - adult activities, § 32:41
 - contract liability, § 32:42
 - doctrine of identification, § 32:36
 - immunity, § 32:41
 - rights of unborn, § 32:43
 - standard of care, § 32:41
 - tortious liability of
 - generally, § 32:39, § 32:42
 - capacity for, § 32:39 to § 32:41
 - contributory negligence, § 32:36
 - intentional torts, § 32:40
 - negligence, § 32:41
 - parental responsibility for, § 32:39
 - "tender age," § 32:41
- Corporations
 - capacity to sue, § 32:51, § 32:52
 - charitable, § 32:53
 - defamation, § 32:53
 - directors' liability, § 32:53
 - tortious liability of, § 32:53
- Crown
 - federal
 - Attorney General, § 32:7

PARTIES—Cont'd

- Crown—Cont'd
 - federal—Cont'd
 - common law liability, § 32:3
 - "Crown," definition, § 32:1
 - departments, § 32:9
 - immunity, § 32:3, § 32:15
 - invasion of privacy, § 32:13
 - jurisdiction of Federal Court, § 32:16
 - jurisdiction of provincial courts, § 32:16
 - legislation affecting liability, § 32:2, § 32:4 to § 32:6, § 32:8, § 32:11, § 32:17
 - limitation of actions, § 32:2, § 32:17
 - Ministers, § 32:6, § 32:7
 - motor vehicle accidents, § 32:12
 - occupiers' liability, § 32:11
 - pension schemes, § 32:14
 - police officers, § 32:2, § 32:6, § 32:7
 - provincial law applicable to, § 32:2, § 32:5, § 32:12, § 32:14
 - servants and agents
 - generally, § 32:7 to § 32:9
 - Crown corporations, § 32:7
 - definition, § 32:7, § 32:8
 - judicial officers, § 32:7
 - scope of employment, § 32:10
 - vicarious liability for acts of, § 32:6, § 32:9
 - policy v. operational, § 32:3, § 32:18, § 32:32
- provincial
 - defences available, § 32:28
 - employer, liability as, § 32:21, § 32:29
 - immunity, § 32:18
 - indemnity and contribution, § 32:27
 - legislation affecting liability of, § 32:18
 - non-delegable duty, § 32:19
 - occupiers' liability, § 32:22
 - public officers
 - immunity, § 32:25 to § 32:31
 - liability, § 32:30
 - limitation of action, § 32:25
 - right of action, § 32:18
 - servants and agents
 - Crown corporations, § 32:20
 - defined, § 32:20

PARTIES—Cont'd

Crown—Cont'd
 provincial—Cont'd
 servants and agents—Cont'd
 immunity of, § 32:30
 judicial duties, § 32:24, § 32:25
 personal liability of, § 32:29
 police, § 32:26, § 32:29
 statutory torts, § 32:23
 vicarious liability for acts of,
 § 32:18 to § 32:20
 Crown, ministers, § 32:6, § 32:7, § 32:9,
 § 32:19, § 32:29, § 32:30
 Defences
 criminal insanity, § 32:46
 mental insanity, § 32:45
 Employer and employee
 common law liability, § 32:49
 workers' compensation legislation,
 § 32:50
 Fetus, rights of, see children
 Husband and wife
 common law liability between, § 32:60
 doctrine of unity, § 32:60
 interspousal immunity
 generally, § 32:60, § 32:61
 Judges, § 32:7, § 32:24, § 32:25
 Limitation of actions
 against Crown, § 32:2, § 32:17,
 § 32:25
 municipal corporations, § 32:34
 public officers, § 32:25
 Liquidators, § 32:66
 Mentally disabled persons
 defences available to, § 32:45, § 32:46
 legislation affecting, § 32:44
 tortious liability of
 generally, § 32:45
 intentional torts, § 32:46
 negligence, § 32:47
 Municipal corporations
 actions by officers, § 32:31
 capacity to sue, § 32:31
 duty of care, § 32:32
 immunity
 statutory authority, § 32:32
 liability of
 duty of care, § 32:32
 immunity from, § 32:32

PARTIES—Cont'd

Municipal corporations—Cont'd
 liability of—Cont'd
 operational vs. policy decisions,
 § 32:32
 torts, § 32:32
 limitation of actions, § 32:34
 notice of action against, § 32:33
 notice requirements, § 32:33
 ratepayers actions, § 32:31
 statutory authority, § 32:31
 tortious liability of, § 32:32
 Parties to collect agreement, § 32:54
 Partners
 capacity to sue, § 32:55, § 32:57
 debts of, § 32:58
 dissolution of, § 32:58
 limited, § 32:59
 negligence of partner, § 32:58
 retired partners, § 32:58
 tortious liability of, § 32:58
 Per quod servitium amisit, § 32:2
 Police officers, § 32:2, § 32:6, § 32:7,
 § 32:20
 Receivers
 capacity to sue, § 32:64
 duty of care, § 32:65
 third party actions, § 32:64, § 32:65
 tortious liability of, § 32:65
 Rule in Foss v. Harbottle, § 32:52,
 § 32:55
 Spouses
 common law, § 32:60
 legislation, § 32:61
 Trade unions, § 32:54, § 32:56
 Unincorporated associations
 capacity to sue, § 32:54, § 32:55
 definition, § 32:54
 political parties, § 32:56
 tortious liability of, § 32:56
 Workers' compensation legislation
 application to Crown, § 32:29
 board decisions, § 32:50
 effect of, § 32:50
 historical background, § 32:49
 pleading, § 32:50
 purpose, § 32:50
 scope of, § 32:48, § 32:50
 subrogation rights, § 32:50
 “worker,” § 32:50

INDEX

PARTIES TO ACTION

- See also right of action
- Conversion of cheque, § 4:8
- Defendants, § 4:25, § 5:18
- Joint liability, § 4:25
- Maintenance and champerty, § 14:11
- Plaintiffs, § 4:24, § 5:17, § 8:17

PARTNERS

- Capacity to sue, § 32:55, § 32:57
- Debts of, § 32:58
- Dissolution of, § 32:58
- Limited, § 32:59
- Negligence of partner, § 32:58
- Retired partners, § 32:58
- Tortious liability, § 32:58

PASSING OFF

- See also appropriation of personality;
privacy, invasion of
- Account of profits, § 22:23
- Appropriation of personality,
distinguished from, § 22:11
- Canada Business Corporations Act,
misleading name prohibited by,
§ 22:5
- Cause of action
 - basis of action, § 22:1
 - common law, at, § 22:1
 - damage to business or goodwill,
§ 22:16
 - defendant's intention, § 22:1, § 22:15
 - distinguished from
 - appropriation of personality, § 22:11
 - deceit, § 22:1, § 22:9
 - injurious falsehood, § 22:10
 - elements of, § 22:12
 - equity, at, § 22:1
 - general, § 22:9, § 22:12
 - "marketplace," § 22:1
- misrepresentation
 - action lies, where, § 22:14
 - confusion, § 22:2, § 22:14, § 22:28
 - dress or get-up goods, of, § 22:14
 - essential requirement, § 22:14
 - imitation per se, § 22:14
 - intention, § 22:15
 - judicial intervention, § 22:14
 - logo or name, § 22:14
 - names, § 22:13, § 22:14
 - question of fact, § 22:14

PASSING OFF—Cont'd

- Cause of action—Cont'd
 - misrepresentation—Cont'd
 - secondary meaning, § 22:14
 - "trader," § 22:1
 - "unfair competition," § 22:1
 - websites, § 22:14
 - nature of
 - basis of action, § 22:1
 - common law, at, § 22:1
 - equity, at, § 22:1
 - "marketplace," § 22:1
 - "trader," § 22:1
 - "unfair competition," § 22:1
 - reputation or goodwill
 - description of, § 22:13
 - extant, must be, § 22:13
 - inference of, § 22:13
 - test, § 22:13
 - traders, § 22:13
 - Trade-marks Act, § 22:2
 - "unfair competition," § 22:1
- Costs, § 22:29
- Damages, § 22:22
- Deceit, distinguished from, § 22:1, § 22:9
- Defences
 - acquiescence, § 22:18
 - delay, § 22:18
 - fraud, § 22:19
 - general, § 22:17
- Delivery up, § 22:24
- Federal legislation, actions under
 - Canada Business Corporations Act,
§ 22:5
 - Competition Act, § 22:4
 - Consumer protection legislation, § 22:6
 - Copyright Act, § 22:7
 - Criminal Code, § 22:3
 - Trade-marks Act
 - constitutionality, § 22:2
 - infringement, § 22:2
 - issue estoppel, § 22:2
 - offences, § 22:2
 - passing off, differences, § 22:2
- Injunctions, § 22:20, § 22:21
- Injurious falsehood, distinguished from,
§ 9:4, § 22:10
- Jurisdiction, court, § 22:27
- Limitation period, § 22:26
- Mark, descriptive, § 22:14

PASSING OFF—Cont'd

Parties

- corporate defendant, § 22:25
- directors, liability of, § 22:25
- group of traders, § 22:1, § 22:13
- ultimate consumers, § 22:14

Practice

- costs, § 22:29
- evidence, § 22:28
- jurisdiction, § 22:27
- limitations of actions, § 22:26
- particulars, § 22:28

Provincial legislation, under, § 22:8

Related actions

- appropriation of personality, § 22:11
- common law, at, § 22:2
- deceit, § 22:1, § 22:9
- federal legislation, under, § 22:2 to § 22:11
- injurious falsehood, § 22:10
- provincial legislation, under, § 22:8

Remedies

- damages or an account of profits, § 22:22 to § 22:24
 - account of profits, § 22:23
 - damages, § 22:22
- delivery up, § 22:24
- injunctions
 - assurance of voluntary compliance, § 22:20
 - breach of, § 22:20
 - damages better remedy, where, § 22:20
 - interlocutory or interim, § 22:20
 - prima facie case, § 22:20
 - security for costs, § 22:20
- permanent, § 22:21

Trader

- definition, § 22:1
- reputation or goodwill
 - class, of, § 22:13
 - group, of, § 22:1
 - separate, of, § 22:13
 - unestablished, of, § 22:13

PAST INCOME LOSS

- See damages, pecuniary damages

PECUNIARY LOSS TO PLAINTIFF

- Generally, § 15:7

PENSION BENEFITS, EFFECT OF ON DAMAGE AWARD

- Generally, § 30:61, § 30:62

PERFORMANCE OF CONTRACT, INTERFERENCE WITH

- Generally, § 8:1, § 8:9

PER QUOD CONSORTIUM AMISIT

- Generally, § 32:2
- Distinguished from inducing breach of contract, § 8:5

PER QUOD SERVITIUM AMISIT ACTION

- See employment relations, interference with

PERSONAL PROPERTY, CONVERSION OF

- See conversion and detinue

PHARMACISTS

- See medical practitioners

PHYSICAL DISABILITY, EFFECT OF ON LIMITATION PERIODS

- See limitation of actions

PHYSICAL ILLNESS AS ELEMENT OF CAUSE OF ACTION

- Generally, § 10:7

PICKETING

- Generally, § 8:11, § 8:13
- Interference with contractual relations, as, § 8:11, § 8:13
- Intimidation, as, § 13:5

PLACE OF TORT

- See conflict of laws

PLAINTIFFS

- See also defendants; third parties
- Generally, § 8:17
- Foreseeability, § 19:6
- Injury by third party relying on statement, § 19:3
- Knowledge of defendant, § 19:6
- Reliance, § 19:9
- Who may be in intimidation action, § 13:13

PLAINTIFF'S CONDUCT

- See defences, statutory

INDEX

PLEADINGS

- Generally, § 2:2, § 2:27, § 3:15, § 9:17, § 10:14, § 15:16, § 17:18, § 29:30
- False imprisonment, § 7:22
- Fraud, § 5:21
- General, § 6:94
- Liability for publication of contents of, § 6:42
- Statement of claim
 - general, § 6:95
 - identity of defendant, § 6:95
 - intention of defendant, § 6:95
 - meaning of words, § 6:13, § 6:95
 - particularity, § 6:95
 - reference to plaintiff, § 6:95
 - specific words, § 6:95
- Statement of defence
 - fair comment, § 6:96
 - general, § 6:96
 - particulars of justification, § 6:96
 - rolled-up plea, § 6:96

