

Index

ABSCONDING

- Accused, by
 - continuation of trial, § 7:5
 - counsel to continue to act, § 7:5
 - reappearance, § 7:5
 - waiver of right to be present, § 7:5
- Witness, by
 - arrest by warrant, § 6:7

ACCOMPLICES, CORROBORATION OF

- Generally, § 12:28

ACCUSED

- Absconding, § 2:33, § 2:34, § 7:5
- Absence of
 - arraignment of, § 4:1
 - when entitled to be, § 7:3
 - when not required, § 7:2
- Bench warrant, for non-attendance, § 2:33
- Character of, § 10:26 to § 10:36
- Compellability of, § 9:8
- Competency of, § 9:2
- Conduct of, § 14:8.70
- Corroboration, § 12:28
- Criminal record, § 11:38
- Cross-examination of
 - generally, § 11:36 to § 11:40
 - Corbett application, § 11:38
 - previous convictions, on, § 11:38
 - prohibited questions, § 11:37
 - right to silence, § 11:40
 - statement ruled inadmissible, on, § 11:39
- Demeanor of, § 14:8.70
- Discharge of counsel, § 3:6, § 3:7, § 7:9
- Failure to call witness, § 12:37
- Fitness to stand trial, § 2:28 to § 2:30
- Instructions to jury regarding character of, § 12:24
 - consciousness of guilt, § 12:39
 - lies of, § 12:41
 - statement of, § 12:32
- Jury trial, loss of, § 2:34

ACCUSED—Cont'd

- Presence of
 - in chambers during trial, § 6:32
 - obligation to be, § 7:1
 - right to, § 7:1
 - when not required, § 7:2
- Removal of, § 7:4
- Right to
 - counsel, § 3:2 to § 3:4, § 7:8
 - at trial, § 3:3
 - before trial, § 3:2
 - testify, advice whether to, § 3:4
 - full answer and defence, § 7:6, § 11:33 to § 11:35
 - interpreter, § 1:8, § 7:1
 - make opening statement, § 11:32
 - speak to sentence, § 15:21
- Seating of, § 7:7
- Silence of, § 12:36
- Spouse of
 - compellability, § 9:3 to § 9:5, § 9:9
- Statement of, introduction of, § 11:12
- Unrepresented, advice to, § 7:12, § 7:13
- Warrant for arrest, § 2:33

ADDRESSES OF COUNSEL

- Order of, jury trial, § 12:5
- Order of, non-jury, § 12:6
- Prejudicial comments, handling by judge, § 12:8
- Prohibited comments, § 12:7

ADJOURNMENTS

- Length of, § 2:26
- When granted, § 2:26

ADMISSIBILITY

- Generally, § 8:1
- Constitutional requirements, § 8:4
- Judicial discretion to exclude, § 8:7
- Relevancy, § 8:1

