Index

ABETTING	ABORIGINAL RIGHTS—Cont'd
See AIDING AND ABETTING	Hunting rights in western Canada,
ABORIGINAL RIGHTS	31:1631
Aboriginal and treaty rights	Land claims, 31:1603
evidence re, 31:1622	Land disputes, duty to consult and accommodate, 31:1604. 31:1606
non-title rights, 31:1628	Metis constitutional rights, 31:1612
Aboriginal interest in land, nature of,	Metis land in Manitoba, 31:1613
31:1626	Modern treaties, intention of, 31:1623
"Aboriginal peoples of Canada," mean-	Pleadings in aboriginal cases, 31:1588
ing of, 31:1611	Provincial jurisdiction over, 1:72
Aboriginal title	Provincial laws, general application to
extinguishment of, 31:1607	aboriginal land, 31:1592
meaning of, 31:1625	Provincial superior courts, jurisdiction of
Canadian federal criminal law, application of. 31:1591	31:1586
Charter, non application of, 31:1584	Public provincial land, provincial right to
Charter, under, 31:1595	"take up," 31:1624
Collective rights, as, 31:1610	Quebec, in, 31:1620 Reconciliation as grand purpose of,
Common law, at, 31:1593	31:1598
Common law vs. treaty rights, 31:1619	Reserve land, aboriginal rights in,
Conditional sentence, denial of, 31:1348	31:1627
Constitution Act, 1982, s. 35, rights under	Self-government, right to, 31:1629
generally, 31:1608	Specific Claims Tribunal, mandate of,
claim under, stages of, 31:1617	31:1603
constitutional framework of, 31:1615	Time limitations re action, 31:1590
flexible interpretation of, 31:1614	Treaties and statutes, purposive and lib-
infringement and justification, 31:1618	eral interpretation of, 31:1620
purposive approach to, 31:1597	subject to regulation, 31:1621
reconciliation as grand purpose of, 31:1598	treaty clauses, Crown discretion re, 31:1602
rights existing as of April 17, 1982,	31.1002
31:1609	ABORTION
Declaratory relief, 31:1587	Generally, 31:468
Duty to consult	ABUSE OF PROCESS
land disputes, 31:1604, 31:1606	Appeal, raised only on, 12:125, 23:188
law-making process, no duty, 31:1605	Availability of
Existing rights, 31:1608	Charter power, as, 12:110
Federal Court, jurisdiction of, 31:1585	common law power, as, 12:110
Fiduciary duty of Crown to, 31:1599,	Burden of proof, 12:121
31:1600	Charter violation, 12:123
equitable compensation for breach,	see also CHARTER OF RIGHTS —
31:1601	Principles of fundamental justice
Honour of the Crown, principle	Collection of debts, 12:133
explained, 31:1596	Criminal conduct by state agent, 12:138
0 000 / FIL 0 000 /	T 1

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

Withdrawal of charge, 12:129 ACCESSORY AFTER THE FACT

Substantive defence, not, 12:143

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

ACCESSORY AFTER THE FACT —Cont'd

Pleadings re, 9:37

ACCIDENT

Accidental unlawful act, 21:10
Code references to, 21:9
Constructive murder and (s. 230(d)), 21:11
Criminal negligence and, 21:12

Defence to second degree murder, **27:62** Liability for, **21:5**

Meaning of, 21:4

Particular crime, relation to, 21:6

Self-defence, vs., **21:148**

Transferred intent in murder, 27:55

Unintentional act combined with intention omission, 21:7

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

ACCOMPLICE

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

ACCUSED

Absconding, 3:211, 13:37, 16:168 Absent, 13:38

Appearance before justice issuing summons, 1:153

Audience before court, right of, **16:23** Bail hearing, right to testify at, **31:647**

Burden of proof on, 31:675, 31:1536

defects in information, 10:57

entrapment, 21:293

issue estoppel, 14:150

perpetuated evidence, 16:232

Character of

see CHARACTER EVIDENCE

Co-accused

acquittal of, 14:51

cross-examination order, 16:110

issue estoppel, 14:151

joint accused, 19:61

manslaughter, 27:135

sentence disparity, 18:130

special rules re, 17:118

Conspiracy offence

joinder/severance, 9:285, 19:107

Corporate

see CORPORATIONS

ACCUSED—Cont'd	ACCUSED—Cont'd
Cross-examination of, 31:1236	Self-represented, obligations of, 12:19
see also CROSS-EXAMINATION	Sentencing
Entrapment, 21:285	see SENTENCING — Principles of
Expert opinion re disposition of, 16:671	sentencing
Facts peculiarly within knowledge of,	Severance of
31:1060	see INDICTMENTS AND INFORMA
Failure to attend trial, 8:40 , 31:1077 ,	TIONS
31:1079	Supreme Court of Canada appeal by right
Failure to testify at trial, 17:135 , 23:211	23:250
Forcing counsel on, 16:30	Surrogacy principle, application to, 12:20
Hearsay	Trial, at
see HEARSAY EVIDENCE	see TRIALS
Identification of, 10:15	Unrepresented, 12:19, 16:29, 31:654
Identity of, non-publication, 31:304,	Use of term, 9:3
31:337, 31:641	Waiver of right to jury trial, 31:1128
see also PUBLICATION BAN	Witness, as
Joinder of, 9:209, 9:254, 9:266, 9:286,	see TRIALS
11:41	ACOUNTAI
Lineup, refusal to participate in, 16:390	ACQUITTAL
Multiple accused, 16:5	See also VERDICTS
election, 8:65	Automatism, on finding of, 21:36
guilty plea by one, 14:62	Co-accused, of, 14:51
pleadings where, 9:40, 9:42	Crown appeal of as double jeopardy,
Non-compellability of, 31:1029	31:1171
see also CHARTER OF RIGHTS — Offence, person charged with;	Foreign, 14:95
TRIALS — Witnesses	Insanity verdict not, 22:29
Non-criminally responsible, detention of,	New trial, order for
31:574	circumstances allowing, 23:222
Order for new trial of, 23:230, 23:231,	Crown appeal requirement, 23:223
23:236	onus on Crown, 23:244
Out-of-court statement by, 13:56	Quash of, 23:217
Override of election by, 11:43	Reopening technical, 16:159
Payment of costs to, 2:22	Return of seized money following, 3:174
Preliminary inquiry, absence from, 13:24,	Summary conviction offence
13:37	appeal re, 24:5
Proceeding in absence of, 1:28, 1:164	Tainted, retrial for, 14:94
Public statements re guilt of, 12:132	ACTUS REUS
Questioning of	
see CHARTER OF RIGHTS —	Attempts, of
Counsel, right to retain	see ATTEMPTS
Rejection of defence by, 17:126	Autonomy of freewill, 21:320
Reputation of as ground for arrest, 5:45	Concurrence with mens rea, 21:323
Right to be present, limitations on, 1:165	Conduct and result, causal relationship
Right to be present at hearing, 31:579	between, 21:319
Right to be present at trial, 16:74	Defence of lack of, 21:315
Right to call witness, 13:43	Element of crime, as, 21:317
Right to retain counsel	External element of offence, as, 21:318
see CHARTER OF RIGHTS —	Progression of crime, 21:323
Counsel, right to retain	Statement as, 31:855