POLICE OFFICERS

- Generally, § 17:4, § 17:7, § 17:10, § 17:14, § 17:15, § 32:2, § 32:7, § 32:20
- Intervention of, § 7:10
- Liability for initiating unlawful arrest by, § 7:10
- Liability of, § 2:18
 - false imprisonment, for, § 7:12, § 7:19
 - trespass, for, § 26:10, § 26:11

POLICY

- See duty of care (general); public policy
- Generally, § 15:1

POLICY CONSIDERATIONS

- Generally, § 14:1, § 14:7

POLICY DECISIONS, LIABILITY OF PUBLIC BODIES IN RESPECT OF

- Generally, § 32:18

POLLUTION

- Liability for, § 20:9

POSSESSION

- Forms of, § 25:8
- Interference with as basis of action, § 25:7, § 25:14
- Prerequisite to action, as, § 25:8, § 25:14
- Temporary right to, sufficiency of, § 25:8

POSSESSORY LIEN AS DEFENCE TO CONVERSION

- Generally, § 4:14

POST OFFICE, LIABILITY OF FOR MISHANDLING OF MAIL

- Generally, § 32:7

POSTPONEMENT OF LIMITATION PERIODS

- See limitation of actions; limitation periods

POWERLINES/LIGHTNING WIRES

- See electrical installations

PRACTICE

- See limitation periods; onus/burden of proof; parties
- Contributory negligence
 - appeals, § 17:18
 - costs, § 17:18
 - onus/burden of proof, § 17:18
 - pleadings, § 17:18
- Nuisance
 - class action, § 20:25
 - continuing nuisance, § 20:25
 - general, § 20:25
 - limitation period, § 20:25
 - onus, reverse, § 20:4, § 20:25
- Passing off
 - costs, § 22:29
 - jurisdiction, § 22:27
 - limitations of actions, § 22:26
 - particulars, § 22:28
- Pleading
 - mesne profits, § 26:16
- Trespass to lands
 - jurisdiction
 - Federal Court, § 26:16
 - Indian Band, § 26:16
 - limitation period
 - Alberta, § 26:16
 - British Columbia, § 26:16
 - continuing trespass, for, § 26:16
 - estoppel and, § 26:16
 - Manitoba, § 26:16
 - provinces, other, § 26:16
- PRE-EXISTING CONDITION OF PLAINTIFF, EFFECT OF
 - Generally, § 16:34, § 30:21, § 30:97, § 30:99, § 31:29

PRE-EXISTING INJURIES

See causation; proximate cause/
remoteness of damage

PRE-NATAL INJURIES

Right of action for, § 16:26, § 32:43

PRESUMPTION OF DAMAGE

Generally, § 6:4

PREVIOUS ACCIDENTS, EVIDENCE OF

Generally, § 21:36

PRINCIPAL, LIABILITY OF

See agents, privacy

Generally, § 15:7, § 15:13

Definition, § 27:1, § 27:3

Electronic surveillance, § 27:7, § 27:10

Evidence obtained in violation of, admissibility of, § 27:10

Government officials, immunity of from liability for, § 27:6

Invasion of at common law
appropriation of personality, see
privacy, invasion of

damages, § 27:4

defamation, § 27:2, § 27:4

general, § 27:1 to § 27:3

nuisance, § 20:9, § 27:2

passing off, § 27:4

right to publicity, § 27:1

trespass, § 27:2

Invasion of under Civil Code, § 27:11

Invasion of under provincial legislation

acts constituting, § 27:10

appropriation of personality, see
privacy, invasion of

consent to, § 27:10

corporation, right of action of for,
§ 27:10

damages

defences, § 27:10

necessity for, § 27:10

right of action, § 27:10

elements of cause of action, § 27:10

remedies, § 27:10

Protection of under federal legislation,
§ 27:6, § 27:7

PRINCIPAL AND AGENT

Distinct from master servant relationship,
§ 29:36

PRINCIPAL AND AGENT—Cont'd

Vicarious liability, § 29:36

PRISONS

See police officers/vehicles

PRIVACY

Definition, § 27:1

PRIVACY LEGISLATION

Federal, § 27:6 to § 27:8

Provincial, § 27:10 to § 27:13

PRIVATE CORPORATIONS

See corporations

PRIVATE DETECTIVES, LIABILITY OF FOR INVASION OF PRIVACY

Generally, § 27:10

PRIVATE NUISANCE

See nuisance

Damages for injury to person or personal
property, § 20:21

Discomfort or inconvenience, § 20:9,
§ 20:10

Distinguished from public nuisance,
§ 20:8

Environmentalists and, § 20:5

Examples of, § 20:9

Interference with use and enjoyment of
property, § 20:9

Origin of nuisance, § 20:9

PRIVILEGE

See absolute privilege; qualified privilege

Generally, § 2:27

PRIVILEGE, DEFENCE OF

Defamation, in action for

absolute privilege

availability generally, § 6:28

common interest, statements in
pursuance of, § 6:40

communication to public, effect of
on, § 6:45

inferior court proceedings, § 6:30

journalist source privilege, § 6:89

judicial proceedings

legislative proceedings, § 6:31

malice, effect of on, § 6:28, § 6:29

official communications, § 6:32

qualified privilege, § 6:26, § 6:34

quasi-judicial proceedings, § 6:30

PRIVILEGE, DEFENCE OF—Cont'd

Defamation, in action for—Cont'd
 judicial proceedings—Cont'd
 reports of, § 6:29
 solicitor-client communications,
 § 6:33
 statements during course of, § 6:29
 statements preceding initiation of,
 § 6:29, § 6:33

Duty, statements in discharge of
 answers to inquiries, § 6:36
 effect of on inference of malice, § 6:34
 excessive publication, § 6:44
 fair and accurate report, what consti-
 tutes, § 6:43
 fair comment distinguished from,
 § 6:45
 government publications, reports of,
 § 6:43
 judicial proceedings, reports of, § 6:42
 legislative proceedings, reports of,
 § 6:43
 moral or social duty, § 6:35
 onus of proving damage from, § 6:44
 public duty, § 6:38, § 6:45
 statutory duty, § 6:37
 voluntary statements, § 6:39

Injurious falsehood, in action for
 comparative advertising, § 9:7, § 9:10
 invasion of privacy, in statutory action
 for, § 27:10
 judicial proceedings, § 9:10, § 9:12
 legislative proceedings, § 9:12

Loss of
 excessive publication, by, § 6:44
 malice, by, § 6:34, § 6:42, § 6:46 to
 § 6:49
 onus of proving, § 6:34
 protection of own interest, § 6:41
 public meetings, reports of, § 6:43
 public officials, complaints relating to
 conduct of, § 6:39
 when arising, § 6:34

PRIVILEGE, SOLICITOR-CLIENT

Generally, § 3:15

**PROCURING BREACH OF
 CONTRACT**

See contractual relations, interference
 with.

PRODUCTION, DEFECTIVE

Generally, § 23:6

PRODUCTS LIABILITY

See also manufacturer's liability
 damages, see remedies

Biological products, § 23:2, § 23:16

Causation, § 23:15

Cause of action, § 23:1, § 23:4

Children, § 23:13

Collateral warranties, § 23:2

Construction, negligent, § 23:5

Contractual liability, § 23:2, § 23:23

Contributory negligence, § 23:21

Damage, § 23:22

Damage, requirement of, § 23:22

Damages, see remedies

Defect causing injury, § 23:22, § 23:24

Defective products, § 23:2, § 23:6

Defects, § 23:6

Defences

 consent/voluntary assumption of risk,
 § 23:18

 contributory negligence, § 23:21

 misuse of product, § 23:19

 novus actus interveniens, § 23:20

Design defects, § 23:6

Donoghue v. Stevenson, rule in, § 23:1,
 § 23:10, § 23:22

Duty of care, § 23:5

Duty to warn, scope of, see warning

Foreseeability, § 23:15

Industry standards, § 23:15

Intermediate examination, § 23:10

Labelling defects, § 23:9

Learned intermediary rule, § 23:12

Manufacturer, liability of, § 23:12,
 § 23:13

Manufacturing defects, § 23:6, § 23:7,
 § 23:10

Marketing defects, § 23:6

Medical products, § 23:2, § 23:11

Negligence, § 23:1, § 23:2, § 23:12
 see also standard of care

Negligent construction, § 23:5

Novus actus interveniens, § 23:20,
 § 23:21

Plaintiffs

 consumers, § 23:1

 “neighbour” concept, § 23:1

 users, potential, § 23:1, § 23:5

PRODUCTS LIABILITY—Cont'd

- Production, defective, § 23:6
- Products, § 23:5, § 23:6
- Proof of defect, § 23:7
- Proximity of relationship, § 23:9, § 23:24
- Reasonable care, § 23:2, § 23:8
 - “dangerous” products, § 23:11
 - general, § 23:8
 - industry standards, § 23:15
 - product adequacy, time to judge, § 23:12
- Standard of care, see reasonable care
 - children’s products, § 23:13
 - food, § 23:19
 - health products, § 23:19
 - proof of negligence, § 23:18
 - reasonable evidence, § 23:13
 - res ipsa loquitur, § 23:13
 - SCC suggests abandoning, § 23:13
 - strict liability, § 23:19
 - warning, see warning
- Statutory standards, § 23:14
- Strict liability, § 23:13
- Tampering, § 23:10
- Voluntary assumption of risk, see defences
- Warning
 - children, to, § 23:11
 - “dangerous” products, in respect of, § 23:11
 - duty to provide, § 23:11, § 23:16
 - labelling, § 23:11
 - scope of duty to warn
 - adequacy, § 23:10, § 23:11
 - confirmation warning followed, § 23:11
 - explicitness required, § 23:11
 - foreseeable danger, § 23:11
 - learned intermediary rule, § 23:11
 - medical products, § 23:11
 - time duty to warn arises, § 23:13
 - where warning unnecessary, § 23:11

**PROFESSIONAL ORGANIZATIONS,
RIGHT OF ACTION OF FOR
DEFAMATION**

Generally, § 6:84

**PROFESSIONAL REPUTATION,
LIABILITY FOR
DISPARAGEMENT OF**

Generally, § 6:7, § 6:11

PROFIT À PRENDRE

- Liability for interference with, § 20:9, § 26:14
- Right to as defence to trespass action, § 26:8

PROFITS, LOSS OF

- Deceit, in action for, § 5:19
- Recoverability generally, § 30:34, § 30:100, § 30:102
- Recovery for, § 5:19
- Trespass to land, in action for, § 26:11

PROFITS, RECOVERY FOR LOSS OF

Generally, § 5:19

PROMISE, LIABILITY FOR

Deceit, in action for, § 5:9

PROPERTY

- Betterment of, effect on damages, see property loss or damage, damages for
- Loss or damage to, see property loss or damage, damages for
- Occupier’s duty of care in respect of, § 21:25
- Protection or recovery of as defence, § 2:15
 - assault or battery, to, § 2:15
 - trespass, to, § 26:10
- Replevin of, see replevin

**PROPERTY, PROTECTION OR
RECOVERY OF**

Generally, § 2:15

PROPERTY DAMAGES

See damages

**PROPERTY LOSS OR DAMAGE,
DAMAGES FOR**

- Betterment, § 30:98
- Date of assessment, § 30:105
- Expenses, recovery of, § 30:104
- Interest on
 - capital value, § 30:102
 - loss of operational cash flow, § 30:103
- Measure of damage
 - diminution of value, § 30:96
 - loss of use, § 30:100 to § 30:104
 - restitutio in integrum, § 30:94
 - restoration or repair, § 30:96
- Mental distress, recovery for, § 30:106

**PROPERTY LOSS OR DAMAGE,
DAMAGES FOR—Cont'd**

- Mitigation of loss, § 30:100
- Non-pecuniary loss, recoverability of, § 30:106
- Opportunity for sale, loss of, § 30:101, § 30:102
- Profits, recovery for loss of, § 30:100, § 30:102
- Rental costs, recovery of, § 30:104
- Repair
 - cost of as measure of recovery, § 30:96
 - enhancement of property value by, § 30:98
 - quantification of cost of, § 30:97
- Revenue producing property, loss of use of, § 30:100
- Special damages, § 30:104
- Valuation of property
 - factors in determining, § 30:95
 - rare or collectible chattel, § 30:95
 - revenue-producing property, § 30:100
 - sentimental value, § 30:95
 - specially adapted property, § 30:95
 - used goods, § 30:95