ADMISSIONS

- Admissibility, § 10:42 to § 10:57
- By conduct, § 10:51
- Formal, § 1:10

ADMISSIONS—Cont'd

Withdrawal of, § 10:57

ADVERSE WITNESS

Cross-examination of, § 9:11, § 9:12

Declared to be, § 9:11

Defined, § 9:11

Prior inconsistent statement, use of, § 9:12

ALIBI

Instructions to jury, § 12:53

Reply to alibi, § 11:46

AMENDMENTS TO INDICTMENT

See APPLICATIONS

AMICUS CURIAE

Appointment of, § 1:38

APPLICATIONS

Generally, § 2:1 to § 2:14

For particulars, § 2:11

To amend the indictment, § 2:10

To prefer an indictment, § 2:3

To quash the indictment, § 2:6 to § 2:9

To sever accused, § 2:13

To sever counts, § 2:12

To stay proceedings, § 2:14

ARRAIGNMENT OF ACCUSED

Generally, § 4:1

ARRAY, CHALLENGES TO

Generally, § 5:10, § 5:11

ARTICLES, AS EVIDENCE

Generally, § 9:30

AUTREFOIS ACQUIT OR CONVICT

Generally, § 4:13 to § 4:17

BAREFOOT IMPRESSION ANALYSIS

Generally, § 9:40

BEST EVIDENCE RULE

Generally, § 9:26

BROADCASTING THE PROCEEDINGS

Generally, § 1:36

BURDEN OF PROOF

Generally, § 8:10

Fitness to stand trial, § 2:28 to § 2:30

Mental disorder, § 8:9

BUSINESS RECORDS

Generally, § 1:20, § 9:26

CASE MANAGEMENT

Generally, § 1:48

CHALLENGING JURORS

See JURY

CHARACTER OF ACCUSED

General rule, § 10:26

Instructions to jury regarding, § 12:24

Putting character in issue
accused's own, § 10:27

testifying, by, § 10:29

victim's, § 10:28

witness's, § 10:28

Similar fact, § 10:30 to § 10:36

CHARACTER OF WITNESS

Exceptions, § 10:27 to § 10:36

General rule, § 10:26

CHARGE TO JURY

"Air of reality" to defence, § 12:18

Credibility of witnesses, § 12:14

Improper comments by counsel, § 12:17

Included offences, § 12:21

Instructions on law, § 12:13

Investigative hearsay and police opinion,
§ 12:19

Objections to, § 12:59

Onus of proof, § 12:12

Post-offence conduct, re, § 12:39

Presumption of innocence, § 12:12

Review of defence evidence, § 12:11

Review of evidence generally, § 12:10

Specific contents of, § 12:22 to § 12:58

Specific intent, proof of, § 12:16

Unanimity of verdict, § 12:15

Witness, failure to call, § 12:38

CHARTER OF RIGHTS AND FREEDOMS

Confessions, re right of full answer and
defence, § 10:49

Presumptions and burdens of proof, effect
on, § 8:11

Pre-trial motions

conduct of, § 1:43

notice required, § 1:42

remedies available under, § 1:44

when brought, § 1:40

CHARTER OF RIGHTS AND FREEDOMS—Cont'd

Pre-trial motions—Cont'd
 where brought, § 1:41
 Right to counsel, § 3:2 to § 3:4
 at trial, § 3:3
 before trial, § 3:2
 testify, advice whether to, § 3:4
 Right to silence, § 11:40
 Sentencing issues, § 15:58
 Unreasonable delay, motion for stay, § 2:27

CHILDREN

Corroboration, § 12:28
 Expert evidence in abuse case, § 10:40
 Out of court statements, use of, § 2:17, § 12:51
 Protection of, § 2:17, § 2:18, § 2:20
 Screen testimony, § 2:17
 Support person, § 2:20
 Testimony of, § 9:6
 generally, § 1:23, § 2:17
 Unsworn evidence of, § 9:6
 Videotape evidence, § 2:19, § 11:6
 Witness, protection of, § 2:17, § 2:18, § 2:20

CIRCUMSTANTIAL EVIDENCE

 Generally, § 12:27

COMMISSION, EVIDENCE ON

 Generally, § 2:24

COMPELLABILITY

 Accused, § 9:8
 Co-accused, § 9:8
 Spouses, § 9:9

COMPETENCE

 Generally, § 1:18, § 9:1
 Accused, § 9:2
 Children, § 9:6
 Counsel, § 3:15, § 3:16
 Mentally ill, § 9:6
 Spouses, § 9:3 to § 9:5
 comment re, § 9:5
 exceptions, § 9:4
 general rule, § 9:3

COMPLAINANT

 Non-publication of identity, § 2:16
 Testifying behind screen, § 2:17

COMPLAINANT—Cont'd

 Testifying out of court, § 2:17

COMPLAINTS, SEXUAL OFFENCES, IN

 Generally, § 10:22

CONFESSIONS

 Admissibility, § 10:44
 Admission, difference between, § 10:42
 Admissions, words capable of constituting, § 10:43
 Admissions in other proceedings, § 10:56
 Authority, persons in, § 10:46
 Caution, absence of a, § 10:44.30
 Conduct, admissions by, § 10:51
 Defence, full answer and, § 10:49
 Defined, § 10:52
 Editing statements, § 10:52
 Exclusion of, § 10:54
 Fresh start after breach, § 10:44.30
 Instructions to jury regarding, § 12:32
 Proof, onus of, § 10:47
 Protected statements, § 10:55
 Silent, right to remain, § 10:53
 Voir dire, requirement of, § 10:48
 Voir dire, waiver of, § 10:50
 Voluntary, meaning of, § 10:45
 Withdrawal of admission, § 10:57