ADMISSIONS—Cont'd **ADJOURNMENT** Guilty plea, 14:58, 14:68 See also REMAND Hearsay evidence Amendment to indictment, following, see HEARSAY EVIDENCE - Admis-9:218 At jail, 1:30 sions; Voluntary statements Dangerous offender hearing, of, 18:383 Prior conviction, 18:270, 31:1240 Theft, of, 16:445 Doctrine of seizure of jurisdiction and, Trial, at 1:132 Loss of jurisdiction, following see TRIALS see JURISDICTION - Loss of Young person, by Proving previous convictions, 18:265 see YOUNG PERSON Right to vote while on remand, 31:390 AFFIRMATIVE ACTION Trial, of See CHARTER OF RIGHTS — Equality see TRIALS — Preliminary matters rights ADMINISTRATIVE LAW **AGE** Administrative decisions vs. subordinate Discrimination re, 31:1297, 31:1317 legislation, 33:117.50 Mistake of fact re. 31:606 Administrative searches Sexual offences audit powers, 31:787 age differentiation, 31:1337 privacy, low expectation of re ecobelief as to complainant's age, 21:226 nomic activities, 31:785 Time re attainment of, 33:82 regulatory searches, 31:784 Young person tax seizure, **31:788** age, proof of, 1:5 Charter of Rights and AIDING AND ABETTING accused as non-compellable witness, 31:1029 See also PARTIES TO OFFENCE administrative appeal, submission on, Conspiracy, vs., 19:16 31:537 Duress, defence of, 21:132 administrative hearing, 31:535 Murder administrative independence, 31:1092 first degree, 27:80 Charter infringement, 31:180 **ALCOHOL** testimonial self-incrimination, 31:1232 See also DRUNKENNESS tribunal as court of competent jurisdic-Blood alcohol reading, 31:1053 tion, 22:105, 31:1438 Principles of sentencing and, 18:66 vagueness and, 31:182 Extradition application of administrative arrange-Burden of proof, 16:397 ment, 32:131 Charter application to adverse inference, Fault and imprisonment for regulatory 16:393 offences, 31:570 Cross-examination of accused re alibi Probation order, 18:301 witnesses, 16:396 Regulatory offence as unlawful act, Defence, mischaracterization of defence 27:123 as, 16:394 Signing indictment as administrative act, Disclosure of, exceptions, 16:405 11:29 Evidence, order of, 16:407 ADMISSIONS False, 16:402, 16:424 Admission of evidence ruling False vs. fabricated, 16:400 right of appeal based on, 31:1499 Friends and relatives of accused, by,

16:408

Identity and, 16:378, 16:399

Formal and informal, 16:161

Fresh evidence on appeal, 23:141

ALIBI—Cont'd	APPEALS—Cont'd
Jury direction re, 16:398	Insanity
Late, 16:403	see INSANITY — Disposition hearings
Meaning of, 16:391	Jury instruction, appellate review of,
Notice of, 16:392	17:115.30
Rebuttal of, 16:406	Minister of Justice, powers of federal,
Rejected, 16:401	23:292
Relationship to identity, 16:395	described, 23:294
Third party disclosure of, 16:404	guidelines in exercising (s. 690), 23:295
AMNESIA	ministerial review application, 13:102,
Automatism and, 21:33	23:284, 23:291
Drunkenness and, 21:80	Minister's reference, authority to
Insanity, vs., 22:35	change scope of, 23:293
APPEALS	powers of court on reference, 23:285
Abatement, 23:170	Nunavut, in, 26:10
by death of appellant, 23:169	Order for new trial, 23:222
by death of informant, 23:170	accused having served sentence,
contempt by applicant, 23:173	23:236
escape of appellant, 23:171	acquittal of accused, on
failure of appellant to appear, 23:172	Crown appeal requirement, 23:232
Abuse of process raised only on appeal,	onus on Crown, 23:244
12:125	alternative charge, on, 23:232 amended charge, on, 23:234
Admission of evidence ruling, appeal	costs, no order for, 23:245
based on, 31:1499	direct indictment after appeal, on,
Contempt of court conviction, 29:35 , 29:66	23:237
Conviction appeal	discretion re, 23:243
see CONVICTION APPEALS	greater offence, re, 23:225
Crown appeals	included offences, on, 23:233
acquittal, of, 31:1171	isolated issue, on, 23:228
Attorney General instructions, 23:127	jurisdictional error, 23:224
conviction appeal, 23:189	multiple accused, 23:230
questions of law, on	no order for new trial
see INDICTABLE APPEALS	effect of, 23:240
reincarceration on, 18:86	re nullity, 23:241
trial within reasonable time, 23:127	nullity, re
Dangerous offender appeals, 23:193	no order for new trial, 23:241
Directed verdict, of, 16:267	order for new trial, 23:242
Double jeopardy and, 31:1171	on all counts, 23:231
Extradition orders, from, 32:79 , 32:151	requirements for order, 23:232
Failure of accused to speak to sentence, 25:20	residual power of court (s. 686(8)), 23:235
Fitness of sentence, 25:19	trial at same level, 23:226
Fresh evidence	verdict of insanity, re, 23:239
see FRESH EVIDENCE ON APPEAL	verdict of unfit, re, 23:238
Habeas corpus, re, 26:50, 31:942	wrongful dismissal on nonsuit motion,
Imperial Privy Council, to, 34:3	23:229
Indictable appeals	Parties to criminal appeal, 23:7
see INDICTABLE APPEALS	Prohibition, from, 26:78

APPEALS—Cont'd	APPEALS—Cont'd
Provincial superior court jurisdiction re	Sentence, against—Cont'd
federal boards, 26:11	power of court—Cont'd
Representation by agent, 23:47	included offence, substitution re,
Right of appeal, 31:598, 31:653	25:42
Charter remedy, as	probation variation, 25:45
see CHARTER OF RIGHTS —	remitting sentencing to trial court
Remedies	where conviction entered, 25:39
Right to counsel on, 31:1065	where trial court erred, 25:38
Sentence, against	return to prison after rehabilitation,
generally, 25:1	25:36
absence of appeal, 25:6	sentence already served, 25:35
"appeal against sentence," meaning of,	sentence at large, 25:21
25:4	sentencing courts and appellate courts,
appropriate range, 25:15	relationship, 25:13
class discrimination, 25:31	starting points and ranges approach,
Crown	18:104
agreement re sentence, 25:33	stay of sentence pending appeal, 25:25
required to expedite application or appeal, 25:2	suspension of fine/forfeiture, 25:27
**	third party intervention, 25:8
silence re sentence, 25:34	unfit sentence, 25:18
deferrence to sentencing judge, 25:16	withholding warrants, 25:37
discharge	young persons, 25:14
by Crown, 25:40	Substituted verdict, 23:216
by private informant, 25:41	amending indictment, 23:221
disparity of sentences, 25:30	conviction for second degree murder,
duty to provide reasons for sentence, 25:10	23:219
error in principle, 25:13 , 25:17	conviction on offence stayed by trial
fitness of sentence, 25:13	judge, 23:218
·	included offences on appeal, 23:216
fixed sentence, 25:32	quash of acquittal, 23:217
forfeitures, 25:24	Summary conviction
fresh evidence on, 25:9	see SUMMARY CONVICTION
illegal sentence, 25:28	APPEALS
leave to appeal, effect of refusal re, 25:3	Supreme Court of Canada, to
	see SUPREME COURT OF CANADA APPEALS
leave to appeal indictable offence, 25:4	
mandatory sentence, 25:5	Unfit appellant, jurisdiction re, 1:167
marked departure from tariff, 25:29	Young person, re, 30:47, 30:57
non-appealable aspects of sentence, 25:29	APPEARANCE
orders included in sentence (s. 673),	Agents, by, 1:161, 1:162
25:22	Bail hearing, at, 6:32 , 6:34
parole ineligibility period, 25:23	Conditional, 1:156
postponement of sentence pending	Irregularities cured by, 1:170
appeal, 25:44	Notice, 1:168, 6:19, 6:96
post-sentence report, ordering of,	Organizations, 1:162
25:11, 25:26	Preliminary inquiry, at, 1:115
power of court	Speedy trial, non-appearance at, 8:40
antedating sentence, 25:43	Young person, by, 30:42

ARBITRATION	ARREST—Cont'd
Recusal of arbitrator for bias, 26:91	Search
ARRAIGNMENT	see also CHARTER OF RIGHTS — Search and seizure, unreasonable
Conviction without, 14:6	after arrest, 5:69
Manner of, 14:1	after s. 10(b) warning, 5:73
Objection to information, 14:9	incident of arrest, 31:743
Personal attendance, 14:4	prior to arrest, 5:72
Purpose, 14:3	Search incidental to, 3:241 , 3:249
Rearraignment, 14:2	Seizure of evidentiary items, 5:74
Variance between charge and arraign-	Silence on, 16:85
ment, 14:5	Subjective and objective grounds, 5:8
Waiver of	Without warrant
generally, 14:7	"about to commit" stage, 5:43
summary conviction trial, at, 14:8	arrested person
ARREST	explanation of, 5:56
See also SEARCH AND SEIZURE	right to resist unlawful arrest, 5:54
	assault of peace officer, 5:23
Arrest vs. charge vs. proceedings, 10:5 Charter and	breach of release order, etc., for, 5:11
see CHARTER OF RIGHTS — Arrest	common law, at
or detention	"King's peace," 5:1 powers, 5:12, 5:13
Civil consequences of	conviction for underlying offence, 5:36
authorization by law, 5:59	"criminal offence," meaning of, 5:48
false imprisonment	detention after arrest, 5:35
holding person incommunicado, 5:56	duties of arresting person
procedure, 5:64	giving reasons for arrest, 5:52 , 5:53
malicious prosecution, 5:64	particulars of unavailable warrant,
onus on arresting party, 5:63	relating, 5:51
protection of persons administering/	production of warrant, 5:50
enforcing laws, 5:61	facially valid warrant, 5:26
use of force, 5:65	"Feeney warrant," 5:16
use of force on aircraft, 5:66	"finds committing"
Continued investigation after arrest, 5:76	general (ss. 494, 495), 5:37
Delay before charge, 5:77	second-hand information, 5:38
Delivery of arrested person to court, 5:47	for identification, 5:49
Duties after arrest, 5:75 , 31:862	for wrong offence, 5:57 "fresh (hot) pursuit," 5:39
Extended jurisdiction and, 1:112	"indictable offence," meaning of, 5:42
Extradition proceedings, 32:39	likelihood of guilt test, 5:8
Force, use of, 5:10.20	no arrest unless necessary, 5:34
Illegal arrest as provocation, 27:162	other purpose for arrest, 5:9
"In custody," 5:68	outside Canada, 5:17
Investigative detention short of arrest, 5:6	peace officer
Not authorized by law, 5:60	de facto, 5:29
Release of accused but detention of item	enforcement of provincial/municipal
seized, 3:246	laws, 5:25
Right to counsel on	execution of duty, 5:22
see CHARTER OF RIGHTS —	extent of powers to arrest (s. 495),
Counsel right to retain	5.10