PROPERTY SUBJECT TO ACTION

- Generally, § 4:7, § 4:8
- Accounts receivable, § 4:8
- Building, § 4:8
- Cheques, § 4:8
- Choses in action, § 4:8
- Crops, § 4:8
- Fixtures, § 4:8
- Intellectual property, § 4:8
- Knowledge, § 4:8
- Minerals, § 4:8
- Specific personal property, § 4:7
- Stones, § 4:8
- Trees, § 4:8

PROSECUTION

- Completion of, § 15:7
- Continuation of, § 15:7, § 15:9
- Disciplinary bodies, § 15:7
- Invalidity of, § 15:7
- Nature of, § 15:7
- What constitutes, § 15:7

PROSECUTOR OF PROCEEDINGS

- See also Crown counsel
- Complainant as, § 15:7

**PROSECUTOR OF PROCEEDINGS
—Cont'd**

- Definition, § 15:7, § 15:13
- Employer, § 15:7, § 15:13
- Informant as, § 15:7
- Lawyer as, § 15:7
- Nature of involvement giving rise to liability, § 15:7
- Non-party as, § 15:13
- Principal, § 15:7, § 15:13
- Swearing of information, § 15:7
- Witness as, § 15:7

**PROVINCIAL LEGISLATION,
ACTIONS UNDER**

- Generally, § 22:8

PROVOCATION

- Definition, § 2:13
- Effect of, § 2:13, § 2:22, § 2:23
- Effect on damages, § 30:8

PROVOCATION, EFFECT OF

- Assault or battery, in action for, § 2:7, § 2:13, § 2:22, § 2:23
- Defamation, in action for, § 6:68

PROXIMATE CAUSE

- Concurrent negligence, § 17:10
- Foreseeability, § 17:9, § 17:10
- General, § 17:10
- Intervening acts, § 16:35
- Intervening cause, plaintiff's conduct as, § 17:10
- Last clear chance doctrine, § 17:11, § 17:13
- Successive negligent acts, § 17:10, § 17:13
- Susceptibility to injury, § 16:34

**PROXIMATE CAUSE/REMOTENESS
OF DAMAGE**

- See also causation; foreseeability; intervening causes; nervous shock; rescuers
- “Direct consequence” test (Polemis), § 16:33
- “Foreseeability” test (Wagon Mound), § 16:33
 - general, § 16:24
- General, § 16:33
- Thin-skulled exception, § 16:34

PSYCHIATRISTS

See health practitioners

PSYCHOLOGICAL DAMAGE

See nervous shock; thin-skull rule

**PSYCHOLOGICAL DISORDERS,
RECOVERY OF DAMAGES FOR**

Generally, § 30:10, § 30:17, § 30:106

**PSYCHOLOGICAL SUSCEPTIBILITY
OF PLAINTIFF, EFFECT OF ON
LIABILITY FOR**

Generally, § 16:34

PUBLICATION

Accidental or inadvertent, § 6:20

Agent, to, § 6:18

Apology and retraction, § 6:74, § 6:76

Defamation, as element of, § 6:17 to
§ 6:22

Definition, § 6:18

Evidence

admission by defendant, § 6:19

burden of proof, § 6:19

hearsay, § 6:19

knowledge of third persons, § 6:19

proof essential, § 6:17

subsequent facts, § 6:19

understandability, § 6:19

Indirect, § 6:18, § 6:22

Injurious falsehood, as element of, § 9:1,
§ 9:2

Internet, § 6:10, § 6:18, § 6:21, § 6:51,
§ 6:101

Lawyer, to, § 6:18

Libel or slander, § 6:4

Means of publication, § 6:16 to § 6:18

Negligent, § 6:20

Place of publication, § 6:18, § 6:101

Reference to plaintiff

evidence, § 6:24

general, § 6:23

group defamation, § 6:25

specific only in subsequent publication,
§ 6:24

Remedies, see damages

Republication, § 6:22

Single publication rule, § 6:21

What constituting, § 6:18

**PUBLIC AUTHORITIES OR
OFFICERS**

Generally, § 28:1

Defamation by, privilege pertaining to,
§ 6:32

Defamatory allegations of misconduct by,
privilege pertaining to, § 6:39

Duty of care, of
generally, § 28:3

legislative scheme, of, § 28:4

party interactions, § 28:5

Immunity of, § 32:25

Liability of, see also misfeasance in public
office; Crown; municipal corporations

history of, § 28:2

misuse of legal process, for, § 1:6

nuisance, for, § 20:17

statutory considerations of, § 28:8

Limitation of actions, § 32:17, § 32:25

Protection legislation, § 32:25

Public misfeasance, see also misfeasance
in public office; Crown; municipal
corporations

generally, § 28:7

Standard of care, of
generally, § 28:6

PUBLIC FACILITIES

See parks/recreation facilities

PUBLIC HEALTH

Generally, § 20:6

PUBLIC INTEREST

Defence as, § 27:4, § 27:10, § 27:18

PUBLIC INTEREST, DEFENCE OF

Breach of confidence, to, § 27:18

Defamation, to, § 6:53

Inducing breach of contract, § 8:13

Interference with contractual relations, to,
§ 8:13

Invasion of privacy, to, § 27:10

**PUBLICITY, INTERFERENCE WITH
RIGHT OF**

See privacy; puffery

Deceit, in action for, § 5:9

**PUBLIC MEETINGS, PRIVILEGE
PERTAINING TO DEFAMATORY
REPORTS OF**

Generally, § 6:43

INDEX

PUBLIC NUISANCE

See nuisance

PUBLIC NUISANCE, PRIVATE ACTION FOR

Abatement, § 20:22

Balancing interests, § 20:14

Class, effect on, § 20:14

Class action, § 20:25

Damages for injury to person or personal property, § 20:21

Distinguished from private nuisance, § 20:8

Environmentalists, § 20:5

Examples of, § 20:14

Fact, question of, § 20:14

Factors considered, § 20:14

General, § 20:1

Highways and, § 20:14

Municipalities and, § 20:5

Particular damage requirement, § 20:4, § 20:15

established where, § 20:15

Prescription and, § 20:18

Standards of behaviour, § 20:14

What constitutes public nuisance, § 20:14

PUBLIC OFFICE, ABUSE OF

See misfeasance in public office

PUBLIC OFFICERS, LIABILITY OF

Generally, § 1:6

PUBLIC POLICY

See also duty of care (general)

Inducing breach of contract, § 8:13

PUFFERY

Generally, § 5:9

PUNITIVE DAMAGES

See damages

Generally, § 8:15, § 10:11, § 15:15

Abuse of process, for, § 1:11

Abuse of public office, § 27:32

Appeals, § 30:8

Assault and battery, for, § 2:3, § 2:7, § 2:23

Availability

generally, § 30:6

criminal proceedings taken, where, § 2:23, § 30:7

fatal accidents cases, § 30:6

PUNITIVE DAMAGES—Cont'd

Availability—Cont'd

plaintiff suffering no damage, where, § 30:7

statutory prohibition of, § 30:6

Awards, § 2:23

Claim for as abuse of process, § 1:8

Concurrent liability in tort and contract, effect of on, § 29:47

Conduct subject to, § 14:1, § 14:10, § 30:6, § 30:7

Conspiracy, for, § 3:11

Conversion, for, § 4:22

Criminal proceedings precluding, § 2:2, § 2:23

Criminal sanctions, effect of, § 20:5

Crown, awarded against, § 2:23

Crown, liability, § 30:7, § 30:17

Deceit, for, § 5:20

Defamation, for, § 6:67

Effect of provocation, § 2:23

Employer awarded against complicity or blameworthiness in some degree required, § 2:23

Employer liability, § 30:7

Entitlement to, § 1:11

False imprisonment, for, § 7:14

Fatal accident cases, § 30:6

Grounds for award

generally, § 30:7

defendant profiting from misconduct, § 30:8

negligence, § 30:7

punishable conduct, § 30:7

Inducing breach of contract, § 8:15

Intent required, § 30:7

Interception of private communications, for, § 32:13

Interference with contractual relations, for, § 8:15

Malicious prosecution, for, § 15:15

Nervous shock, in action for intentional infliction of, § 10:11

Occupiers' liability, for, § 21:34

Products liability, in action for purpose of, § 30:5, § 30:7 quantum of, § 30:8

Proportionality, § 30:7, § 30:8

Provocation and, § 30:8

Purpose of, § 30:5, § 30:7

Quantum of, § 30:8

PUNITIVE DAMAGES—Cont'd

- Rational approach to, § 30:7
- Statutory prohibition of, § 30:6
- Stay of award, § 30:7
- Trespass to chattels, for, § 25:13
- Trespass to land, in action for, § 26:12

PURE ECONOMIC LOSS

- See economic loss
- Generally, § 30:53

QUALIFIED PRIVILEGE

- See privilege, defence of
- Common interest, § 6:34, § 6:40
- Defence, § 27:10
- Fair and accurate report
 - informing public, § 6:43, § 6:45
 - judicial proceedings, § 6:42
 - legislative proceedings, § 6:43
 - public meetings, § 6:43
- General, § 6:34
- Municipal councillors, § 6:38
- Negation of defence
 - communication to general public, § 6:45
 - excessive publication, § 6:44
 - malice, see malice
- Protection of own interest, § 6:41
- Public duty, § 6:38
- Public or private duty
 - answers to inquiries, § 6:36
 - general, § 6:35
- Sexual abuse, suspicions re, § 6:35
- Standard of review on appeal, § 6:34
- Statement of defence, § 6:96
- Statutory duty, § 6:37
- Voluntary statements, § 6:39
- Work references, § 6:36

**QUASI-JUDICIAL PROCEEDINGS,
PRIVILEGE IN RESPECT OF
DEFAMATORY STATEMENTS IN**

- Generally, § 6:30

QUESTIONS OF FACT

- Generally, § 7:22

QUESTIONS OF LAW

- Generally, § 7:22

QUIA TIMET INJUNCTIONS

- Generally, § 20:20, § 31:6

**RACE, INJUNCTIVE RELIEF
AGAINST LIBEL BASED ON**

- Generally, § 6:75

REAL DAMAGES

- Generally, § 30:4

REAL PROPERTY

- Damages for injury to, see property loss or damage, damages for; trespass to land
- Liability for injuries arising from, see nuisance; occupiers' liability; products liability
- Recovery of, § 26:14

**REASONABLE AND PROBABLE
CAUSE FOR PROCEEDINGS**

- Generally, § 1:1, § 1:2

REASONABLE CARE

- Generally, § 23:2
- "Dangerous" products, § 23:13
- General, § 23:8
- Industry standards, § 23:15
- Product adequacy, time to judge, § 23:12
- Statutory standards, § 23:3

REASONABLE PERSON

- See standard of care, reasonable person

RECEIVERS

- Appointment of as conversion, § 4:24
- Capacity to sue, § 32:64
- Duty of care, § 32:65
- Liability of, § 4:25
- Third party actions, § 32:64, § 32:65
- Tortious liability of, § 32:65