CONFLICT OF INTEREST

 See COUNSEL

CONSISTENT STATEMENTS

 Answers when taxed, exception to, § 10:24
 Credibility, context for assessing, exception to, § 10:25
 Exceptions, § 10:30 to § 10:36
 Identification, to show consistency of, exception to, § 10:20
 Narrative, as part of, exception to, § 10:23
 Recent fabrication, exception to, § 10:19
 Res gestae, exception to, § 10:21
 Rule against, § 10:18
 Sexual assaults, exception to, § 10:22

CONSPIRACY

 Co-accused, evidence of, § 10:13, § 12:31
 Jury, instructions to, § 12:31

CONTEMPT

 By counsel, § 3:17

CONTEMPT—Cont’d

Defined, § 6:17
Examples of, § 6:18
Procedure where, § 6:19

CORROBORATION

Accomplices, of, § 12:28
Necessity for specific offences, § 12:28
No longer required generally, § 12:28

COSTS

Generally, § 14:16

COUNSEL

Absence of, § 1:31, § 3:8
Addresses of
 order of injury trials, § 12:5
 order of in non-jury trials, § 12:6
 prohibited comments, § 12:7
Appointment of, § 1:37
Conduct of, § 3:14
Conflict of interest, § 1:35, § 3:10
Contempt of, § 3:17
Control of by judge, § 6:13 to § 6:19
Crown
 see Crown Counsel
Discharge of, § 3:6, § 3:7
Opening statements, § 6:10 to § 6:12
Pre-charge conference, § 12:1 to § 12:4
Right to, § 3:2 to § 3:4
 at trial, § 3:3
 before trial, § 3:2
 testify, advice whether to, § 3:4
Seating arrangements of, § 6:21
Withdrawal of, § 3:8 to § 3:10
Witnesses, contact with, § 3:11 to § 3:13

CRIME SCENE RECONSTRUCTION EVIDENCE

Generally, § 9:41

CRIMINAL CASE, ISSUES IN

Generally, § 8:2

CROSS-EXAMINATION

Generally, § 3:14, § 6:26, § 11:15
Accused of
 generally, § 11:36
 Corbett application, § 11:38
 previous convictions, on, § 11:38
 prohibited questions, § 11:37
 right to silence, § 11:40

CROSS-EXAMINATION—Cont’d

Accused of—Cont’d
 statement ruled inadmissible, on, § 11:39
Co-accused, of, § 11:41
Criminal record, on, § 11:38
Order of, § 1:16
Sexual offences, § 11:17
Witnesses, § 3:14, § 6:26, § 11:14 to § 11:22

CROWN COUNSEL

Address to jury by, § 12:5 to § 12:8
Cross-examination by, § 11:36 to § 11:41
Duty of disclosure by, § 1:5, § 2:25

DECLARATIONS

Against penal interest, § 10:10
As to intention, § 10:11
As to physical and mental condition, § 10:12
Co-conspirators, of, § 10:13
Course of duty, in, § 10:9
Dying, § 10:8
Identifying an accused, § 10:14
Intentions, § 10:11, § 10:16
In the course of duty, § 10:9
Mistrials, § 6:15
Of deceased person, § 10:8 to 10:12
Of living persons, § 10:13 to § 10:16
Record of past, § 10:15
Res gestae, § 10:17
Spontaneous, § 10:17
State of mind, § 10:11, § 10:16

DEFENCE, CASE FOR

Generally, § 11:32 to § 11:43

DELAY, UNREASONABLE

See CHARTER OF RIGHTS AND FREEDOMS

DEMONSTRATIVE EVIDENCE

Generally, § 9:31

DIRECTED VERDICT

Instructions to jury, § 11:31
Motion for, § 11:28
Multiple accused, where, § 11:30
Tests applicable, § 11:29

DISCLOSURE BY PROSECUTION

Generally, § 1:5, § 2:25

INDEX

DOCUMENTS

- Admissibility, § 9:26
- Adoption of, § 9:29
- Best evidence rule, § 9:26
- Inspection of, § 2:22
- Proof of, § 9:27