ARREST—Cont'd	ARREST—Cont'd
Without warrant—Cont'd	With warrant—Cont'd
peace officer—Cont'd	warrant—Cont'd
failure to give reasons for arrest,	incidental powers of, 5:88
5:53	invalid warrant, 5:26
game wardens as, 5:31	justification of issuance of, 5:83
general powers and duties, 5:21	nature and contents of, 5:78
military police as, 5:32	power to cancel, 5:85
private premises	regular on face, 5:84
exigent circumstances, 5:18	territorial extent of, 5:79
Feeney warrant, 5:16 , 5:80	Young person, of
forcible entry on, 5:19	see YOUNG PERSON, Detention of
proper announcement, 5:20	ASSAULT
without judicial authorization,	
5:16	Aggravated (s. 268), 21:76
private property, powers re, 5:14	Causing bodily harm
subsequent unlawful conduct of,	consent as defence, 21:312
5:55	drunkenness (s. 267), 21:77
territorial jurisdiction of, 5:33	Mistake of fact, 21:227
when on duty, 5:28	Peace officer, of, 5:23
repealed laws, 5:30	Pregnant woman causing child's death,
police powers, generally, 5:5	on, 27:5
preventing breach of peace, 5:4	Sexual ASSALIT
private citizen, by	see SEXUAL ASSAULT
Charter application, 31:134	Unprovoked
Crown option offence, re, 5:3	see SELF-DEFENCE, DEFENCE OF
delivery of arrested person to peace	ASSOCIATION
officer, 5:46	Conspiracy and, 19:40
power of (s. 494), 5:2	
reasonable grounds to believe	ASSOCIATION, FREEDOM OF
basis of, 5:40	See CHARTER OF RIGHTS
from informer and accused's reputation, 5:45	ASSOCIATION WITH PROSTITUTES
refusal to comply with lawful order,	Generally, 31:1017
5:24	ATTEMPTS
telegraphic information re warrant,	Abandonment of attempt, 20:24
5:41	Actus reus of
third party (hearsay) information, 5:44	British statutory test, 20:17
trespasser, 5:27	Canadian test, 20:20
With warrant	equivocality test, 20:22
ancillary powers of peace officer, 5:89	first step after mere preparation, 20:20
Feeney warrant, 5:16 , 5:80	last step test, 20:21
fingerprinting	proximity test, 20:18
power re, 5:90	requirement, 20:10
young person, of, 5:91	res ipsa loquitur, 20:22
	tests to indicate required, 20:16
warrant	_ ·
authorizing trespass, 5:87	Common law, at, 20:5
endorsement of, 5:82	Completed offence
execution of, 5:81	merger of attempt with, 20:37
facsimile signature on. 5:86	where not proved, 20:34

ATTEMPTS—Cont'd	ATTORNEY GENERAL
Completed offence—Cont'd	See also CROWN
where proved and one attempt charged,	Consent of re jurisdiction, 1:47
20:38	Crown appeal, instructions re, 23:127
Complete vs. incomplete, 20:2	Extraordinary remedies
Conditional intent, 20:8	amending charge, 26:23
Conspiracy and, 19:8, 19:14, 20:13	discretion re, 26:22
Contradiction in Code provision re (s. 24(1) and (2)), 20:9	No immunity from civil suit for malicious prosecution, 12:3
Conviction for	Obligations of re prosecutions, 12:14
bar on charge for completed offence, 20:39	British Attorney General, 12:13 Overriding election
Counselling, vs, 15:104	see ELECTION
Defined as full offence, 20:33	Prosecuting offences and
Drunkenness and, 21:60	see PROSECUTING OFFENCES
Impossible attempts	Requiring jury trial, 31:1082
British statutory provisions re, 20:32 examples, 20:28	Summary conviction appeals, rights of re, 24:52
factual impossibility in Canada, 20:29	A LITTLE DIGITED DIFFERENCE DE LA CENTRE DE
legal impossibility in Canada, 20:31	AUTHORIZED INTERCEPTED
Intention to commit offence	COMMUNICATIONS
conditional, 20:8	Application documents
mere intention not attempt, 20:6	access to, 4:91
murder, re, 20:12	sealed packet access to, 4:93
requirement described, 20:11	application to open, 4:92
Security of Information Act offence,	Crown access to, 4:96
20:7	editing contents of, 4:95
Manslaughter, 20:14	retention in, 4:91
Mens rea of, 20:10	Application procedure
Mere intention insufficient, 20:6	by telecommunication for authoriza-
Murder, 20:35, 27:149, 31:549	tion, 4:25.50
Obstruct justice, to, 20:26	conclusory statement of applicant,
Overt act outside Canada, 20:25	insufficiency of, 4:117
Possession, 16:477, 20:15	concurrent applications, 4:23
Possession of drug for purpose of trafficking, 20:36	consent to interception, 4:26
Preparation	proof of by hearsay evidence, 4:27
intent, difference between, 20:19	Crown agent, role of, 4:28
	general authorization application (s.
step beyond mere, 20:23 Preparatory offence, as, 20:1	185)
* *	generally, 4:29
Procuring, 15:117	affidavit in support, 4:32, 4:36
Property offences	deferral of notice to object of
over 5,000 dollars, 7:52	interception, 4:39
under 5,000 dollars, 7:23	full disclosure, 4:35
Punishment for, 20:4	intra vires of provision, 4:30
Question of law, 20:27	investigative necessity, 4:34
Rationale for criminalizing of, 20:3	judge made to (s.185(1), 4:31
Suicide, 16:421	probable cause requirement, 4:33
Verdicts and	questioning of affiant by judge, 4:37
see VERDICTS	reliability of informer, 4:38

UTHORIZED INTERCEPTED COMMUNICATIONS—Cont'd	AUTHORIZED INTERCEPTED COMMUNICATIONS—Cont'd
Application procedure—Cont'd	General authorization, granting require-
restricted authorization on consent (s. 184.2), 4:25	ments—Cont'd
granting of, 4:40	place of communication vs. interception, 4:76
rolled-up applications, 4:24	renewal of authorization
types of interceptions, 4:22	application for, 4:53
Designation of persons who may	nature of renewal, 4:54
intercept, 4:89	number and length of, 4:55
Device	"resort to" clause (unknown place)
covert removal of, authorization for, 4:61	automobile interception, 4:74 live monitoring, 4:73
installation, maintenance and removal of, 4:49	pay telephone interceptions, 4:71 use of, 4:70
Emergency authorization	restrictions on terms of authorization,
application procedure, 4:78	4:42
designation of peace officer, 4:79	separate authorizations, 4:59
evidence from subsequent emergency	specification of offence, 4:52
authorization, 4:80	types of communication interceptible,
General authorization, granting require-	4:51
ments	Manner of interception, 4:147
basket clause (unknown persons)	Motion to quash authorization/renewal
absence of, 4:62	access to logs on, 4:86
duty re persons becoming known, 4:63	judge not persona designata, 4:87 no appeal from, 4:85
invalid, 4:66	onus on applicant, 4:82
known and unknown persons, 4:68	procedure, 4:81
offences revealed during authorization, 4:65	rolled-up Charter motion at trial, 4:83 section 8 Charter motion, 4:81
reliance on, 4:67	standing, 4:88
scope of, 4:64	Trial issues
best interests of administration of justice, 4:43	access of played recordings by public in court, 4:125
contents of authorization, 4:47	admissibility of evidence
criteria for, 4:41	access by accused to tapes, 4:103
disclosure of prior interceptions, 4:50	co-conspirators, 4:104
exhaustion of other investigative procedures, 4:45	cross-examination of non-accused witness, 4:98
fresh authorization	Crown's prerogative re communication to lead, 4:102
contents of affidavit for, 4:58	failure to notify object of intercep-
inherent power to review, 4:77	tion, 4:106
investigative necessity, absence of, 4:56	foreign language intercepts, 4:124 judge bound by authorization, 4:99
lawyer's office, re, 4:46	"logs" of interceptions, evidence of,
length of authorization, 4:48	4:110
"likelihood of success" criterion, 4:44	non-compliance with terms of autho-
minimization clause, 4:72	rization, 4:115
"named" place, 4:69	offences not named in authorization,
overlapping authorizations, 4:60	4:101