RECKLESSNESS

- Generally, § 10:6
- Liability for, § 5:10, § 8:8

RECOVERY OF LAND, ACTION FOR

- Generally, § 26:14

**RECOVERY OF PROPERTY,
STATUTORY ACTION FOR**

- Generally, § 4:5

**RECOVERY ON BEHALF OF ESTATE,
SCOPE OF**

- Generally, § 30:64, § 30:65

INDEX

RECREATION

See parks/recreation facilities; sports-related injuries

REFUSAL OF MEDICAL TREATMENT, EFFECT OF ON DAMAGE AWARD

Generally, § 30:111 to § 30:114

REFUSAL TO RETURN CHATTEL

See demand and refusal

REMEDIES

See also damages; injunctions

Acceleration of inheritance, § 30:80,
§ 30:86

Accident neurosis, § 30:17

Accord and satisfaction, § 31:23

Accumulated wealth, damages for loss of,
§ 30:80

Acknowledgment of cause of action,
effect of on limitation period,
§ 31:31

Aggravated damages, § 30:9

Amenities, damages for loss of, § 30:16,
§ 30:19

Balance of convenience, effect of on
availability of injunction, § 31:3,
§ 31:11

Betterment of property, effect of on dam-
age award, § 30:98

Business income, § 30:34, § 30:53

Canada Pension Plan benefits, deduct-
ibility of, § 30:62, § 30:92

Charter, effect of on limitation periods,
§ 31:25

Children

claims in respect of death or injury of,
§ 30:81

en ventre sa mere, § 30:45

illegitimate, entitlement to dependants'
compensation, § 30:68

postponement of limitation periods in
respect of, § 31:29

settlements, § 30:63

Cohabitee, entitlement to dependants'
compensation, § 30:68

Collateral benefits

employment benefits, § 30:61, § 30:92

government assistance, § 30:62,
§ 30:92

gratuitous assistance, § 30:60, § 30:79,
§ 30:84

REMEDIES—Cont'd

Collateral benefits—Cont'd

insurance, § 30:61, § 30:92

medicare benefits, § 30:62

payments made pursuant to statute,
§ 30:62

pension benefits, § 30:61, § 30:62

principles governing deductibility of,
§ 30:57 to § 30:59, § 30:61

private insurance policies, under,
§ 30:58, § 30:61

Unemployment Insurance benefits,
§ 30:62

Common law spouse, entitlement to
dependants' compensation, § 30:68

Compensation neurosis, § 30:17

Confirmation of cause of action, effect of
on limitation periods, § 31:31

Contemptuous damages, § 30:2

Contingencies, effect of, § 30:46, § 30:54,
§ 30:89

Continuing causes of action

effect of on limitation periods, § 31:26

successive actions for, § 31:23

Conventional award for non-pecuniary
damages, § 30:24

Cost of future care, damages for
assessment

duration of incapacity, effect of on,
§ 30:29, § 30:48

expenses recoverable, examples of,
§ 30:28

interest, § 30:31

principles governing, § 30:28,
§ 30:48, § 30:49

definition, § 30:27

Currency of damage award, § 31:36

Damages, see damages

Dependent adults, see family and
dependants' compensation; limitation
of actions

Disallowance of limitation defence under
Nova Scotia limitations legislation,
§ 31:33

Discounting of damage award, § 30:47,
§ 30:90

Discoverability rule, § 31:26

Earning capacity, damages for loss of, see
damages

Equality rights, effect of on limitation
periods, § 31:25

REMEDIES—Cont'd

Estate administration costs, recovery of, § 30:93

Estates

- recovery of damages against, § 30:66
- recovery of damages on behalf of, § 30:64, § 30:65

Exemplary damages, see damages

Expectation of life, loss of, § 30:16

Extension of limitation period, see limitation of actions, limitation periods

Family and dependants' compensation, see family and dependants' compensation

Fatal injury damages, see family and dependants' compensation

Fertility, loss of, § 30:16

Fraudulent concealment of cause of action, effect of on limitation periods, § 31:28

Functional approach in assessing damages, § 30:15

Funeral expenses, recovery of, § 30:93

Gross-up for income tax, availability of, § 30:49, § 30:91

Guidance, care and companionship, damages for loss of, § 30:77

Guidance, care and training, damages for loss of, § 30:75, § 30:76

Homemaker, damages for loss of services, § 30:16, § 30:32, § 30:78, § 30:79

Impecuniosity, effect of on duty to mitigate, § 30:122

Income, loss of, see also damages

- loss of dependency on, § 30:72 to § 30:74

Income tax, effect of on award of damages, § 30:49, § 30:55, § 30:91

Infants, see children

Inheritance

- acceleration of, § 30:80, § 30:86
- loss of, § 30:80, § 31:21

Injunctions, see injunctions

Insurance benefits, effect of on damage award, § 30:61, § 30:92

Interest, § 30:24, § 30:31, § 30:51

Interlocutory injunctions, see injunctions

Irreparable harm as prerequisite to injunctive relief, § 31:10

Issue estoppel, § 31:23

REMEDIES—Cont'd

Limitation of actions

- absence of defendant from jurisdiction, effect of, § 31:30
- accrual of cause of action, § 31:26
- acknowledgment of cause of action, effect of, § 31:31
- case, actions on the, § 31:25
- Charter, effect of, § 31:25
- children, § 31:29
 - postponement of time in favour of, § 31:29
- sexual abuse of, § 31:26, § 31:27
- confirmation of cause of action, § 31:31
- continuing causes of action, § 31:26
- disability of plaintiff
 - effect of, § 31:29
 - limitation periods affected by, § 31:29
 - nature of, § 31:29
 - notice to proceed, § 31:29
 - personal representative, where, § 31:29
 - when arising, § 31:29
- discoverability rule, § 31:26, § 31:27, § 31:34
- equality rights, infringement of, § 31:25
- equitable claims, § 31:25, § 31:28
- fiduciary duty, breach of, § 31:25
- fraudulent concealment, § 31:28
- legislation, interpretation of, § 31:24
- limitation periods
 - acknowledgment of cause of action, effect of on, § 31:31
 - basis on which imposed, § 31:25
 - commencement of, § 31:26
 - discoverability of cause of action, § 31:26, § 31:27, § 31:34
 - discoverability of fraud, § 31:28
 - minors, in respect of, see children
 - constitutionality of, § 31:25
 - expiry of, effect of, § 31:24
 - extension of
 - confirmation of cause of action, by, § 31:31
- Manitoba Limitation of Actions Act
 - availability, § 31:32

REMEDIES—Cont'd

- Limitation of actions—Cont'd
 - limitation periods—Cont'd
 - extension of—Cont'd
 - Manitoba Limitation of Actions Act—Cont'd
 - evidence on application, § 31:32
 - material facts, § 31:32
 - reasonableness of plaintiff's actions, § 31:32
 - Nova Scotia Limitation of Actions Act, under, § 31:33
 - Ontario Legislation, under
 - Family Law Act, § 31:34
 - Limitations Act, § 31:35
 - nature and effect of, § 31:24
 - postponement of
 - absence from province, by, § 31:30
 - B.C. Limitations Act, under, § 31:27
 - disability, by, § 31:29
 - fraudulent concealment of cause of action, by, § 31:28
 - sexual assault, § 31:26, § 31:27
 - ultimate limitation period, § 31:26, § 31:27, § 31:29
 - mental incapacity, effect of, § 31:29
 - commencement of action by plaintiff under, § 31:29
 - temporary incapacity as, § 31:29
 - what constitutes, § 31:29
 - when arising, § 31:29
 - minors, see children
 - payment in respect of plaintiff's claim, effect of, § 31:31
 - physical disability, effect of, § 31:29
 - Public Trustee, service of notice to proceed on, § 31:29
 - purpose of legislation, § 31:24
 - temporary disability, effect of, § 31:29
 - trespass and case, § 31:25
- Management fee, § 30:50
- Mandatory injunctions, § 31:14, § 31:15
- Medical treatment, refusal of, § 30:111 to § 30:114
- Medicare benefits, effect of on damage award, § 30:62
- Mental disability, effect of on limitation periods, see limitation of actions

REMEDIES—Cont'd

- Mental distress, recoverability of damages for, § 30:10, § 30:17, § 30:106
- Minors, see children
- Mitigation of damages, see damages
- Nominal damages, see damages
- Non-pecuniary damages, see family and dependants' compensation; damages
- Opportunity, damages for loss of
 - opportunity to earn income, § 30:34, § 30:37
 - opportunity to make profit, loss of, § 30:53
 - opportunity to sell property, § 30:101, § 30:102
- Pain and suffering, damages for, § 30:2, § 30:16, § 30:19
- Parasitic damages, see damages
- Parent
 - loss of, damages for, § 30:75, § 30:76
 - surrogate, effect of on child's claim for damages, § 30:84, § 30:89
- Past income loss, see damages
- Pension benefits, effect of on damage award, § 30:61, § 30:62, § 30:92
- Personal injury
 - non-pecuniary damages
 - age, effect of, § 30:16, § 30:45
 - amenities, loss of, § 30:16, § 30:19
 - compensation neurosis, § 30:17
 - conventional award
 - application of, § 30:24
 - establishment of, § 30:24
 - inflation, effect of on, § 30:24
 - judicial guidance to jury, § 30:24
 - purpose of, § 30:24
 - date of assessment of, § 30:19
 - definition, § 30:14
 - expectation of life, loss of
 - availability of compensation for, § 30:16
 - effect of in determining damages, § 30:16
 - fertility, loss of, § 30:16
 - future losses, recoverability of, § 30:19
 - housekeeping capacity, loss of, § 30:16, § 30:32
 - interdependent relationship, loss of, § 30:34
 - interest, § 30:24

REMEDIES—Cont'd

Personal injury—Cont'd
 non-pecuniary damages—Cont'd
 medical treatment
 out of province, § 30:26
 recovery for pain and suffering
 resulting from, § 30:19
 refusal of, § 30:111 to § 30:114
 method of assessment of
 conceptual approach, § 30:15
 functional approach, § 30:15,
 § 30:24
 personal approach, § 30:15
 plaintiff, pre-existing condition of,
 § 30:21
 successive torts, § 30:22, § 30:23
 pain and suffering, § 30:16, § 30:19
 pre-trial loss, recoverability of,
 § 30:20
 psychological disorders, recovery
 for, § 30:17
 quantum, § 30:24
 rough upper limit, § 30:24
 structured settlement, § 30:63
 unaware plaintiff, recovery by,
 § 30:18
 upper limit, § 30:24
 pecuniary damages
 collateral benefits
 Canada Pension Plan benefits,
 § 30:62
 employment benefits, § 30:34,
 § 30:61
 gratuitous financial assistance
 employer of injured party, by,
 § 30:60
 friends and relatives of injured
 party, by, § 30:60
 government, by, § 30:57
 medicare benefits, § 30:62
 payments made pursuant to
 contract
 employment contracts, under,
 § 30:61
 pension benefits, § 30:61
 private insurance policies,
 under, § 30:58, § 30:61
 social assistance, § 30:62
 payments made pursuant to stat-
 ute, § 30:62

REMEDIES—Cont'd

Personal injury—Cont'd
 pecuniary damages—Cont'd
 collateral benefits—Cont'd
 principles governing deductibility
 of, § 30:58, § 30:59
 Unemployment Insurance benefits,
 § 30:62
 welfare benefits, § 30:62
 common law spouse, entitlement to
 dependants' compensation,
 § 30:68
 compensatory advantages
 see collateral benefits
 contingencies
 definition, § 30:25
 nature and effect of, § 30:46,
 § 30:62
 quantum of deductions for,
 § 30:46, § 30:54
 definition, § 30:25
 discounting of award for
 discount rate, determination of,
 § 30:47
 purpose of, § 30:47
 double compensation, avoidance of,
 § 30:26, § 30:46, § 30:48
 earning capacity, loss of
 assessment, § 30:33
 burden of proof, § 30:33
 children, in respect of
 permanent disability, § 30:41
 temporary disability, § 30:40
 contingencies, § 30:46
 definition, § 30:33
 female plaintiff, in respect of,
 § 30:42
 interest, § 30:51
 opportunity, loss of, § 30:37
 opportunity for family income,
 loss of, § 30:34
 partially disabled plaintiff, in
 respect of, § 30:35, § 30:36
 psychological injuries, § 30:44
 public health system, effect on,
 § 30:28, § 30:46, § 30:62
 quantification of, method of,
 § 30:35, § 30:45
 self-employed plaintiff, § 30:35
 sexual abuse cases, § 30:44

INDEX

REMEDIES—Cont'd

- Personal injury—Cont'd
 - pecuniary damages—Cont'd
 - earning capacity, loss of—Cont'd
 - sources of income
 - business income, § 30:34, § 30:53
 - business profits, § 30:34
 - fringe benefits, § 30:34
 - hobbies, § 30:34
 - salary, § 30:34
 - students, in respect of
 - permanent disability, § 30:41
 - temporary disability, § 30:40
 - temporarily disabled plaintiff, in respect of, § 30:40
 - totally disabled plaintiff, in respect of, § 30:35
 - unemployed plaintiff, in respect of, § 30:39, § 30:40
 - victim, death of, § 30:43
 - future care, cost of
 - assessment
 - avoiding duplication
 - incremental approach, § 30:48
 - lost years, § 30:48
 - total lifestyle approach, § 30:48
 - contingencies, § 30:46, § 30:62
 - duration of incapacity, effect of on, § 30:29, § 30:48
 - expenses recoverable, examples of, § 30:28
 - interest, § 30:31
 - principles governing, § 30:28
 - taxation, § 30:49
 - definition, § 30:27
 - housekeeping capacity, § 30:16, § 30:26, § 30:32
 - management fee, § 30:50
 - past care, § 30:26
 - past income loss
 - burden of proof, § 30:33
 - business income, § 30:53
 - contingencies, deduction for, § 30:54
 - contractual relational economic loss, § 30:53
 - corporate profits, § 30:53
 - fringe benefits, § 30:53