EVIDENCE

- Admissibility generally, § 8:1 to § 8:4
- Articles and things, § 9:30
- Audio conferencing, attendance by, § 1:26
- Bad faith, of, § 11:22
- Ban on publication, § 1:24, § 2:21
- Barefoot impression analysis, § 9:40
- Best evidence rule, § 9:26
- Business records, § 1:20, § 9:26
- Character, § 10:26 to § 10:36
- Circumstantial, § 12:27
- Commission, § 2:24
- Confessions, § 10:42 to § 10:57
- Continuity, § 1:21
- Corroboration, § 12:28
- Crime scene reconstruction evidence, § 9:41
- Demonstrative, § 9:31
- Disclosure by prosecution, § 1:5, § 2:25
- DNA, § 9:36
- Documentary, § 9:26 to § 9:29
- Documents, inspection of, § 2:22
- Expert, § 10:38
- Footprint impression analysis, § 9:40
- Handwriting, § 9:37
- Hearsay, § 10:1 to § 10:17
- Hypnotically enhanced evidence, § 9:42
- Identity, of, § 12:30
- Judicial notice, § 9:32 to § 9:34
- Kinds of, generally, § 9:1 to § 9:34
- Leading questions, § 11:4
- Lost evidence, § 1:5, § 2:25
- “Mr. Big” operations, § 9:44
- Opinion, § 10:37 to § 10:41
- Oral testimony, § 9:1 to § 9:25
- Out-of-court testimony, § 1:25
- Ownership, proof of, § 11:11
- Photographs, § 9:31
- Police video re-enactment, § 9:43
- Post-hypnosis evidence, § 9:42
- Post-offence conduct, § 12:39, § 12:40
- Property, proof re, § 11:11

EVIDENCE—Cont’d

- Publication ban, § 1:24, § 2:21
- Rebuttal, § 11:44 to § 11:46
- Relevancy, § 8:2
- Remote attendance, § 1:26
- Reply to
 - alibi, § 11:46
 - collateral matter, § 11:45
 - relevant matter, § 11:44
- Sentencing hearing at, § 15:11 to § 15:22
- Similar fact, § 10:30 to § 10:36
- Slideshow presentations, § 9:45
- Surrebuttal, § 11:47
- Testing exhibits, release for, § 2:23
- Third party suspect, § 11:34
- Tracker dog, § 9:35
- Transcript evidence, § 11:5
- Value, proof of property, § 11:11
- Video conferencing, attendance by, § 1:26
- Videotape, § 9:39, § 11:6
- View by the jury, § 5:25, § 5:26
- Voice identification, § 9:38
- Voir dire, § 11:26

EXAMINATION OF WITNESS

- Generally, § 11:1
- Bad faith, eliciting evidence of
 - generally, § 11:14, § 11:22
 - CEA s. 12, § 11:15
 - collateral facts, rule against, § 11:19
 - failure to cross-examine, § 11:16
 - previous convictions/misconduct, on, § 11:15
 - rule in *Brown v. Dunn*, § 11:16
 - sexual offences, § 11:17
 - unresponsive witness, § 11:18
- Cross-examination by Crown
 - generally, § 11:36
 - Corbett application, § 11:38
 - previous convictions, on, § 11:38
 - prohibited questions, § 11:37
 - right to silence, § 11:40
 - statement ruled inadmissible, on, § 11:39
- Leading questions, § 11:4