UTHORIZED INTERCEPTED	AUTHORIZED INTERCEPTED
COMMUNICATIONS—Cont'd	COMMUNICATIONS—Cont'd
Trial issues—Cont'd	Trial issues—Cont'd
admissibility of evidence—Cont'd	notice of intention to adduce evidence
pre-authorization entry, 4:109	—Cont'd
surreptitious entry, 4:107	waiver by defence counsel, 4:156
surreptitiously recorded statement,	privileged communications
4:114	cross-examination on intercepts,
third parties, 4:105	4:162
unreasonable interception, 4:97	marriage after intercepts, 4:163
use of power source within invaded	rule re, 4:161
premises, 4:108	procedure at trial re admissibility
voice identification, 4:100	authorization not exhibit, 4:123
authorizations and renewals	composite tapes, 4:131
basket clause, 4:135	copy tapes, 4:130
defects in	cross-examination of affiant or sub-
see defects in authorizations	affiant, 4:118
lawfulness of interception, 4:132	Garafoli application (s. 8 Charter)
offences not named in authorization,	facial attack of affidavit, 4:126
4:133	procedure re, 4:112
persons not named in authorization, 4:134	unlawful vs. unreasonable, 4:113
	name references on transcripts,
cross-examination of applicant prosecutor, 4:119	4:129
defects in authorizations	resorting to places where intercepts made, 4:111
deletion of tainted parts of affidavit,	
4:139	tapes to jury, 4:126
failure to comply with terms and	transcript of intercepts to jury, 4:128
conditions, 4:142	standing of accused, 4:122
failure to name known persons,	transcript of evidence
4:141	accuracy of, 4:159 editing of, 4:160
failure to name known places, 4:145	form of, 4:158
fraud, 4:136	
Garofoli hearing	language of, 4:157
test at, 4:137	AUTOMATISM
invalid renewal, 4:140	Acquittals for (examples), 21:36
manner of interception, 4:146	American Law Institute Code re, 21:34
place specified, 4:148	Amnesia, 21:33
quashed authorization, 4:144	Automatic driving, 21:17
reliability of informer, 4:138	Causes of, 21:19
disclosure of communications between	Conscious vs. unconscious involuntary
Crown and police, 4:120	act, 21:16
notice of intention to adduce evidence	Defined, 21:14
contents of notice, 4:150	Drunken, 21:26 , 21:62
defects in notice, 4:154	Drunken insanity vs. drunken automatism,
further particulars, 4:155	21:61
notice and transcript served	Earlier approach to, 21:15
separately, 4:152	External physical cause, 21:20
notice to all accused, 4:151	External psychological cause, 21:22
reasonable notice, 4:149	Forms of, 21:19
service of notice, 4:153	Foundation for defence of, 21:31

AUTOMATISM—Cont'd	AUTREFOIS ACQUIT AND CONVICT
Insane, 21:21	—Cont'd
Insanity and	Issues on hearing re, 14:79
drunken insanity vs. drunken automatism, 22:32	Judgment obtained by fraud, reversal of, 14:93
Intermittent explosive disorder, 21:25	Judgment valid until reversed, 14:92
Internal psychological cause, 21:21	Offence not included, unavailable if,
Manslaughter and, 27:132	14:105
Negligence/fault as bar to, 21:28	Onus re, 14:80
Non-insane, 21:20	Preliminary inquiry, on, 13:31, 14:97
Onus on accused to establish, 21:30	Premature plea, 14:111
Psychological blow	Previous trial "on the merits," concept of,
automatism, 21:23	14:86
extraordinary, 21:24	Quashing of charge after plea, 14:101
transient effects of, 21:23	Same charge relaid by different evidence, 14:109
Self-induced extreme, burden of proof,	Same offence
21:26.30	requirement, 14:81
Self-inducted, former defence of, 21:26	test to determine (s. 609(1)), 14:83
Sleepwalking/driving while asleep, as, 21:15, 21:27	Same transaction requirement, 14:82
Strict/absolute liability offences, 21:18	Similar fact evidence charge, 14:89
Voir dire to determine, 21:32	Stay of charge (Kienapple), 14:91 , 14:103
Voluntary act	Summary conviction offences
presumption of, 21:29	availability on, 14:113
requirement for culpability, 21:13	certificate of dismissal
• •	drawing up of, 14:117
AUTREFOIS ACQUIT AND CONVICT	no evidence as basis for, 14:118
See also MULTIPLE CONVICTIONS, RULE AGAINST	not bar to appeal, 14:119
Availability of, 14:85	order of dismissal, 14:114
Death of victim after guilty plea, 14:110	prior nullity, 14:115
Dismissal	review of order of dismissal, 14:116
for want of prosecution, 14:90	Withdrawal of charge, 14:102
on jurisdictional grounds, 14:100	BAIL
Double jeopardy	See RELEASE FROM CUSTODY
described, 14:77	BILINGUALISM
rationale against, 14:78	See also LANGUAGE
Duplicity and Multiplicity, 9:84, 9:99	Charter, nature of, 31:47
Extradition hearing, discharge at, 14:98	Statutes, 31:1375, 33:45
Final acquittal requirement, 14:88	Statutes, 31.1373, 33.43
Finality of prior litigation, 14:87	BILL OF RIGHTS
Foreign acquittal or conviction, 14:95	Interpretation of, 31:9
Fraud, acquittal obtained by, 14:153	Overlap with Charter, 31:10
Greater offence subsequently charged	BLOOD SAMPLES
example of, 14:108	
substantially same offence, 14:106	Conclusive proof, as, 16:693
Homicide charge, subsequent, 14:107	Demand, 31:709, 31:884
Hung jury, 14:104	Search warrant re, 3:64, 31:738
Indictment quashed prior to plea, 14:99	Seizure of, 31:469, 31:724
"In jeopardy twice," meaning of, 14:84	Taken by hospital, 31:708
Insanity verdict, 14:96	Transfusion re child under age 16, 31:470