REMEDIES—Cont'd

- Personal injury—Cont'd
 - pecuniary damages—Cont'd
 - past income loss—Cont'd
 - nature of claim for, § 30:52
 - opportunity cost, § 30:53
 - opportunity to make profit, § 30:53
 - past loss of wages and nursing costs, deduction of, § 30:53
 - profit sharing arrangements, § 30:53
 - salary, § 30:53
 - shareholder, § 30:53
 - undeclared income, § 30:53
 - pre-trial expenses, § 30:26
 - successive torts, § 30:22, § 30:23
 - taxation, effect of, § 30:49, § 30:55
 - thin skull plaintiff, § 30:21
 - third parties
 - recovery of expenses by, § 30:26
 - voluntary services of
 - quantification of cost of, § 30:26
- Physical disability, effect of on limitation periods, see limitation of actions
- Postponement of limitation periods
 - see limitation of actions
- Property damages, see damages
- Psychological disorders, recovery of damages for, § 30:10, § 30:17, § 30:106
- Punitive damages, see damages
- Pure economic loss, § 30:53
- Quia timet injunctions, § 31:6
- Real damages, § 30:4
- Refusal of medical treatment, effect of on damage award, § 30:111 to § 30:114
- Rental costs, recovery of, § 30:104
- Restitutio in integrum, see damages
- Restitutionary remedies, see waiver of tort
- Rough upper limit for non-pecuniary damages, § 30:24
- Sexual abuse, § 30:44, § 31:26
- Special damages, see damages
- Structured settlement, § 30:63
- Successive actions, availability of, § 31:23
- Taxation, effect of, § 30:49, § 30:55, § 30:63, § 30:91
- Unawareness of injuries, effect of on damage award, § 30:18

REMEDIES—Cont'd

- Undertaking as to damages as condition of injunctive relief, § 31:12
- Unemployment Insurance benefits, effect of on damage award, § 30:62
- Unjust enrichment, see waiver of tort
- Valuation of property, see damages
- Voluntary services of third parties, recovery of damages for, § 30:26
- Waiver of tort
 - advantages of
 - limitation periods, avoidance of, § 31:22
 - recovery of amount exceeding plaintiff's loss, § 31:22
 - tracing property, avoidance of, § 31:22
 - appropriation of personality, § 31:21
 - assault, § 31:21
 - availability
 - loss by plaintiff, requirement for, § 31:19
 - proof of tort, § 31:18
 - specific torts, in respect of, § 31:21
 - unjust enrichment, necessity for, § 31:17, § 31:19
 - confidentiality, breach of, § 31:19, § 31:21
 - conflict of laws, § 31:22
 - conversion, § 31:21
 - deceit, § 31:21
 - definition, § 31:17
 - election of, § 31:20
 - history, § 31:17
 - nature of, § 31:17
 - quantification of recovery under
 - loss of plaintiff, relevance of, § 31:19
 - profits, accounting for, § 31:19
 - property, fair market value of, § 31:19
 - remedies available by, § 31:17
 - restitution, § 31:17, § 31:18, § 31:20
 - scope of recovery under, § 31:19
 - trespass, § 31:21
 - unjust enrichment
 - as ground for waiver, § 31:17
 - necessity for, § 31:17, § 31:19
 - quantification of, § 31:19
 - saving of expense as, § 31:19
 - what constitutes, § 31:19

REMEDIES—Cont'd

- Welfare benefits, effect of on damage award, § 30:62, § 30:92

REMOTENESS OF DAMAGE

- Generally, § 5:19

RENTAL COSTS, RECOVERY

- Generally, § 30:104

REPAIR OR RESTORATION

- Cost of as measure of recovery, § 30:96
- Enhancement of property value by, § 30:98
- Quantification of cost of, § 30:97
- Trespass to land, in action for, § 26:11

REPLEVIN

- Availability of action
 - co-executor, § 4:5
 - co-owner, § 4:5
 - defendant in action, § 4:5
 - seller of goods, § 4:5
 - termination of contract making possession wrongful, § 4:5
 - wrongful distress, § 4:5
 - wrongful taking or detention, § 4:5
- Definition, § 4:5
- Demand and refusal, § 4:5
- Distinguished from conversion, § 4:5
- Interim order, § 4:5
- Legislation, § 4:5
- Nature of action, § 4:5
- Ownership, § 4:5
- Possession, entitlement to, § 4:5
- Property subject to, § 4:5
- Trespass to chattels, § 25:5
- Wrongful detention, proof of, § 4:5

REPORTERS

- Disclosure of sources of in defamation action, § 6:89
- Statutory defences of to action for invasion of privacy, § 27:10

REPRESENTATION

- Communication of, § 5:11, § 5:17
- Concealment of facts, by, § 5:8
- Conduct, by, § 5:7
- Failure to advise of change in circumstance, by, § 5:8
- Failure to correct false statement, by, § 5:8

INDEX

REPRESENTATION—Cont'd

- Half-truths, by, § 5:8
- Materiality, § 5:12
- Non-compliance with duty of disclosure, § 5:8
- Reliance on, § 5:12, § 5:13
- Silence, by, § 5:8
- Subject matter of
 - examples, § 5:9
 - opinion, § 5:9
 - promise, § 5:9
 - sales talk, § 5:9
 - statement of fact, § 5:9
 - statement of law, § 5:9
- Suppression of information, by, § 5:8
- Writing, statutory requirement of, § 5:8

REPRODUCTIVE HARMS

- Generally, § 19:26
- Claims
 - consequential economic and emotional harm, § 19:27
 - physical injuries, § 19:27
- Fetal injuries, § 19:28
- Potential plaintiffs, § 19:27
- Wrongful birth, § 19:30
- Wrongful life, § 19:29
- Wrongful pregnancy, § 19:31

REPUTATION, INJURY TO

- See defamation; injurious falsehood; passing off
- Generally, § 15:7

RESCISSION

- Generally, § 19:14

RESCUERS

- See also emergencies
- Generally, § 17:8
- Duty to intervenors, § 19:43

RESIDENTIAL TENANTS, STATUS OF VISITORS OF

- Generally, § 21:14

RES IPSA LOQUITUR

- See also onus/burden of proof
- Medical malpractice, in action for, § 18:88
- Products liability, in action for, § 23:13

RES JUDICATA

- See judgment

RES JUDICATA—Cont'd

- Basis of doctrine, § 29:41
- Estoppel by record, § 29:41
- Expiry of limitation period, § 29:41
- Historical background, § 29:41
- Rules of, § 29:41

RESTITUTIO IN INTEGRUM

- See damages
- Damages exceeding, § 30:12
- Limitations on, § 30:12
- Personal injury, with respect to, § 30:15
- Principle of, § 30:12
- Property, damage with respect to, § 30:94

RESTITUTIONARY REMEDIES

- See waiver of tort

RESTORATION OF CHATTEL

- Generally, § 4:17

RESTRAINT, MEANS OF

- Failure to act, § 7:8
- Moral pressure, § 7:8
- Physical contact, § 7:8

REVERSIONER, RIGHT OF ACTION OF

- Conversion, for, § 4:24
- Nuisance, for, § 20:23
- Trespass to land, for, § 26:14

RIGHT OF ACTION

- Actual possession as prerequisite to, § 4:9
- Bailee, of, § 4:9, § 4:24
- Bailor, of, § 4:24
- Chattel lessor, of, § 4:9
- Chattel mortgagee, of, § 4:9, § 4:24
- Conversion and detinue, § 4:1
- Co-owner, of, § 4:24
- Employee, of, § 4:25
- Finder, of, § 4:9, § 4:24
- Holder of reversionary interest, § 4:24
- Intimidation
 - where contractual remedies adequate, § 13:8
 - where lawful act threatened, § 13:8
 - where plaintiff acts unreasonably, § 13:12
 - where threat not acted upon, § 13:10
- Municipalities, of, § 3:13
- Occupier of property, § 4:24
- Owner, of, § 4:9

RIGHT OF ACTION—Cont'd

- Right to possession as prerequisite to, § 4:9
- Shareholders, of, § 3:13
- Statutory limits on, § 3:10

RIGHT OF ENTRY, REVOCATION OF

- Generally, § 26:6, § 26:9

RIGHT OF PUBLICITY

- See also privacy
- Generally, § 27:4
- Assumption of, see voluntary assumption of risk
- Right of action for interference with, § 26:13, § 26:14
- Right to as defence to trespass action, § 26:8, § 26:9

ROLLED-UP PLEA

- Generally, § 6:96

**ROUGH UPPER LIMIT FOR
NON-PECUNIARY DAMAGES**

- Generally, § 30:24

RULE IN FOSS V. HARBOTTLE

- Generally, § 32:52, § 32:55

RYLANDS V. FLETCHER

- See defences, statutory; strict liability
- Defences
 - act of God, § 24:2, § 24:21
 - consent, § 24:19
 - contributory negligence, § 24:20
 - statutory authority, § 24:23
 - statutory immunity, § 24:23
 - stranger, act of, § 24:2, § 24:22
 - unusual sensitivity of plaintiff, § 24:20
 - voluntary assumption of risk, § 24:19
- Elements of, § 24:6
- Employees, liability for acts of, § 24:22
- Escape, § 24:9
- Fletcher, see defences, statutory; strict liability
- Foreseeability of damage, § 24:8
- Independent contractors, liability for acts of, § 24:22
- Knowledge of potential danger, necessity for, § 24:8
- Licensee, right of action of under, § 24:27
- Non-natural use of land, § 24:2, § 24:7
- Nuisance distinguished from, § 20:3

RYLANDS V. FLETCHER—Cont'd

- Occupation or control of premises, necessity for, § 24:9, § 24:28
- Ownership of damaged premises, necessity for, § 24:27
- Personal injuries, recovery for, § 24:26
- Principles established in, § 24:2
- Thing likely to do mischief, § 24:2, § 24:8
- Trespassers, for acts of, § 24:22
- Trespass to land distinguished from, § 26:3

SALE OF LAND

- See real estate agents

**SALE OF LAND (PURCHASER'S
DUTY)**

- Generally, § 17:4

SALES TALK, LIABILITY FOR

- See also injurious falsehood
- Deceit, in action for, § 5:9

SALE TO THIRD PARTY

- Generally, § 4:10, § 4:11

SCHOOLS

- See children; teachers/school boards

**SCHOOLS, DUTY OF TO ACT AS
REASONABLY CAREFUL
PARENT**

- Generally, § 16:9

SCIENTER ACTION

- See also defences, statutory
- Classification of animals for purpose of, § 24:3
- Control or ownership of animal, § 24:14, § 24:15
- Defences, § 24:25
- Dogs, in relation to, § 24:15, § 24:16
- Duty to warn, § 24:25
- Elements of cause of action, § 24:13
- Joint liability, § 24:14
- Knowledge of mischievous propensity
 - admission of, § 24:15
 - dog owners, § 24:15 to § 24:17
 - domestic animals, of, § 24:15
 - imputed or inferred, § 24:15
 - required for liability, § 24:3, § 24:15
- Personal injury and, § 24:12
- Plaintiff's conduct, § 24:25