EXHIBITS, TESTING OF

- Generally, § 1:22, § 2:23

EXPERTS

- See OPINION EVIDENCE

FABRICATION

Motive to, charge to jury, § 12:55

FITNESS TO STAND TRIAL

Disposition of, § 2:30

Jury, instructions to, § 2:29

Meaning of, § 2:28

Procedure on trial of issue, § 2:28

FOOTPRINT IMPRESSION ANALYSIS

Generally, § 9:40

FORFEITURE

See SENTENCING

HEARSAY

Generally, § 10:1 to § 10:17

Discretion to exclude, § 10:6

Exceptions

co-conspirators, § 10:13

declarations against penal interest,
§ 10:10

declarations as to intentions, § 10:11

declarations as to physical and mental
conditions, § 10:12

declarations in course of duty, § 10:9

dying declarations, § 10:8

Identification of suspect, § 10:14

Meaning of, § 10:1

Modern rule, § 10:3 to § 10:7

discretion to exclude, § 10:6

necessity, § 10:4

reliability, § 10:5

residual discretion, § 10:7

Rationale, § 10:2

Reliability, § 10:5

Res gestae, § 10:17

Rule against, § 10:1, § 10:3

Sentencing hearing, at, § 15:14

Spontaneous declarations, § 10:17

**HYPNOTICALLY ENHANCED
EVIDENCE**

Generally, § 9:42

INCLUDED OFFENCES

Common law, § 12:57

Defined under the Code, § 12:57

Duty of trial judge, § 12:56

Jury, charge to, § 12:21

Plea of guilty, § 4:4

INDICTMENT

Amendment of, § 2:10

Description of offence, § 2:7, § 2:8

Duplicity, § 2:9

Form of, § 2:6 to § 2:9

Joinder of counts, § 2:12

Joint accused, § 2:13

Motions to quash, § 2:6 to § 2:9

Particulars of, § 2:11

Preferring, § 2:3

Severance of, § 2:12, § 2:13

Stay of, § 2:14

Withdrawal of, § 2:14

**INFORMERS, PRIVILEGE FROM
DISCLOSURE**

Generally, § 9:17

INSPECTION OF DOCUMENTS

Generally, § 2:22

ISSUES IN CRIMINAL CASE

Generally, § 8:2

JUDGE

Advice to unrepresented accused, § 7:12,
§ 7:13

Bias, reasonable apprehension of,
§ 6:1.50

Calling of, § 6:23

Charge to jury

general contents of, § 12:9 to § 12:21

objections to, § 12:59

specific contents of, § 12:22 to § 12:58

Commenting on credibility, § 6:25, § 14:8

Compelling attendance of, § 6:7

Counsel, control of, § 6:13 to § 6:19,
§ 12:8

Duties, § 6:1

generally, § 6:1

compliance with s. 276, § 6:3

language rights, protection of, § 6:2

Exclusion of, § 2:19, § 6:8, § 6:9

In-chambers discussions during trial,
§ 6:33

Jury, opening instructions to, § 6:4 to
§ 6:6

Language rights, protection of, § 6:2

Messages from jury, § 13:18 to § 13:30

Pre-charge conference, § 12:1 to § 12:4

Protection of, § 6:26

Public, right to exclude, § 6:22

INDEX

JUDGE—Cont'd

- Questioning, § 6:24
- Right to prohibit accused's counsel, § 7:10
- Role where accused unrepresented, § 7:11
- Seating arrangements for counsel, § 6:21
- Stay of proceedings, right to, § 6:29
- Unable to continue, where, § 6:30
- Verdict rendering
 - generally, § 14:7
 - accused, failure to testify, § 14:10
 - children, evidence of, § 14:9.50
 - collusion, evidence of, § 14:9.75
 - credibility, findings of, § 14:8
 - expert evidence, § 14:9.25
 - lack of embellishment, § 14:9.15
 - motive to lie, complainant's, § 14:9
 - racial profiling, § 14:12
 - reasons, delivering, § 14:15
 - stereotypical reasoning, § 14:8.50
 - testify, accused's failure to, § 14:10
 - vacating guilty verdict, § 14:13
 - verdicts, inconsistent, § 14:14
 - witness, accused's failure to call, § 14:11

JUDICIAL NOTICE

- Generally, § 9:32
- Of the facts, § 9:34
- Of the law, § 9:33

JURY

- Challenges for cause, § 5:13 to § 5:17
- Challenging the array, § 5:10, § 5:11
- Charge to, § 12:9 to § 12:58
- Compensation, § 5:8
- Conduct of Accused, § 14:8.70
- Deadlocked, § 14:5
- Deliberations of, § 13:1 to § 13:17
- Demeanor of Accused, § 14:8.70
- Directed verdict, motion for, § 11:28 to § 11:31
- Discharge of juror during trial, § 5:20 to § 5:24
- Exhortations to reach verdict, § 13:18 to § 13:30
- General comments by judge, § 5:1
- Instructions by judge to, § 6:4 to § 6:6
- Loss of jury trial, § 2:34
- Materials for deliberation, § 13:1 to § 13:17

JURY—Cont'd

- Messages to judge by, § 13:18 to § 13:30
- Mistrial, § 5:24
- Non-disclosure of deliberations, § 5:5
- Order of challenges, § 5:15
- Pre-screening by judge, § 5:3
- Privacy of, protecting, § 5:7
- Putting accused in charge of, § 5:19
- Qualifications of, § 5:2
- Questions to judge by, § 13:18 to § 13:30
- Safety of, protecting, § 5:7
- Separation of, § 5:4
- Stand by, by the judge, § 5:3
- Talesman, § 5:18
- Verdict of
 - ambiguity of, § 14:2
 - special, § 14:4
 - unanimity of, requirement as to, § 14:3
- Vetting the jury, § 5:9
- View by, § 5:25, § 5:26