BREATHALYZER

Demand, 31:895

Preferment, after, 26:71 Refusal, 31:646 Preliminary inquiry **BREATH SAMPLES** availability to quash discharge at, 26:65 Demand. 31:885 remedy on quashing discharge, 26:66 Reasonable suspicion for, 31:472 re-opening of, 26:69 Seizure of, 31:726 Prerogative writ hearing BURDEN OF PROOF remedying technical defects, 26:75 Protection order for provincial court Generally, 16:77 judge, 26:77 Abuse of process and, 12:121 Recognizance prior to application, 26:76 Alibi, 16:397 Right to be present, 26:55 Charter and, 31:20 Third party standing, 26:8 Insanity, 22:39, 22:75 Use of to quash search warrant, 3:115 Mistake of fact, 21:233 Onus of proof on accused to establish CHARACTER EVIDENCE particular defence, 21:1.50 Generally, 16:623 Provocation defence to manslaughter, Accused's bad character, 16:134 27:142 exceptions, 16:627 Self-defence, defence of, 21:186 exclusionary rule, 16:517, 16:623 CASE MANAGEMENT JUDGE relevant to fact in issue, as, 16:675 Appointment of, 16:16 substantive purpose, admitted for, 16:646 Court record, content of, 16:19 Accused's good character, 16:135, 16:141 Joint hearing for related trials, 16:20 general reputation, 16:624, 16:642 Powers of. 16:18 rebuttal evidence re, 16:167 Role of. 16:17 reply to evidence re, 16:644 **CERTIORARI** Co-accused, re, 16:626, 16:647 Application, amendment on, 26:74 Cross-examination of accused on, 16:134, Application by Crown (s. 776), **26:73** 16:643 Availability of Limiting jurisdiction, failure to give, circumstances where not available. 16:640.50 26:59 Non-similar fact evidence, jury instrucerror on face of record, 26:63 tion, 16:640 information, to attack, 26:61 Prior conduct against victim, 16:630 other remedies more appropriate, Sentencing and, 18:60 where, 26:60 Similar fact evidence preliminary inquiry, to quash, 26:64 admissible evidence, examples, 16:646 refusal to issue search warrant. 26:62 civil cases, in. 16:641 Civil judicial review, 26:54 collusion, evidence of, 16:630 Committal for trial group (gang) similar act evidence, use availability to quash, 26:64 of, 16:644 inadmissible evidence re, 26:68 identity, proof through, 16:643 revising committal order, 26:67 inadmissible evidence, examples, Consent to prefer direct indictment, 26:70 16:647 Denial of natural justice as ground for, jury instruction re, 16:639, 16:640.50 26:58 limited use of, **16:637** Detention after hearing, **26:72** presumption of inadmissibility, 16:631 Discretionary nature of, 26:57 probative value outweighing prejudice, Habeas corpus, in aid of, 26:53, 31:938 16:631 © 2024 Thomson Reuters, Rel. 1, 2/2024 Index-13

CERTIORARI—Cont'd

Nature of remedy, 26:52

CHARACTER EVIDENCE—Cont'd	CHARTER OF RIGHTS
Similar fact evidence—Cont'd	Aboriginal rights unaffected by, 31:1584
procedure re, 16:638	Alibi and, 16:393
Third party, re, 16:626 , 16:647	Application of, 31:106
Victim	arrest/search by private citizen, 31:134
bad character, 16:139	cabinet decisions, 31:130
character of, 16:648	Canadian Armed Forces, members of,
sexual character of, 16:649, 16:650	31:117.50
sexual conduct of	common law
generally, 16:651	judicial interpretation of, 31:127
notice re evidence, 16:652	rulings, 31:109
procedure re, 16:653	Crown agencies, 31:114
Witness's, re, 16:137, 16:140, 16:645,	discussed, 31:108
16:646	exercise of constitutional power, 31:113
CHARGE	foreign states, 31:121
Accessory after fact, 15:129	Canadian government action in,
Additions by judge, 11:39	31:120
Amendment of, 9:222 , 13:30	funds obtained through statutory authority, 31:125
Arraignment, variance with, 14:5	government action/conduct, 31:111
Arrest vs. charge vs. proceedings, 10:5	government action/conduct, 51.111
"Charged," meaning of, 31:943	31:107
Civil action not suspended by, 9:51	government matters, 31:108
Conspiracy	judicial
see CONSPIRACY	action, 31:126
Defective, 9:227	immunity from suit, 31:128
Delay after, 31:977	interpretation of common law,
Delay before, 5:77 , 31:595 , 31:980	31:127
Disclosed by evidence, 8:39	law enforcement guidelines, 31:131
Joinder of, 9:209	legislation, unconstitutional applica-
Jury charge	tion, 31:110
see JURY CHARGE	legislative assembly, 31:112
Manslaughter, re, 27:117	legislative omission/underinclusion,
New, 9:223	31:123
Pleadings re	medical actions, 31:133
see CRIMINAL PLEADINGS —	outside, Canada, 1:54.50
Rules and principles Preliminary inquiry, at, 13:30 , 13:64 ,	Parliament, 31:112
13:66, 13:69	permissive legislation, 31:124
Quashing, 9:188, 14:101	police agent vs. confidential informant
Re-election, 8:62	31:116
Relaying, 9:188, 12:92, 12:136	police/state agent, 31:117
Resworn, 9:239	private
Separate, 31:1028	actors, 31:115, 31:132
Stay of, 12:106 , 14:91 , 14:103	individuals, 31:135
Variance between evidence and, 9:216	litigation, 31:122
Violation, nexus between, 31:1425	public statutory bodies, 31:129
Withdrawal of, 14:102 , 31:1140	statutory adjudicator, 31:118
see also PROSECUTING OFFENCES	statutory powers, persons discharging, 31:136
	01.100

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Application of, 31:106—Cont'd	Arrest or detention—Cont'd
statutory regulatory bodies, 31:119	informed of reasons for—Cont'd
subordinate legislation, 31:109	reasons
Arrest or detention	jeopardy requirement, 31:834
arbitrary, 31:796	writing requirement, 31:835
"arbitrary," meaning of, 31:804 , 31:819	right varying according to circumstances, 31:833
arrest warrant, use of, 31:812	substance governs, 31:832
bail reverse-onus, 31:813	informed of rights to counsel, 31:803
contempt of court, 31:822	non-criminally responsible accused,
dangerous offender, 31:810	detention of (s. 672.54), 31:574 ,
detaining order re inmate, 31:821	31:1347
detention	racial profiling, 31:808
alleged terrorist, 31:816	Association, freedom of
beyond 24 hours, 31:814	access to natural parent, 31:370
civil detention of the insane,	arbitration, compulsory, 31:375
31:818	banishment from local, 31:369
criminally insane, of the, 31:817 drinking driver, for, 31:827	civil servant engaging in politics, 31:365
foreign nationals without review,	collective bargaining rights
of, 31:815	relation with, 31:377
for further investigation, 31:805	removal of, 31:374
hybrid offence, for, 31:826	union's informational access, 31:379
lawful vs. arbitrary, 31:800	collective rights, 31:362
meaning of, 31:829	commercial association, 31:366
requirement for, 31:799	compulsory dues, 31:355
direct indictment, 31:825	corporate merger, denial of, 31:372
fingerprints, taking of, 31:820	criminal association, 31:367
imprisonment	deportation order, 31:358
mandatory minimum, 31:755	discussed, 31:364
investigative detention, 31:801,	earning livelihood and, 31:359
31:803, 31:807	expression, relation to, 31:356
parole	family unit, within, 31:371
ineligibility, 31:819	freedom not to associate, 31:357
under Parole Act, 31:823	freedom to organize, 31:360
purpose of provision, 31:797	individuals vs. groups, 31:362
random stops, 31:824	known criminals, association with,
roadblocks, 31:824	31:367
unlawful arrest, 31:806	other freedoms, relation to, 31:361
detention during execution of search	purpose of, 31:354
warrant, 31:806	sex by professional with patient,
failure to inform accused that under	31:368
arrest, 31:837	statutory wage restrictions, 31:378
informed of reasons for	strike, right to, 31:376
generally, 31:828	union accreditation, denial of, 31:373
counsel, repetition to, 31:836	Authorized intercepted communications
no presumption of violation, 31:838	Charter motion to quash, 4:83
promptly vs. without delay, 31:830	Children, use of corrective force re,
purpose of, 31:831	31:610

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Compulsion defence, 21:104 Conscience and religion, freedom of —Cont'd Conscience and religion, freedom of access to children by parents of differscope of guarantee, 31:193 ent faiths, 31:211 sincerity of belief, 31:194 access to ministers, 31:209, 31:211 state neutrality, 31:195 administrative tribunal, consideration Sunday fishing and hunting, 31:227 of "Charter values" by, 31:223 Sunday openings, 31:198 burden on claimant, 31:188 terrorist activity, 31:219 compulsion to adhere to religious wearing kirpan at school, 31:218 beliefs, 31:189 zoning by-laws, 31:207 compulsory education, 31:213 Constitution of Canada, primacy of, 31:75 confession to counsellor, 31:201 Charter as part of Constitution, 31:80 conformity, freedom from, 31:191 common law rules and principles, conscience, fundamental freedom of, 31:90 31:185 constitutional amendments subject to disciplining children, freedom re, Charter, 31:79 31:212 constitutional exemptions, 31:97 disturbance of worshippers, 31:208 constitutional extensions, 31:98 door-to-door solicitation, 31:206 conviction constituting estoppel, driver's licence, photograph require-31:100 ment, 31:224 declaration of contravention, standing hatred, civil prohibition against, 31:226 for. 31:84 income tax declaration of invalidity for military expenditures, 31:229 effect of suspension, 31:96 to fund abortion, 31:230 legal consequences, 31:90 iurisdiction over religious matters. 31:194, 31:195 temporary suspension of, 31:95 majority beliefs, freedom from, 31:190 violation of Charter, 31:85 marijuana use as religious tenet, 31:220 extension, 31:98 medical referral requirement, 31:203 jurisdiction re constitutionality, 31:83 oath or affirmation, need for, 31:199 law not in force, indirect implementaprayer at council meetings, 31:210, tion of, 31:99 31:217 legislative amendments to invalid laws, private schools 31:91 non-funding, 31:214 notice to Attorneys General re religious education, 31:222 constitutional challenge, 31:101 public safety laws and, 31:228 provincial non-superior courts, jurisdicpublic school tion of, 31:82, 34:9 holidays, 31:215 provincial superior courts, jurisdiction prayer, 31:216 of, 31:82, 34:9 religious education, 31:221 reading down, 31:92 teacher's expression, 31:225 reading in, 31:92, 31:98 refusal of medical treatment for child, remedies re violation of Charter, 31:86 31:205 retroactive and prospective remedies, religion relative to other matters, 31:87 31:204 separation of powers, 31:81 religious corporation, criminal liability severance of, 31:197 religious evidentiary privilege, 31:200 doctrine of, 31:93 retail holiday business Acts, 31:198 within legislative provision, 31:94