SCIENTER ACTION—Cont'd

Statutory provisions affecting, § 24:3,
§ 24:15, § 24:16

Trespassers and, § 24:25

SEAT-BELTS/HEADRESTS

Generally, § 17:4, § 17:15, § 17:18

Duty re other people's children, § 16:9

**SECONDARY MEANING, PASSING
OFF AND**

Generally, § 22:14

**SECONDARY PICKETING AS
UNLAWFUL MEANS**

Generally, § 3:7

SEIZURE

Conversion, as, § 4:11, § 4:24, § 4:25

Trespass during, § 26:12

SELF-HELP

Detinue, as remedy for, § 4:23

False imprisonment, as remedy for, § 7:15

SELF-INTEREST

Conspiracy, defence of in action for,
§ 3:8, § 3:10

Onus of proving, § 3:10

Privilege pertaining to defamatory state-
ments in protection of, § 6:41

Where conduct lawful, § 3:8, § 3:10

Where conduct unlawful, § 3:10

SETTLEMENT

Malicious prosecution, effect of, § 15:8

Structured, § 30:63

SEVERAL TORTFEASORS

Generally, § 29:10, § 29:12

SEXUAL ABUSE

See also damages

Generally, § 29:32, § 29:37, § 30:44,
§ 31:26

Actions arising from, § 2:5, § 2:27

Consent as defence, § 2:20

Damages, § 2:22

Limitation period, § 2:27

Social worker, duties of, § 16:20

Suspensions re, § 6:35

Vicarious liability for, § 2:26

SEXUAL ABUSE/ASSAULT

Liability generally, § 29:32, § 29:37

SEXUAL ABUSE/ASSAULT—Cont'd

Social workers, duties of, § 16:20

SEXUAL ASSAULT

See assault and battery

SEXUAL HARASSMENT

Generally, § 27:35

SHAREHOLDERS

See financial statements, reliance on

Liability of for interference with
contractual relations, § 8:18

Right of action of
conspiracy, for, § 3:13
deceit, for, § 5:17

SHARES, CONVERSION OF

Generally, § 4:20

SHERIFF, DEFENCES OF

Generally, § 25:11

**SHERIFF, LIABILITY OF FOR
TRESPASS TO CHATTELS**

Generally, § 25:11

SIDEWALKS

See occupiers' liability

SILENCE, LIABILITY FOR

Deceit, in action for, § 5:8

Representation by, § 5:8

SLANDER

See defamation

Of title, § 6:2

SLANDER ACTIONABLE PER SE

General, § 6:5

Imputations of crime, § 6:6

Imputations of disease, § 6:8, § 6:9

Injury to reputation, § 6:7

Unchastity, § 6:9

SLANDER OF GOODS

See injurious falsehood

Nature of action, § 6:2

Special damages required, § 6:2

SNOWMOBILES

Generally, § 21:24

Occupiers' liability to users of, § 21:24

SOCIAL WORKERS

Generally, § 16:20

**SOLICITOR-CLIENT
COMMUNICATIONS, PRIVILEGE
PERTAINING TO DEFAMATORY
STATEMENTS IN**

Generally, § 6:33

SOLICITORS, LIABILITY OF

See barristers and solicitors; Crown
counsel

**SOLITARY
CONFINEMENT/SEGREGATED
CUSTODY**

Generally, § 7:7

SPECIAL DAMAGES

See damages
Calculation, § 30:11
Definition, § 30:11
Loss of earnings as, § 30:52
Maintenance and champerty, § 14:5,
§ 14:10
Necessity for, § 3:9
Past loss of earning as, § 30:52
Pleading, § 30:11
Presumption of, § 3:9
Pretrial expenses as, § 30:26
Proof of, § 30:11

**SPECIALISTS, STANDARD OF CARE
REQUIRED OF**

Barristers and solicitors, § 18:8
Doctors, § 18:79

SPECIFIC PERFORMANCE

Generally, § 8:16

SPECTATORS, RIGHT OF ACTION OF

Generally, § 2:20

SPOILIATION

Generally, § 27:36

**SPORTS, LIABILITY FOR INJURIES
DURING**

Assault or battery, § 2:20
Occupiers' liability, § 21:12, § 21:28 to
§ 21:30

SPOUSES

Generally, § 29:24
Common law, § 32:60
Immunity in tort, abolition of, § 29:24,
§ 32:61
Legislation, § 32:61

SPOUSES—Cont'd

Liability of for assault or battery, § 2:26

STANDARD OF CARE

See cause of action
Proof of negligence, § 23:13
reasonable evidence, § 23:13
res ipsa loquitur, § 23:13
SCC suggests abandoning, § 23:13
Reasonable care, see reasonable care
Strict liability, § 23:13
Warning, see warning

STANDARD OF CARE (CHILDREN)

See also children
Age, relevance of, § 17:6
General, § 17:6
Intelligence, relevance of, § 17:6
Intervening acts, § 17:6
Objective test, § 17:6
Parents, duty of, § 17:5
Presumption of incapacity, § 17:6
Seatbelts, § 17:4, § 17:6
Subjective test, § 17:6

**STANDARD OF CARE
(EMERGENCIES)**

Generally, § 17:8

STANDARD OF CARE (GENERAL)

Generally, § 17:5

STANDARD OF CARE (PARENTS)

Generally, § 17:4, § 17:5

**STANDARD OF CARE (REASONABLE
PERSON)**

See also contributory negligence; duty of
care (general); foreseeability;
proximate cause/remoteness of dam-
age;
Generally, § 16:7
Characteristics of reasonable person
age, § 16:13
amateurs and professionals, § 16:10
mental capability, § 16:12
moral and intelligence qualities, § 16:8
parenting skills, § 16:9
physical capability, § 16:11
Custom, § 16:19
Dangerous objects, § 16:16
Emergencies, § 16:21
Errors in judgment, § 16:7

INDEX

STANDARD OF CARE (REASONABLE PERSON)—Cont'd

- Statutory standards, § 16:20
- Unreasonable risk
 - generally, § 16:14
 - burden of precautions, § 16:17
 - likelihood of injury, § 16:15
 - seriousness of anticipated harm, § 16:16
 - social importance, § 16:18

STANDARD OF CARE (RISK VS. UTILITY)

- Generally, § 17:7

STANDARD OF PROOF

- Generally, § 5:21

STANDARD PRACTICE

- See custom

STATEMENT OF CLAIM

- Generally, § 15:16
- Content of
 - generally, § 3:15
 - successive conspiracies, pleading of, § 3:15
 - where conduct criminal, § 3:15
- Sufficiency of, § 4:26

STATEMENTS

- Generally, § 19:1
- Breach of contract, § 19:4
- Central & Eastern Trust Co. v. Rafuse, § 19:4
- Contributory negligence, § 19:12
- Deceit, § 19:2
- Defences
 - contributory negligence, § 19:12
 - disclaimers, § 19:11
- Duty of care, § 19:6
- Elements of action
 - generally, § 19:5
 - duty of care, § 19:6
 - loss, § 19:10
 - reliance, § 19:9
 - standard of care, § 19:8
 - type of statement, § 19:7
- Half-truths, § 19:7
- Hedley Byrne & Co. v. Heller & Partners, § 19:1, § 19:6, § 19:11
- Hercules Management Ltd. v. Ernst & Young, § 19:6, § 19:9

STATEMENTS—Cont'd

- Injurious falsehood, § 19:3
- Omissions, § 19:7
- Queen v. Cognos, § 19:5, § 19:7, § 19:8
- Related actions
 - breach of contract, § 19:4
 - deceit, § 19:2
 - injurious falsehood, § 19:3
- Remedies
 - damages, § 19:13
 - rescission, § 19:14
- Standard of care, § 19:8

STATUTE

- Breach of as an unlawful means, § 3:7
- Limitations on right of action under, § 3:10
- Remedies under, § 3:4

STATUTE OF FRAUDS

- Generally, § 5:8, § 5:14

STATUTORY AUTHORITY

- See defences, statutory
- Assault or battery
 - arrest, for, § 2:18
 - corporal punishment, for, § 2:18
 - Criminal Code, under, § 2:18
 - effect of on tort action, § 2:18
 - limitation periods, § 2:27
 - nature and scope of defence, § 2:18
 - onus of proving, § 2:18
 - provincial legislation, under, § 2:18
 - reasonableness of force, § 2:18
- Crown, in favour of, § 32:15
- Defence of, § 25:11
- False imprisonment, in action for
 - committing physician under mental health legislation, § 7:12
 - judicial officers, § 7:18
 - peace officers, § 7:12, § 7:19
 - private citizen effecting arrest, § 7:12
- Nuisance, in action for, § 20:17
- Rylands v. Fletcher, to action based on, § 24:23
- Trespass to chattels, in action for, § 25:11
- Trespass to land, in action for, § 26:10

STATUTORY DEFENCES

- Generally, § 8:11, § 8:13

STATUTORY DUTIES AND STANDARDS

Generally, § 5:8, § 21:24, § 23:14

STATUTORY DUTY TO DISCLOSE, EFFECT OF

Generally, § 5:8

STATUTORY LIMITS ON RIGHT OF ACTION

Generally, § 3:10

STATUTORY OFFENCES DISTINGUISHED FROM TRESPASS TO LAND

Generally, § 26:4

STATUTORY PROTECTION

Committing physician under mental health legislation, § 7:12

Judicial officers, § 7:18

Peace officers, § 7:12, § 7:19

Private citizen effecting arrest, § 7:12

STONES, CONVERSION OF

Generally, § 4:8

STRANGER, OCCUPIERS' LIABILITY FOR ACT OF

Generally, § 24:2, § 24:22, § 24:24, § 24:25

STRATEGIC LITIGATION AGAINST PUBLIC PARTICIPATION

Generally, § 6:97

STRICT LIABILITY

Generally, § 23:13

Act of God, § 24:2, § 24:21, § 24:24, § 24:25

Act of stranger, § 24:2, § 24:22, § 24:24, § 24:25

Animal keepers, see defences, statutory

Animals, § 24:3

at large, § 24:12

damages, § 24:26

dangerous, § 24:3, § 24:25

dogs, § 24:12, § 24:15 to § 24:17, § 24:25

ferae naturae, § 24:3

horses, § 24:3

knowledge of propensity of dangerousness, § 24:3, § 24:13, § 24:15 to § 24:17

mansuetae naturae, § 24:3

STRICT LIABILITY—Cont'd

Cattle trespass, see defences, statutory

Cause of action

animal keepers, § 24:12

cattle on highway, § 24:3

defences, § 24:24

dogs and cats, § 24:12

domestic animals, trespass by, § 24:3, § 24:12

scienter action, the, § 24:3, § 24:13, § 24:17

animal owned by or under control of defendant, § 24:14

joint liability, § 24:14

dogs, § 24:15 to § 24:17

general, § 24:3, § 24:13

knowledge of mischievous propensity

admission of, § 24:15

dog owners, § 24:15 to § 24:17

domestic animals, § 24:15

imputed or inferred, § 24:15

required for liability, § 24:3, § 24:15

conditions for

abnormally dangerous activities, § 29:9

escape, § 29:9

non-natural use, § 29:9

function of, § 29:9

meaning, § 29:9

conversion of, § 4:1, § 4:18

Rylands v. Fletcher, § 24:6

damage as result of escape, § 24:10

distinguished from negligence, § 24:2

distinguished from nuisance, § 24:4

elements of, § 24:6

escape, § 24:9, § 24:10

extra-hazardous activities, § 24:11

fire, § 24:2

general, § 24:6

mischievous, things likely to do, § 24:2, § 24:8

knowledge of potential danger, § 24:8

non-natural use, § 24:2, § 24:7

principle of, § 24:2

where applicable, § 24:27, § 24:28

Damages, compensatory, see remedies

INDEX

STRICT LIABILITY—Cont'd

- Defences, § 24:18
 - animal keepers, § 24:24
 - act of God, § 24:24, § 24:25
 - act of stranger, § 24:24, § 24:25
 - cattle trespass, § 24:3, § 24:24, § 24:25
 - scienter action, the, § 24:25
 - act of God, § 24:25
 - act of stranger, § 24:25
 - duty to warn, § 24:25
 - plaintiff's conduct, § 24:25
 - trespassers and, § 24:25
- common law, at, § 24:2
- Rylands v. Fletcher, § 24:18
 - act of God, § 24:2, § 24:21
 - act of stranger, § 24:2, § 24:22
 - stranger definition, § 24:22
 - defendant's conduct, § 24:2
 - general, § 24:18
 - plaintiff's consent, § 24:19
 - plaintiff's default, § 24:20
 - statutory authority, § 24:23
 - statutory immunity, § 24:23
- Dogs, § 24:12, § 24:15, § 24:17, § 24:25
 - see also animals
 - at large, § 24:15
 - cattle, as, § 24:12
 - statutory liability for, § 24:15, § 24:17
 - trespasser's knowledge of, § 24:25
- Fire, § 24:2, § 24:27
- Mischief, § 24:8
- Negligence, § 24:2, § 24:5
- Non-natural use, § 24:2, § 24:7
- Nuisance, § 24:2, § 24:4
- Parties
 - defendants, § 24:28
 - landlords, § 24:28
 - landowners, § 24:28
 - occupiers, § 24:28
 - owners of dangerous substances, § 24:28
 - plaintiffs, § 24:27
 - default of plaintiff, § 24:20
- Remedies
 - compensatory damages, § 24:26
 - economic loss denied, § 24:26
 - personal injuries compensated, § 24:26