LANGUAGE OF THE TRIAL

- Generally, § 1:9

LANGUAGE RIGHTS

- Protection of, § 6:2

LAWYER, PRIVILEGE OF CLIENT

- Generally, § 9:16

MEMORY, REFRESHING OF BY WITNESS

- Generally, § 9:10

NOLLE PROSEQUI

- See STAY OF PROCEEDINGS

NON-PUBLICATION, IDENTITY OF COMPLAINANT

- Generally, § 2:16

NONSUIT OR NO CASE

- See DIRECTED VERDICT

NOTEBOOK, POLICE OFFICER, OF

- Generally, § 9:10

OPINION EVIDENCE

- Generally, § 10:37
- Accused, credibility of, § 10:41
- Child abuse cases, § 10:40
- Credibility, as to, § 10:39, § 10:41
- Experts, of, § 10:38
- Instructions to jury as to use of, § 12:52

ORAL TESTIMONY

Generally, § 9:1 to § 9:25

OUT-OF-COURT TESTIMONY

Generally, § 1:25

PARDON

Generally, § 4:22

PARTICULARS OF INDICTMENT

Generally, § 2:11

PHOTOGRAPHS, AS EVIDENCE

Generally, § 9:31

PLEAS

Autrefois acquit or convict, § 4:13 to § 4:17

Guilty, § 4:4 to § 4:12

Included offence, guilty to, § 4:4

Issue estoppel, § 4:18, § 4:19

Justification, § 4:22

Kienapple, Rule in, § 4:20, § 4:21

Not guilty, § 4:2

Pardon, § 4:22

Refusal to plead, § 4:3

Res judicata, § 4:18, § 4:19

Trial, during, § 4:12

Withdrawal of plea of guilty, § 4:11

POST-HYPNOSIS EVIDENCE

Generally, § 9:42

PREFERRING INDICTMENT

See INDICTMENT

PRESUMPTIONS

Generally, § 8:5

Innocence of accused, § 8:8

Mandatory, § 8:7

No mental disorder of accused, § 8:9

Permissive, § 8:6

Specific, § 8:8, § 8:9

PRE-TRIAL CONFERENCE

Authority for, § 1:1

Discussion areas, § 1:4 to § 1:38

General considerations, § 1:2

Procedural issues

generally, § 1:27 to § 1:32

absence of accused, § 1:32

absence of counsel, § 1:31

exclusion of public, § 1:29

length of trial, § 1:27

PRE-TRIAL CONFERENCE—Cont'd

Procedural issues—Cont'd

seating arrangements for accused,
§ 1:30

separation of jurors, § 1:28

Purpose of, § 1:3

PRE-TRIAL HEARING

Authority for, § 1:39

Charter motions, § 1:40 to § 1:46

General purpose of, § 1:39

PRE-TRIAL PUBLICITY

Generally, § 1:47

PRIVILEGE

Generally, § 9:13 to § 9:25

Blanket, § 9:13, § 9:22

Case-by-case, § 9:13, § 9:22

Diplomats, § 9:21

Husband-wife, § 9:15

Informers, § 9:17

Jurors, § 9:20

Lawyer-client, § 9:16

Non-existent, where, § 9:22

Public interest, § 9:19

Self-incrimination, against, § 9:14

Solicitor-client, § 9:16

State secrets, § 9:19

Witness, claim by, § 6:7

PROOF

Generally, § 8:10

Beyond a reasonable doubt, § 12:12

Constitutional guarantees, § 8:11

Order of, generally, § 11:1 to § 11:27

PROSECUTION

See CROWN COUNSEL

PUBLIC, EXCLUSION OF

Generally, § 2:16, § 6:22

PUBLIC INTEREST PRIVILEGE

Generally, § 9:19

PUBLICITY, PRE-TRIAL

Generally, § 1:47

REBUTTAL, EVIDENCE FOR THE PROSECUTION

Generally, § 11:44 to § 11:46

RECORDS, BUSINESS

Generally, § 1:20, § 9:26

INDEX

RE-ELECTION OF MODE OF TRIAL

After new trial, § 2:32

General rules, § 2:31

When granted, § 2:31

RE-EXAMINATION, WITNESS, OF

Generally, § 11:23

RELEVANCY, DEFINED

Generally, § 8:2

RE-OPENING CASE FOR THE CROWN

Generally, § 11:24

RES GESTAE

As exception to hearsay rule, § 10:17

Defined, § 10:17

Exception to previous consistent statement rule, § 10:21

RES JUDICATA

See PLEAS

RE-TRIAL PROBLEMS