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Constitution of Canada, primacy of, 31:75	Counsel, right to retain, 31:839—Cont'd
—Cont'd	extent of duty to inform—Cont'd
statutory tribunal	inquiry re accused's decision, no
finding of constitutional invalidity	duty, 31:900.50
by, 31:89	onus on accused to invoke rights,
no jurisdiction conferred on, 31:83	31:900
supreme law of Canada, 31:76	posted sign, 31:913
unwritten parts of Constitution, 31:78	reasonable diligence by detainee,
Contempt of court and	31:902
see CONTEMPT OF COURT	reasonable time to consider rights, 31:906
Counsel, right to retain, 31:839	special circumstances, 31:899
see also Evidence, exclusion of; criteria	understanding by accused, 31:897,
for exclusion	31:915
arising on detention, 31:856	waiver, 31:907
arrest/detention	words used, 31:904
initial, 31:872	failure to act on advice, 31:876
requirement, 31:849	failure to advise accused re, 31:865,
arrested lawyer, 31:850	31:917
blood sample demand, 31:884 breathalyzer demand, 31:895	foreign arrest/detention, 31:845
breath sample demand, 31:885	informational component, 31:859
coercive questioning, 31:852	informing police of desire to retain
components of right, 31:859	counsel, 31:920
contempt citation, 31:887	initiation of Charter challenge, require-
conversation initiated by accused,	ments, 31:842
31:826	intoxicated accused, 31:912
counsel at trial, 31:846	investigatory questioning, 31:853
counsel of choice, 31:848	legal aid, information re, 31:860
cross-examination on police statement,	limitation on, 31:501
31:932	non-lawyer, right to speak to, 31:847
dangerous offender application, 31:933	not continuing right, 31:877
detention	passenger, detention of, 31:897
compliance with police demand,	plea bargaining after retention of counsel, 31:870
31:857	police duties on arrest, 31:862, 31:866,
informed of rights, 31:803	31:921
meaning of, 31:857 , 31:864	police interview, presence of lawyer
questioning, during, 31:880	during, 31:930
questioning re consumption of	prior breach of warning requirement,
alcohol, 31:882	31:874
roadside breath/fluid sample,	privacy while exercising right, 31:928
31:883.50	purpose, 31:842
roadside physical tests, for, 31:883	questioning
roadside screening, for, 31:881	after consultation with counsel,
teacher detaining student, 31:843	31:878, 31:927
diligence in pursuing rights, 31:919	after warning, 31:925, 31:930
dissuasion by police, 31:923	as constituting detention, 31:869
entering Canada at customs, 31:871	before arrest, 31:867
extent of duty to inform	before warning, 31:896
implicit invocation of right, 31:901	ceasing on exercise of right, 31:914

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Counsel, right to retain, 31:839—Cont'd	Cruel and unusual treatment/punishment,
questioning—Cont'd	31:1184, 31:1187 —Cont'd
coercive, 31:852	deportation, 31:1203
in absence of police demand, 31:868	detention of non-citizen re national
undercover, 31:876	security, 31:1204
raising issue, 31:924 reasonable opportunity to retain	discharge, unavailability of, 31:1222 extradition
counsel, 31:918	unfit to stand trial, 31:1213
reason for arrest, relation to, 31:844	where death penalty imposed,
re-consultation with counsel during	31:1202
interrogation, 31:922	factors to be considered, 31:1194
regulatory offence, 31:851	fines, 31:1209
repetition of warning, 31:873 , 31:875	forfeiture of weapons, 31:1219
second consultation, right to, 31:905	governmental action, 31:1192
service of, 31:886	grossly disproportionate sentence,
silent accused, 31:931	31:1195
statement	Imprisonment for non-payment of fine
as actus reus, 31:855	in lieu of forfeiture, 31:1211
before and after warning, 31:894	invalid punishments, 31:1225
to private person, 31:854	jail segregation, 31:1205
telephone call, 31:863	mandatory consecutive sentences,
voluntariness inquiry distinct from,	31:1213
31:916	mandatory fine, 31:1211
waiver of right	mentally disordered defendant in Brit-
by counsel, 31:910	ain, 31:1207
clear and unequivocal, 31:908	mercy killing, 31:1197
informational component, of, 31:861	minimum sentences, mandatory, 31:1216
not required, 31:907	murder, first degree, 31:1199
reassertion of right following,	non-cruel and unusual punishment,
31:909	31:1224
young person, by, 31:911	origins and purpose of provision,
warning before arrest, 31:866	15:1146
without delay requirement	"particularized inquiry," 31:1196
consultation with counsel, 31:891	passive inaction, 31:1206
control factors, 31:893	pre-trial detention, 31:1208
immediate search after warning,	prohibition, mandatory, 31:1220
31:892	treatment, 31:1223
incapacitation, 31:889	valid punishments, 31:1224
meaning of, 31:888	victim surcharge, 31:1212
purpose of caution before demand, 31:890	Dangerous offenders legislation, 18:371
	Direct indictment, 11:36
Cruel and unusual treatment/punishment, 31:1184, 31:1187	Equality rights, 31:1259
constitutional exemption, 31:1191	aboriginal peoples, sentencing rights, 31:1348
core meaning of phrase, 31:1189	affirmative action
corporations not protected, 31:1193	benefit, conferring of, 31:1368
dangerous offender	disadvantaged group, discrimination
declaration, 31:1200	re, 31:1364, 31:1365
review 31:1201	female prison quards 31:1367

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Equality rights, 31:1259—Cont'd	Equality rights, 31:1259—Cont'd
affirmative action—Cont'd	discrimination—Cont'd
governmental action, 31:1192	fatal accident survivors, 31:1328
interrelationship of ss. 15(1) and (2),	four basic rights, 31:1272
31:1363	inequality of treatment, 31:1311
programs, 31:421	insanity, Crown raising, 31:1334
purpose of, 31:1362	invalid
repeal of, 31:1366	generally, 31:1312
analysis required, steps in, 31:1273	list re, 31:1360
autistic children, funding rights,	jury
31:1330	minorities not on (racial
comparison of treatment, 31:1272	discrimination), 31:1341
discrimination	non-citizens not on, 31:1340
age, 31:1297, 31:1317	size of, 31:1339
non-proclamation of, 31:1307	language
provincial variation, 31:1308	official, 31:1350
anal intercourse, 31:1299	of trial, 31:1346, 31:1376
analogous grounds of, 31:1288	legal aid lawyer, 31:1354
approach to discrimination claim, 31:1284.50	legislation, federal vs. provincial, 31:1343
child care expenses, 31:1322	legislative choice, 31:1293
child support payments, 31:1321 citizenship status, 31:1329	mentally incapacitated accused, detention, 31:1347
civil damages ceiling, 31:1352	minority groups, 31:1294
civil defendant charged criminally,	naming of child, right re, 31:1295
31:1355	non-enumerated grounds of, 31:1288
comparator group, evaluation by, 31:1290	notice to municipality of injury, 31:1349
compulsory arbitration, 31:1356	parents, natural vs. adoptive,
contextual analysis of, 31:1291	31:1327
corporations, application to, 31:1268	pay equity, 31:1316
corroboration, differing require-	pension benefits, 31:1316, 31:1326
ments, 31:1332	peremptory challenges and stand
court costs, 31:1356	asides, 31:1333
Crown, application to, 31:1269	provincial licence disqualification,
Crown option offence, 31:1335	31:1344
definition of, 31:1292	provincial lottery differences, 31:1345
differential treatment	provisions not in force throughout
as reasonable limit, 31:1314	Canada
prohibited, 31:1309	criminal procedure, 31:1306
direct indictment, 31:1336	federal offence, 31:1302
disabled pupil, 31:1329	sentence advantage, 31:1305
discretion, exercise of, 31:1310	regional differences, 31:1303
discrimination claim	residence, place of, 31:1304
elements of, 31:1285	same sex marriage, 31:1323,
standing, 31:1284	31:1325
educational, 31:1320	school funding, 31:1351
enumerated grounds of, 31:1287	selective prosecution, 31:1342
estates, 31:1268	sexual, 31:1313
,	, -