STRICT LIABILITY—Cont'd

- Rylands v. Fletcher, § 24:2, § 24:6, § 24:7, § 24:18
 - see also defences, statutory
- Scienter action, see also defences, statutory
- Statutory authority, § 24:23
- Theoretical basis of, § 29:9
- Trespass to land, distinguished from, § 26:3

STRIKES

- Damages for in action for interference with contractual relations, § 8:15
- Statutory exemption in respect of for interference with contractual relations, § 8:13
- Threat of as intimidation, § 13:8

STRUCTURED SETTLEMENT

- Generally, § 30:63

STUDENTS

- See children; teachers/school boards

STUDENTS ON SCHOOL PREMISES, STATUS OF

- Generally, § 21:14

SUBSURFACE ENTRY AS TRESPASS TO LAND

- Generally, § 26:6

SUCCESSIVE ACTIONS, AVAILABILITY OF

- Generally, § 31:23

SUCCESSIVE INJURIES

- Generally, § 30:20

SUCCESS OF PROCEEDINGS

- Generally, § 14:11

SUPPRESSION OF FACTS

- Generally, § 5:8

SUPPRESSION OF INFORMATION AS DECEIT

- Generally, § 5:8

SURGERY, STANDARD OF CARE APPLICABLE TO

- Generally, § 18:85

SURVEILLANCE, LIABILITY FOR

- Generally, § 27:2, § 27:7, § 27:10

SURVIVAL OF ACTIONS

Generally, § 29:39
 Defamation, for, § 6:2, § 6:78
 Injurious falsehood, action for, § 6:2, § 9:16
 Invasion of privacy, statutory action for, § 27:10
 Libel or slander, § 6:2, § 6:78
 Personal injury damages, § 30:63 to § 30:65

TAMPERING

Effect of on manufacturer's liability for defective product, § 23:10

TAXATION, EFFECT OF ON DAMAGES

Generally, § 30:49, § 30:55, § 30:63, § 30:91

TEACHERS/SCHOOL BOARDS

Duty to educate, § 16:20
 Liability of for assault or battery, § 2:18, § 2:26
 Standard of care, § 16:9

TELEVISION

Generally, § 6:4, § 6:14, § 6:22

TELEVISION RECEPTION, LIABILITY FOR INTERFERENCE WITH

Generally, § 20:9

TENANTS

Implied consent of to use of premises, § 24:19
 Liability of
 nuisance, for, § 20:24
 occupier, as, § 21:6
 Right of action of
 nuisance, for, § 20:23
 trespass to land, for, § 26:14
 Visitors of, landlord's liability in respect of, § 21:14

TENDERS

General, § 19:4, § 19:6

TERMINATION OF PROCEEDINGS

Generally, § 1:1, § 1:2, § 15:8
 Acquittal, by, § 15:8, § 15:9
 Agreement, by, § 15:8
 Conviction, by, § 15:8
 Ex parte proceedings, § 15:8

TERMINATION OF PROCEEDINGS

—Cont'd

Irregularity in proceedings, by, § 15:8
 Nature of proceedings precluding, § 15:8
 Necessity for, § 15:8
 Partial, § 15:8
 Peace bond, § 15:8
 Plea bargain, § 15:8
 Proof of, § 15:16
 Settlement, by, § 15:8
 Withdrawal of charges, by, § 15:8

THEFT BY CONVERSION

Generally, § 4:3

THIN-SKULL PLAINTIFF

Damages and, § 30:21
 Negligence, effect of on liability for, § 16:34
 Nervous shock, effect of on liability, § 10:6
 Nuisance, effect of on liability for, § 20:12
 Rylands v. Fletcher, in action based on, § 24:20

THIN-SKULL RULE

See also proximate cause/remoteness of damage
 Generally, § 16:34

THIRD PARTIES

See also defendants; plaintiffs
 Foreseeability, § 19:42
 Occupiers' liability for acts of, § 21:12, § 21:15, § 21:16, § 21:24
 Relational economic loss, and, § 19:21

THIRD PARTY

As object of defendant's act, § 10:2, § 10:13
 Representation relating to, § 5:8

THREATS

See assault and battery; intimidation; nervous shock; nuisance
 Assertion of legal right as, § 13:8
 Compliance with, § 13:10
 Conduct, by, § 13:8
 In furtherance of improper purpose, § 1:8
 What constitutes, § 13:8

THREE-PARTY INTIMIDATION

Generally, § 13:11

INDEX

TICKETS, LIMITATIONS OF LIABILITY IN

See disclaimers

TORT

Definition, § 15A:1

Nature of, see nature of tort

TORT AS UNLAWFUL MEANS

Generally, § 3:10

TORT INJURY TO ECONOMIC INTERESTS

See interference with economic interests

TORT LAW

Charter of Rights and Freedoms, general effect on, § 15A:4

Constitutional context, § 15A:3

Purposes of

generally, § 15A:5

compensation, § 15A:6

deterrence, § 15A:6

justice, § 15A:7

ombudsman, § 15A:8

Sources of, § 15A:2

Theories of, § 15A:8

TORTS, DEVELOPING

See developing torts

TRADE, LIABILITY FOR DISPARAGEMENT OF PLAINTIFF'S REPUTATION IN

Generally, § 6:7

TRADE LIBEL

See injurious falsehood

TRADER

Definition, § 22:1

Reputation or goodwill

class, of, § 22:13

group, of, § 22:1

separate, of, § 22:13

unestablished, of, § 22:13

TRADE SECRETS

Breach of confidence, § 27:16, § 27:17

TRADE UNIONS

Generally, § 32:54

Defamation, § 6:83

Liability of

conspiracy, for, § 3:14

TRADE UNIONS—Cont'd

Liability of—Cont'd

interference with contractual relations, for, § 8:18

see also picketing; strikes

Status of, § 3:14

Statutory protection for acts of

Criminal Code, under, § 3:2

labour legislation, under, § 3:2, § 3:10

TRANSFERRED INTENT

Generally, § 2:7

TREES

Generally, § 26:6

Conversion of, § 4:8

Encroaching, liability in relation to, § 20:8, § 20:9

TRESPASS

Generally, § 2:1

Ab initio, § 26:10

Actionable per se, § 26:1, § 26:2, § 26:11

Air space, to, § 26:6

Definition, § 26:1

Distinguished from nuisance, § 20:2

Forcible entry, § 26:6

On the case, § 26:1

Relation, by, § 26:7, § 26:14

Writ of, § 26:1

TRESPASSERS

Expulsion of as defence to assault or battery, § 2:15

Liability for acts of

occupiers' liability in nuisance for acts of, § 20:8

Rylands v. Fletcher, in action based on, § 24:22

Occupiers' liability for injuries to, see occupiers' liability

Right of action of for injuries caused by animals, § 24:25

TRESPASSING ANIMALS, LIABILITY FOR DAMAGES CAUSED BY

Generally, § 24:3, § 24:12, § 24:24

TRESPASS TO CHATTELS

Accelerated depreciation, damages for, § 25:12

Actual possession, requirement of, § 25:8

Bailiffs, defences of, § 25:11

TRESPASS TO CHATTELS—Cont'd

Betterment, effect of on damages for, § 25:12
 Compensatory damages for, § 25:12
 Computer data, § 25:6, § 25:9
 Consent, defence of, § 25:11
 Constructive possession, § 25:8
 Contact, necessity for, § 25:9
 Conversion, distinguished from, § 4:2, § 4:25, § 25:4
 Criminal proceedings
 effect of on civil action, § 25:6
 effect of on punitive damages, § 25:6, § 25:13
 evidence of, § 25:6
 Cyber-trespass, § 25:9
 Damage, necessity for, § 25:10
 Damages
 compensatory, § 25:12
 nominal, § 25:10
 punitive, § 25:6, § 25:13
 remoteness, § 25:12
 special, § 25:12
 Defences, § 25:11
 inevitable accident, § 25:11
 legal justification, § 25:11
 mistake, § 25:11
 permission, § 25:11
 Detinue, distinguished from, § 25:2, § 25:3
 Direct interference
 as basis of action, § 25:7
 forms of, § 25:9
 Execution
 defences relating to, § 25:11
 History of, § 25:1, § 25:2
 Independent contractor, liability for acts of, § 25:15
 Inevitable accident, defence of, § 25:11
 Intention, requirement of, § 25:7, § 25:9
 Legal justification, defence of, § 25:11
 Limitation periods, § 25:16
 Measure of damages, § 25:12
 Mischief, § 25:6
 Mistake, defence of, § 25:9, § 25:11
 Nature of action, § 25:1, § 25:2, § 25:7
 Negligent trespass, § 25:7, § 25:9, § 25:12
 Nominal damages, § 25:10

TRESPASS TO CHATTELS—Cont'd

Onus of proof, § 25:7
 direct interference, § 25:7
 intention or negligence, § 25:7
 Ownership of goods, § 25:8
 Parties, § 25:14, § 25:15
 Possession
 forms of, § 25:8
 interference with as basis of action, § 25:7, § 25:14
 prerequisite to action, as, § 25:8, § 25:14
 temporary right to, sufficiency of, § 25:8
 Punitive damages, § 25:13
 Replevin, § 25:5
 Sheriff, defences of, § 25:11
 Statutory authority, defence of, § 25:11
 Trover, § 25:1, § 25:2

TRESPASS TO LAND

Air space, to, § 26:2, § 26:6
 Conduct constituting trespass, § 26:6
 Continuing trespass, § 26:6, § 26:11, § 26:16
 Damage, proof of, § 26:1, § 26:2
 Damages
 compensatory, § 26:11
 business property, § 26:11
 continuing trespass, § 26:6, § 26:11, § 26:16
 dispossession, for, § 26:11
 forcible entry and, § 26:6
 general, § 26:11
 measure of, § 26:11
 mitigation, § 26:11
 nominal, § 26:11
 void expropriation, § 26:11
 nominal, § 26:11
 punitive, § 26:12
 special, § 26:11, § 26:16
 mesne profits, § 26:11, § 26:16
 Defences
 adverse possession, § 26:8
 consent, § 26:9, § 26:10
 Indian band member, § 26:8
 leave and licence, § 26:9
 mistake, § 26:8
 operation of law, justification by authority by law, § 26:10
 burden of proof, § 26:1, § 26:10

TRESPASS TO LAND—Cont'd

- Defences—Cont'd
 - operation of law, justification by
 - Cont'd
 - general, § 26:8, § 26:10
 - goods, recovery of stolen, § 26:10
 - hunting licence, § 26:10
 - necessity, § 26:10
 - reserve land, § 26:8
 - statutory authority, § 26:10
 - volunteer, mere, § 26:10
 - statutory, § 26:8, § 26:10
 - title, older or better, § 26:8
- Distinguished from
 - nuisance, § 26:2
 - statutory offences, § 26:4
 - strict liability, § 26:3
- Elements, generally, § 26:5
- Entry or contact with land, § 26:6
- Expropriation, wrongful, § 26:6, § 26:10, § 26:11
- Fact, in, § 26:7
- First Nations land, § 26:8, § 26:14 to § 26:16
- Forcible entry, § 26:6
 - failure to leave, § 26:6
 - forms of action, § 26:1
 - general, § 26:5
- Hunting licence, § 26:10
- Immediate right of, § 26:7
- Injunctions, § 26:13
- Intention, § 26:5
- Interference, direct, § 26:2, § 26:3, § 26:5, § 26:6
- Law, in, § 26:7
- Legal title and, § 26:7
- Limitation period, see practice
- Mesne profits, § 26:11, § 26:16
- Mineral tenure, § 26:7
- Nature of, § 26:1
- Nuisance, distinguished from, § 20:2, § 26:2
- Occupier, of mere, § 26:7
- Onus, reverse, § 26:1, § 26:8, § 26:10
- Ouster of co-owner, § 26:14
- Parties
 - defendants
 - employer, § 26:15
 - Indian band member, § 26:15
 - joint trespassers, § 26:15