Generally, § 1:33

SELF-INCRIMINATION, PROTECTION FROM

Generally, § 9:14

SENTENCING

Aggravating factors

generally, § 15:40 to § 15:52

conduct of accused in defence, § 15:48

consequences of offence, § 15:43

criminal organization, for benefit of, § 15:51

criminal record, § 15:49

deliberation, § 15:41

frequency of crime in location, § 15:20

lack of remorse, § 15:52

location of crime, § 15:20

planning, § 15:41

previous offences, § 15:50

re-offence on probation/release, § 15:42

statutory, § 15:40

victim vulnerability, § 15:46

violence, gratuitous, § 15:45

weapons, use of, § 15:44

Commencement, § 15:9 to § 15:10

Conditional sentence, § 15:76

Constitutional issues, § 15:58

SENTENCING—Cont'd

Contested sentencing hearings, § 15:53.50

Correctional programming, § 15:63.50

Criminal organizations, § 15:56

Dangerous offenders, § 15:77

Discharge, § 15:76

Evidentiary issues, § 15:11 to § 15:22

Exceptional circumstances, § 15:63

Factors

generally, § 15:2 to § 15:8, § 15:23 to § 15:52

aggravating, see aggravating factors

mitigating, see mitigating factors

s. 718.2(a), § 15:3

s. 718.2(b), § 15:4

s. 718.2(c), § 15:5

s. 718.2(e), § 15:6

statutory, § 15:2 to § 15:8, § 15:40

Facts

disputed, § 15:17

jury trials, § 15:16

submissions re, § 15:14

undisputed, § 15:15, § 15:16

Fine, § 15:71

Forfeiture

generally, § 15:80 to § 15:81

ammunition, § 15:80

explosives, § 15:80

offence-related property, § 15:82

proceeds of crime, § 15:81

weapons, § 15:80

Gap principle, § 15:38.50

Hearing procedure, § 15:11 to § 15:22

Imprisonment

generally, § 15:64 to § 15:70

intermittent, § 15:69

life sentence, § 15:65

parole eligibility, § 15:66 to § 15:68

Intermittent sentence, § 15:69

Joint submissions, § 15:53

Jurisdiction, § 15:57

Lesser punishment, benefit of, § 15:55

Long-term offenders, § 15:78

Minimum sentences, § 15:60

Mitigating factors

generally, § 15:23 to § 15:39

aboriginal offenders, § 15:31

bail conditions, stringency of, § 15:28

Charter breach, § 15:30

co-operation, § 15:27

SENTENCING—Cont'd

Mitigating factors—Cont'd
 duress, § 15:32
 first offence, § 15:25
 guilty plea, § 15:24
 mental condition, § 15:29
 other, § 15:39
 rehabilitation efforts, § 15:26
 remorse, § 15:28
 restitution, § 15:28
 youth, § 15:25
 Parole, § 15:66 to § 15:68
 Pre-sentence report, § 15:12
 Principles, § 15:1, § 15:23 to § 15:52
 Probation, § 15:73
 Procedure, § 15:11 to § 15:22
 Purpose, § 15:1
 Racism, § 15:8.50, § 15:35.50
 Reasons for sentence, § 15:22
 Remorse, § 15:28
 Restitution, § 15:28
 Restorative justice, § 15:59
 Retrial, upon, § 15:54
 Social context evidence, § 15:8.70
 Submissions
 facts, on, § 15:14
 joint, § 15:53
 offender's right to speak, § 15:21
 Suspended sentence, § 15:74
 Victim impact statement, § 15:13

SEXUAL OFFENCE CASES

Consent, rebutting presumption of, § 10:22
 Cross-examination of complainant, § 11:17

SIMILAR FACT EVIDENCE

Generally, § 10:30
 Actus reus, to prove, § 10:35
 Admissibility, test for, § 10:31
 Charge to jury on, § 12:54
 Collusion, tainted by, § 10:36
 Identity, to prove, § 10:33
 Intent, to prove, § 10:34
 Onus of proof, § 10:32