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Equality rights, 31:1259—Cont'd	Evidence, exclusion of, 31:1510—Cont'd
discrimination—Cont'd	criteria for exclusion
sexual assault age differentiation,	see also s. 24(2)
31:1337	admission and exclusion of tainted
sexual complainant	evidence, case law, 31:1574 to
cross-examination of, 31:1338	31:1577
non-publication order re, 31:1358	bringing administration of justice
sexual orientation, 31:1319	into disrepute
sex with female under 14, 31:1298	balancing process, 31:1545
sign-language interpretation, failure to provide, 31:1315	discoverability of evidence, 31:1552
social context of group, 31:1291	discretion, 31:1552
spouses, 31:1319, 31:1323	reasonable person test, 31:1551
valid differential treatment (list),	causal connection, 31:1565
31:1259	Charter tainted evidence, 31:1577.50
young person, 31:1357	co-conspirator exception, 31:1579
Youth Criminal Justice Act, 31:1300	community shock not test, 31:1550
foetus, application to, 31:1270	court's reputation, balancing of fac-
	tors re, 31:1546
guaranteed equally to both sexes, 31:1267	deference to trial judge, 31:1573
11.1207 law	degree of intrusion, 31:1572
	derivative evidence, 31:1566
application of, 31:1276	effect of exclusion, 31:1543
equal benefit of, 31:1272, 31:1279	evidence created by accused after
equality before, 31:1267, 31:1272,	violation, 31:1574
31:1279	factors considered, 31:1540
equality under, 31:1267, 31:1272, 31:1279	fairness of trial, 31:1541, 31:1574
	fresh start after Charter breach,
equal protection of, 31:1272, 31:1279	31:1566.50, 31:1568.50
	invalid statutory provision, 31:1563
indirect discrimination, 31:1289	law operative at time of seizure,
prohibited discrimination, 31:1280	31:1562
military offence, prosecutor's discretion, 7:20	multiple breaches, cumulative effect of, 31:1542.50
official languages, use of, 31:1277	non-conscripted real evidence,
protection of rights in relation to,	31:1577
31:1274	offence committed after Charter
purpose of provision, 31:1275	violation, 31:1578
retrospectivity, 31:1271	police
special status, extension of, 31:1281	duty to preserve evidence,
substantive equality, 31:1286	31:1560
underlying values, 31:1278 Evidence, exclusion of, 31:1510	lack of good faith on part of, 31:1559
	misconduct, deterrence of,
generally, 31:1519 , 31:5120	31:1558
admission of Charter tainted evidence, 31:1577	provisional rulings, 16:520
Charter exclusionary rule, generally,	purpose of exclusion provision,
31:1577	31:1539, 31:1558
court of appeal substituting view,	real evidence, 31:1521
41.1580	rollobility of oxidonoo 21.5/1/

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Evidence, exclusion of, 31:1510—Cont'd	Evidence, exclusion of, 31:1510—Cont'd
criteria for exclusion—Cont'd	s. 24(2) analysis
right to counsel	accused's statements, application to, 31:1546
incapacity re, 31:1557	admissibility test, 31:1541
knowledge of, 31:1556	bodily evidence, application to,
sanctity of body, 31:1571	31:1547
seriousness of violation, 31:1542	derivative evidence, 31:1549
substantial vs. technical infringe- ment, 31:1561	impact of breach on Charter-
•	protected interests, 31:1543
systemic Charter breach, 31:1570	non-bodily physical evidence,
tainted factor, deletion of, 31:1548	application to, 31:1548
tainted statement	societal interest in adjudication on
different uses of, 31:1554	merits, 31:1544
unfair trick used to obtain,	waiver of right, 31:1525
31:1554	Extradition Act, 32:7
temporal nexus, 31:1568	Extraordinary remedies
three lines of inquiry, balancing, 31:1545	jurisdictional error and, 26:4
	Firearms, 18:417
unreasonable surreptitionaly recorded statement, 31:1555	Fundamental freedoms
violation as reasonable excuse,	see Association, freedom of; Con-
31:1569	science and religion; Peaceful
derivative evidence, application of s.	assembly, freedom of; Thought, belief, opinion and expression
24(2), 31:1549	Fundamental justice
onus of proof	see Principles of Fundamental Justice
accused's burden, 31:1536	Government matters, application to
no automatic exclusion, 31:1538	see Application of
statement of accused, burden re,	Guilty plea, 14:60
31:1537	Habeas corpus, 31:933
test for exclusion, 31:1535	appeal re, 31:942
pre-condition to, 31:1527	automatic release, entitlement to,
procedure	31:939
American exclusionary rule, 31:1523	availability of, 31:940
application made to trial judge,	certiorari-in-aid and, 31:938
31:1528	Charter guarantee, 31:962
British exclusionary rule, 31:1522	description of Writ, 31:935
civil proceedings, 31:1532	discretionary remedy, as, 31:941
criteria on appeal, 31:1534	former s. 526 and, 31:935
grounds for exclusion, statement of,	stay pending appeal, and s. 784(5),
31:1531	31:937
objection prior to reception of evi-	Insanity verdict, 22:30
dence, 31:1530	Interpretation, principles of, 31:1
personal right, 31:1524	access to justice principle (standing),
pre-Charter violation, 31:1521	31:59.70
question of law or fact, 31:1533	actual or reasonable hypothetical viola
remedy vs. right, 31:1526	tion, 31:60
	administrative decisions, proportional-
voir dire, 31:1529	ity analysis, 31:52
provisions re, 31:1478	bilingual nature of Charter, 31:47

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Interpretation, principles of, 31:1 Interpretation, principles of, 31:1 —Cont'd -Cont'd legislative vs. Charter powers, 31:18 Bill of Rights interpretation of not binding, 31:9 liberal not literal, 31:5 overlap with Charter, 31:10 living tree doctrine, 31:14 burden of proof, 31:20 marginal notes, 31:46 Charter exceptions, 31:3 minority rights and freedoms, protection of, 31:7 Charter values, 31:70 multicultural heritage, 31:62 collective vs. individual rights, 31:53 non-contravention, interpretation collision of rights or freedoms, 31:56 should favour, 31:23 competing rights or freedoms, 31:55 official versions, ambiguity between, constitutional questions, need to 31:48 answer, 31:50 organic approach, 31:4 constitutional rights not subject to overbreadth, 31:42 Charter compliance, 31:66 plain meaning, 31:27 constitutional validity political conventions, 31:64 preference for, 31:22 political issues, 31:25 presumption of, 31:21 practical considerations, 31:15 constitutions, other, reference to, 31:37 principles of constitutional interpretacontextual approach, 31:30 tion. 31:2 Crown fairness in criminal prosecupublic interest litigation, interim costs tions, duty of, **31:40** to fund, **31:73** denominational school rights, 31:67 purposive approach, **31:1, 31:19** discretion, exercise of, 31:33 rational approach, 31:29 equality of rights and freedoms, 31:72 reference opinions, 31:69 evidence, ordinary rules of, 31:26 referendums, 31:63 extravagant interpretations, 31:12 retrospectivity, 31:61 extrinsic materials rights and freedoms, 31:31 receipt for first time on appeal, 31:36 rights vs. freedoms, 31:73 reference to, 31:35 rights vs. remedies, 31:54 factual underpinning, 31:39 rule of law, 31:44 foreign law, 31:58 separation of powers, 31:17 free and democratic society, idea of, social and legislative fact findings, 31:16 31:57 functional and structural approach, specific guarantees, 31:51 31:6 specific vs. general Charter rights, genesis of Charter, 31:8 31:71 global approach, 31:28 standing vs. justiciability, 31:24 Hansard, reference to re context, 31:34 stare decisis, issues re, 31:69 headings, **31:45** supremacy of God, 31:43 historical meaning of rights, 31:11 timing of Charter violation allegation, impugned legislation, purpose and 31:36, 31:59 effect of, 31:41 transitional period, 31:75 judicial restraint, 31:49 treaties, reference to, 31:37 justiciability, 31:24 to 31:26 trivial limitations of rights, 31:13 laws of other countries, reference to, two interpretations, 31:23 31:38 unnecessary interpretations, avoidance legal vs. language rights, 31:67 of, 31:49 legality principle, 31:59.50 vagueness, doctrine of, 31:42