TRESPASS TO LAND—Cont'd

- Parties—Cont'd
 - defendants—Cont'd
 - mortgagee, § 26:15
 - plaintiffs
 - beneficiary, § 26:14
 - co-owner, § 26:14
 - grantee, § 26:14
 - Indian band, § 26:14
 - licensee, § 26:14
 - mortgagee, § 26:14
 - possession, person in, § 26:14
 - reversioner, § 26:14
 - statutory plaintiff, § 26:14
 - tenant, § 26:14
 - trustee, § 26:14
- Possession, Crown land, of, § 26:7
- Practice
 - jurisdiction
 - Federal Court, § 26:16
 - First Nations, § 26:16
 - limitation period
 - Alberta, § 26:16
 - British Columbia, § 26:16
 - continuing trespass, for, § 26:16
 - estoppel and, § 26:16
 - First Nations, § 26:16
 - Manitoba, § 26:16
 - provinces, other, § 26:16
 - pleading
 - mesne profits, § 26:16
- Related actions
 - nuisance, § 26:2
 - statutory offences, § 26:4
 - strict liability: Rylands v. Fletcher, § 26:3
- Rylands v. Fletcher, § 26:3
- Statutory offences, distinguished from, § 26:4
- Strict liability, distinguished from, § 26:3
- Sufficiency of, § 26:7
- Trees, to, § 26:6
- Trespass
 - ab initio, § 26:10
 - actionable per se, § 26:1, § 26:2, § 26:11
 - air space, § 26:1
 - definition, § 26:1
 - forcible entry, § 26:6
 - on the case, § 32:2

TRESPASS TO LAND—Cont'd

Trespass—Cont'd
 relation by, § 26:7, § 26:14
 use, mere, § 26:7
 writ of, § 26:1

TRESPASS TO THE PERSON

See assault and battery; false imprisonment
 Generally, § 16:1, § 16:4

TRIAL

Generally, § 3:15, § 6:100, § 6:101

TROVER

Generally, § 4:4, § 25:1, § 25:2

TRUE INNUENDO

See defamation

TRUST, BREACH OF

Generally, § 17:14

TRUTH OF WORDS

Complete defence, § 6:27
 Imputations, § 6:27
 Multiple allegations, § 6:27
 Onus on defendant, § 6:27
 Presumption of falsity, § 6:26
 Repetition of slander, § 6:27
 Statements of opinion, § 6:27
 Subsequent facts, § 6:27
 Trust of substance, § 6:27
 Unchastity, § 6:9

TWO-PARTY INTIMIDATION

Breach of contract, effect of, § 13:8
 Definition, § 13:6, § 13:11

ULTRA VIRES ACTION

See misfeasance in public office

**UNAWARENESS OF INJURIES,
 EFFECT OF ON DAMAGE AWARD**

Generally, § 30:18

UNAWARE PLAINTIFF

False imprisonment, effect on liability for, § 7:14
 Non-pecuniary damages, effect of on award for, § 30:18

**UNBORN CHILDREN, RIGHT OF
 ACTION OF**

Pre-natal injuries, for, § 16:26, § 32:43

**UNCHASTITY, LIABILITY FOR
 IMPUTATION OF**

Generally, § 6:9

**UNDERTAKING AS TO DAMAGES AS
 CONDITION OF INJUNCTIVE
 RELIEF**

Generally, § 31:12

**UNEMPLOYMENT INSURANCE
 BENEFITS, EFFECT OF ON
 DAMAGE AWARD**

Generally, § 30:62

UNFAIR COMPETITION

See passing off

UNINCORPORATED ASSOCIATIONS

Capacity to sue, § 32:54, § 32:55
 Definition, § 32:54
 Political parties, § 32:56
 Tortious liability of, § 32:56

UNIONS

See picketing; strikes; trade unions
 Liability of, § 8:18

UNJUST ENRICHMENT

See waiver of tort

UNLAWFUL ACTS

Breach of contract as, § 13:8
 Defined, § 13:8
 Labour legislation, breach of, § 13:8

**UNLAWFUL INTERFERENCE WITH
 ECONOMIC INTERESTS**

See interference with economic interests
 Generally, § 13:4

UNLAWFUL MEANS

Effect of, § 3:8, § 3:10
 Elements of action, § 3:5, § 3:15
 Mistake of fact as defence, § 3:10
 Mistake of law as defence, § 3:10
 Tort as, § 3:1, § 3:7, § 3:15
 What constitutes, § 3:7, § 3:15

UNLAWFUL MEANS TORT

See interference with economic interests

**UNREASONABLENESS OF
 INTERFERENCE**

Abnormal sensitivity, § 20:12
 Balancing conflicting interests, § 20:10, § 20:11

INDEX

UNREASONABLENESS OF

INTERFERENCE—Cont'd

- Character of neighbourhood, § 20:10, § 20:11, § 20:19
- Damage to property, material, § 20:11
- Discomfort or inconvenience, § 20:11
- Factors considered, § 20:10, § 20:11, § 20:13
- General, § 20:4, § 20:9, § 20:10
- Harm, gravity of, § 20:10
- Knowledge of defendant, § 20:12
- Legislation and, § 20:11
- Nature of interference, § 20:10
- Standard of locality, § 20:11
- Utility of defendant's conduct, § 20:10, § 20:13

UNREASONABLE RISK, TAKING

- Generally, § 16:14, § 17:7
- Burden of precautions, § 16:17
- Likelihood of injury, § 16:15
- Seriousness of anticipated harm, § 16:16
- Social importance, § 16:18

UNUSUAL DANGERS, OCCUPIERS' LIABILITY FOR

- Generally, § 21:16, § 21:18, § 21:22

USED GOODS

- Damages for, § 30:95
- Liability for selling of as new goods, § 22:14

VALIDITY OF CONTRACT

- Generally, § 8:7

VALUATION OF CHATTEL IN ACTION FOR CONVERSION OR DETINUE

- Generally, § 4:20

VALUATION OF PROPERTY

- See damages; property loss or damage, damages

VENUE, CHANGE IN

- Generally, § 6:99

VEXATIOUS PROCEEDINGS

- Generally, § 1:4

VIBRATIONS, LIABILITY IN RESPECT OF

- Generally, § 20:9, § 24:8, § 24:9

VICARIOUS LIABILITY

- See also sexual abuse
- Agents of, § 29:36
- Apportionment of fault, § 29:28
- Assault or battery, for, § 2:22, § 2:26
- Automobile owners, § 29:30
- Borrowed employees, § 29:33
- Conflict of laws issues, § 29:59
- Criminal offences, § 29:30
- Crown, for acts of servants or agents of, § 32:6, § 32:7, § 32:10 to § 32:13, § 32:18 to § 32:29
- Duty and, § 29:30, § 29:32
- Employer, of, § 29:31 to § 29:35
 - course of employment, § 29:32
 - employee/employer relationship, § 29:31
 - employee of two employers, § 29:33
 - tests for, § 29:31, § 29:32
- indemnity, § 29:29, § 29:34
- prohibited activity, § 29:32
- scope of employment, § 29:32
- workers compensation, § 29:30, § 29:32, § 29:34
- False imprisonment, for, § 7:20
- Immunity, § 29:31, § 29:32
- Indemnity, § 29:29, § 29:34
- Independent contractors, § 29:37
 - non-delegable duties, § 29:37
- Intentional wrongs, § 29:32
- Intimidation, for, § 13:13
- Malicious prosecution, for, § 15:7, § 15:13
- Nature of, § 29:30
- Non-delegable duties, § 29:32, § 29:37
- Non profit organizations, § 29:32
- Nuisance, for, § 20:8, § 20:24
- Parents, § 29:38
- Pleading, § 29:30
- Policy considerations, § 29:30
- Statutory imposition, § 29:30
- Theft, § 29:32
- Trespass to land, for, § 26:15

VIEW, LIABILITY FOR INTERFERENCE WITH

- Generally, § 20:9

VIOLATION OF PRIVACY

- See privacy

VIS MAJOR

See act of God

VOICE

Liability for unauthorized use of in
advertising or promotion, see
appropriation of personality

VOID CONTRACT, EFFECT OF

Generally, § 8:7

VOLENTI NON FIT INJURIA

See also defences, statutory
Contributory negligence distinguished,
§ 17:2

VOLUNTARY ASSUMPTION OF RISK

See defences, statutory
Contributory negligence distinguished
from, § 17:2
Occupiers' liability, as defence to,
§ 21:28, § 21:29
Pleading of, § 16:52
Products liability, as defence to, § 23:18
Rylands v. Fletcher, in action based on,
§ 24:19

**VOLUNTARY SERVICES OF THIRD
PARTIES, RECOVERY OF
DAMAGES FOR**

Generally, § 30:26

**VOLUNTEER, LIABILITY OF FOR
FORCIBLE ENTRY**

Generally, § 26:10

WAIVER OF TORT

Advantages of
limitation periods, avoidance of,
§ 31:22
recovery of amount exceeding
plaintiff's loss, § 31:22
tracing property, avoidance of, § 31:22
Appropriation of personality, § 31:21
Assault, § 31:21
Availability
loss by plaintiff, requirement for,
§ 31:19
proof of tort, § 31:18
specific torts, in respect of, § 31:21
unjust enrichment, necessity for,
§ 31:17, § 31:19
Confidentiality, breach of, § 31:21
Conflict of laws, § 31:22

WAIVER OF TORT—Cont'd

Conversion or detinue, § 4:6, § 31:21
Deceit, § 31:21
Definition, § 31:17
Election of, § 31:20
History, § 31:17
Nature of, § 31:17
Quantification of recovery under
loss of plaintiff, relevance of, § 31:19
profits, accounting for, § 31:19
property, fair market value of, § 31:19
Remedies available by, § 31:17
Restitution, § 31:17, § 31:18, § 31:20
Scope of recovery under, § 31:19
Trespass, § 31:21
Unjust enrichment
as ground for waiver, § 31:17
necessity for, § 31:17, § 31:19
quantification of, § 31:19
saving of expense as, § 31:19
what constitutes, § 31:19

WARNING

Children, to, § 23:11
"Dangerous" products, in respect of,
§ 23:11
Duty to provide, § 23:11, § 23:16
Duty to provide in respect of defective
products, see products liability
Effect of on liability of occupier, § 21:23,
§ 21:31
Labelling, § 23:11
Scope of duty to warn
adequacy, § 23:10, § 23:11
confirmation warning followed, § 23:11
explicitness required, § 23:11
foreseeable danger, § 23:11
learned intermediary rule, § 23:11
liability despite warning, § 23:11
medical products, § 23:11
time duty to warn arises, § 23:13
where warning unnecessary, § 23:11

**WARRANTY, PRODUCTS LIABILITY
AND**

Generally, § 23:3

WATER

Liability for diversion of, § 20:8

INDEX

WELFARE BENEFITS, EFFECT OF ON DAMAGE AWARD

Generally, § 30:62, § 30:92

WIFE

See also consortium

Damages for loss of

guidance, care and companionship,
§ 30:77

homemaker, § 30:78, § 30:79

Interspousal immunity, § 29:24, § 32:60,
§ 32:61

WILD ANIMALS, LIABILITY FOR INJURIES CAUSED BY

Generally, § 24:3

“WILKINSON PRINCIPLE”

Privacy interest protected by, § 27:2

WIRETAPPING, LIABILITY FOR

Generally, § 27:2, § 27:7, § 27:10

WITHDRAWAL OF INFORMATION, EFFECT OF

Generally, § 15:7, § 15:8

WITHHOLDING POSSESSION

Generally, § 4:10

WITNESSES

Generally, § 6:29, § 6:33

Assistance in location of as maintenance
and champerty, § 14:2, § 14:3

Defamation, absolute privilege of for
administrative proceedings, in, § 6:30
judicial proceedings, in, § 6:29, § 6:33

Liability of

false imprisonment, for, § 7:10

malicious prosecution, for, § 15:7,
§ 15:16

WITNESSES—Cont’d

Location of, § 14:2, § 14:3

WITNESS IMMUNITY

Generally, § 1:9

Conspiracy, § 3:10

WORDS AS ASSAULT

Generally, § 2:10

WORKER

Generally, § 32:50

WORKERS’ COMPENSATION

Generally, § 17:14

WORKERS’ COMPENSATION LEGISLATION

Application of, extraterritorial, § 29:58

Application to Crown, § 32:29

Board decisions, § 32:50

Effect of, § 32:50

Historical background, § 32:49

Pleading, § 32:50

Purpose, § 32:50

Scope of, § 32:48, § 32:50

Subrogation rights, § 32:50

WRIT

Trespass, of, § 26:1

WRONGFUL PROCESS OF LAW DISTINGUISHED FROM FALSE IMPRISONMENT

Generally, § 1:6, § 7:4

ZONING

See planning/zoning

Compliance with, effect of on liability for
nuisance, § 20:11