SLIDESHOW PRESENTATIONS

Generally, § 9:45

SOLICITOR-CLIENT PRIVILEGE, MEANING OF

Generally, § 9:16

SPECIAL PLEAS

See PLEAS

SPOUSE

Compellability of, § 9:9
 Competence of, § 9:3 to § 9:5
 Privilege of, § 9:3

STATEMENT

Accused, by, § 10:42 to § 10:57
 Consistent, § 10:18 to § 10:25
 Prior consistent, use of
 exceptions to rule, § 10:19 to § 10:25
 general rule, § 10:18
 instructions to jury as to use, § 12:48
 Prior inconsistent, use of, § 9:12
 Protected statements, § 10:55
 Use in other proceedings, § 10:56
 Withdrawal, § 10:57

STAY OF PROCEEDINGS

Abuse of process, § 6:29
 By the Crown, § 2:14
 By the judge, § 2:27, § 6:29
 Unreasonable delay, for, § 2:27

SURREBUTTAL, WHEN ALLOWED

Generally, § 11:47

TALESMAN

See JURY

THINGS, AS EVIDENCE

Generally, § 9:30

VENUE

Change of, § 2:15
 Grounds for, § 2:15

VERDICT

Ambiguity of, § 14:2
 Correcting the verdict in a judge alone trial, § 14:7
 Correcting the verdict in a jury trial, § 14:1
 Deadlocked, where, § 14:5
 Directed, motion for, § 11:28 to § 11:31
 Fitness to stand trial, § 2:28 to § 2:30
 Included offences, § 12:57
 Inconsistencies, § 14:6, § 14:14

INDEX

VERDICT—Cont'd

- Judge alone
 - generally, § 14:7
 - failure of accused to testify, § 14:10
 - reasons for, § 14:15
 - vacating guilty verdict, § 14:13
- Jury, taking of, § 14:1
- Kienapple Rule, § 4:20, § 4:21, § 12:58
- Special, § 14:4
- Taking on Sunday, § 14:1
- Unanimity of jury, requirement of, § 14:3
- Vacating guilty verdict, § 14:13

VICTIM

- Impact statement, § 15:13
- Non-publication of identity, § 1:24
- Remote assistance, § 11:10
- Surcharge, § 15:72
- Videotape evidence, § 2:19, § 11:6

VIEW BY THE JURY

- Generally, § 5:25, § 5:26
- Suggested procedure, § 5:25, § 5:26

VOIR DIRE

- Blended, § 1:49
- Confessions, to prove, § 10:48
- Evidence from, § 11:26

VOLUNTARY CONFESSIONS, MEANING OF

- Generally, § 10:45

WITNESS

- Absconding, § 6:7
- Accused as, § 11:36 to § 11:40
- Adverse, meaning of, § 9:11, § 9:12
 - see also ADVERSE WITNESS
- Attendance, remote, § 1:26
- Attendance of, compelling, § 6:7
- Audio conferencing, by, § 1:26
- Character, § 10:26 to § 10:36
- Children as, § 9:6
 - see also CHILDREN

WITNESS—Cont'd

- Co-accused, cross-examination of,
§ 11:41
- Compellability, § 9:8, § 9:9
- Competence of, § 9:2 to § 9:7
- Complainant, testifying out of court,
§ 2:17
- Contact with counsel, § 3:11 to § 3:13
- Cross-examination by defence, § 11:14 to
§ 11:22
- Disabled, § 1:23
 - screen testimony, § 2:17
 - support person, § 2:17
 - videotape evidence, § 2:18, § 11:6
- Examination of, § 11:1
- Exclusion of, § 2:19
 - order, § 2:19, § 6:8
 - violation of order, remedy, § 6:9
- Expert, § 10:38
- Failure to call, comment re, § 12:37
- Hostile, meaning of, § 9:11, § 9:12
- Judge
 - calling of, by, § 6:23
 - comment on, by, § 6:25, § 12:37
 - protection of, by, § 6:26
 - questioning of, by, § 6:24
- KGB application, § 9:9
- Leading questions, § 11:4
- Memory, refreshing, § 9:10
- Mentally incompetent, § 9:6
- Non-publication of identity, § 1:24
- Privilege, claim of, § 6:7, § 9:13 to § 9:25
- Protection of, § 6:26
- Re-examination of, § 11:23
- Refreshing memory of, § 9:10
- Remote assistance, § 11:10
- Reply by, § 11:44 to § 11:46
- Spouse as, § 9:3 to § 9:5, § 9:9
- Subpoena for, § 6:7
- Transcript of, introduction of, § 11:5
- Video conferencing, by, § 1:26
- Videotape evidence, § 11:6
- Warrant for, § 6:7