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Interpretation, principles of, 31:1	Life, liberty and security of the person
—Cont'd	—Cont'd
waiver of Charter right, 31:32	inquiry re deprivation, nature of,
Interpreter, assistance of, 31:1242	31:431
accuracy, presumption re, 31:1258	liberty
application of guarantee, 31:1249,	arbitrary or irrational law, 31:451
31:1251	cannabis, use of, 31:454
assertion of right, 31:1261	cannabis offences, 31:456
burden on accused, 31:1265	compulsory education, 31:461
communication with counsel at trial,	contract, freedom of, 31:457
31:1264	deprivation of, 31:445
complementary language rights,	driving licence and, 31:459
31:1298	gross disproportionate legislative
corporations, 31:1254	response, 31:452
cross-examination by judge, 31:1260	harm principle, 31:450
deaf party/witness, interpreter for,	imprisonment and, 31:448
31:1259	meaning of, 31:447
inquiry re need, 31:1255	medical marijuana exemption,
judge, by, 31:1256	31:455
procedural framework, 31:1253	parental rights, 31:460
purpose of guarantee, 31:1252	practising profession and, 31:459
standard of interpretation, 31:1257	prostitution and, 31:453
understanding proceeding, 31:1262	protection of, nature of, 31:486.50
waiver, 31:1263	residual management rights re work
Jury, order of closing addresses to, 17:88	schedule, 31:457
Life, liberty and security of the person	right to work and, 31:449
see also Principles of fundamental	life, right to, 31:436
justice	limitations of s. 7, 31:433
child in need of protection, 31:533	non-penal matters, 31:423
conditional rights, as, 31:440	permissive nature of deprivation,
contextual analysis, 31:426	31:432
corporations, exclusion of, 31:442	privacy, right to not included, 31:437
deprivation	property rights not entrenched by,
fundamentally just means, by,	31:438
31:446	public inquiry, 31:425
liberty, three forms of, 31:445	relationship between sec. 7 and sec. 1,
requirement of, 31:424	31:434
destroyed information, non-disclosure	security of the person
of, 31:562	abortion and, 31:468
ECHR "right to life," 31:436	arrest, at home, 31:716
economic/commercial rights and,	basic tenants of legal system, 31:483
31:439	blood samples, seizure of, 31:469
estates, 31:427	blood transfusion, 31:470
"everyone," meaning of, 31:442	bodily integrity, 31:466
extraditional, 31:406	breath sample, reasonable suspicion
"fair process" vs. particular type of	for, 31:472
process, 31:435	compulsion of victim to testify,
foetus, exclusion of, 31:444	31:480
human dignity, principle of, 31:427	consent obtained by compulsion,
independent rights, as, 31:441	31:482

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Life, liberty and security of the person	Limitation of, 31:136 —Cont'd
—Cont'd	onus of proof—Cont'd
security of the person—Cont'd	on party justifying limitation, 31:178
economic rights, 31:465	preponderance of evidence, 31:179
enforcement of foreign judgment,	presumption of constitutional valid-
31:478	ity, 31:181
fingerprints, taking of, 31:474	prescribed by law
health care, limited access to, 31:471	discussed, 31:153
medical treatment, right to, 31:468	guidelines and directives, 31:157
personal autonomy, 31:466	implicit prescription, 31:156
photographs, taking of, 31:476	judicial discretion, 31:160
physical and personal integrity,	judicial interpretation, 31:159
31:466	law, meaning of, 31:154
police right to question, 31:481	regulations, 31:155
punishment, freedom from, 31:462	vague and overly discretionary law,
right to good name, 31:479	31:158
right to sue, 31:477	reasonable limits, 31:137
roadside screening, 31:473	budgetary considerations, 31:148
suicide, physician-assisted, 31:467	contextual approach, 31:144
separate interests, as, 31:430	denial vs. limitation, 31:152
two components of, 31:429	evidence, necessity of, 31:151
stigma, freedom from, 31:428	flexibility, measure of, 31:146
telephone restrictions at remand centre,	law vs. adjudicative decision, 31:14
31:564	minimal impairment, 31:147
Limitation of, 31:136	non-absolute nature of rights, 31:138
demonstrably justified	policy considerations of legislators,
double criteria re, 31:161	31:147
effects of limitation, 31:172	proportionality, 31:139, 31:152,
ends and means, 31:162	31:168, 31:169
evidence	rational basis, 31:142
absence of, 31:166	reasonable basis for impairment, 31:150
by means of, 31:162	
justified vs. reasonable, 31:167	state interest, 31:149 test re, 31:145
minimal impairment, 31:171	two-stage process, 31:139
objective of limitation, 31:163	
policy arguments	two-step inquiry, 31:140 underlying values and principles,
reference to Hansard re, 31:173	31:143
use of, 31:165	vagueness
pressing and substantive objective,	administrative bodies, re, 31:182
31:164	tolerable certainty, 31:184
proportionality, 31:168	understandable and ascertainable
rational connection, 31:169	standards, 31:183
sociological, cultural materials,	Minority language educational rights,
31:174	31:1377, 31:1386
free and democratic society	accessibility, reasonable, 31:1403
Canadian standard, 31:177	child need not speak minority language
other democratic societies, 31:175	31:1395
onus of proof	delegation to school board, 31:1404
administrative infringement, 31:180	discretion re practicability, 31:1397

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Minority language educational rights,	Offence, person charged with, 31:942
31:1377, 31:1386—Cont'd	accused as non-compellable witness,
equality rights and, 31:1392	31:1015
equivalent facilities, 31:1400	see also TRIALS — Witnesses
general framework, 31:1388	civil action
general regime, 31:1387	concurrent, 31:1023
general remedial right, 31:1389	discovery or trial, 31:1030
historical and social context, 31:1396	corporate directing mind, 31:1025
location of schools, 31:1404	examination of bankrupt by trustee, 31:1024
majority language, no right to, 31:1398	0101021
numbers warranting, 31:1406	extent of protection, 31:1016 failure to testify
parents not of linguistic minority, 31:1392	adverse comment, re, 31:1020
parents of linguistic majority, 31:1394	adverse inference from, 31:1020
quality of, 31:1401	foreign proceedings, 31:1017
Quebec, application to, 31:1399	incriminating statement, time for determination, 31:1019
right to manage and control, 31:1402	non-application of protection,
specific purpose of, 31:1391	31:1031
Mistake of fact and, 21:235	pending appeal, 31:1027
Mobility rights, 31:403	pre-trial evidence, application to,
exceptions	31:1022
Law Society restrictions, 31:419	regulatory proceedings, application to, 31:1029
laws of general application, 31:418	separate informations, 31:1026
provincial professional requirements, 31:420	"tactical onus" to testify, 31:1018 testimonial compulsion, 31:1016
right of entry and exit	bail, reasonable
extradition	after conviction, 31:1119
as reasonable limit, 31:404	denial without just cause, no,
crime committed in Canada, for,	31:1111
31:407	guarantee to, 31:1108
hearing, Charter matters at, 31:408	maintenance of public confidence (s.
prison transfer to Canada, 31:409,	510(c)), 31:1110 presumption of innocence
31:415	as basis for bail, 31:1114
procedural fairness re surrender for extradition, 31:405	pending appeal, 31:1115
right to reside/pursue livelihood in any	pending new trial, 31:1116
province	reverse onus
child's rights, 31:417	on murder charge, 31:1113
grandfathering provisions, 31:413	on narcotic charge, 31:1117
mobility rights, as, 31:410	public interest and protection and,
non-resident salesperson, 31:416	31:1118
purpose of rights, 31:411 , 31:412	right to, 31:1107 show cause on accused, 31:1112
right to work, no free-standing,	undue delay prior to bail hearing,
31:414	31:1109
Murder	benefit of lesser punishment
see also MURDER	increase in penalty after commission
parties to common intention, 15:87	of offence, 31:1183

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Offence, person charged with, 31:942 Offence, person charged with, 31:942 -Cont'd —Cont'd benefit of lesser punishment—Cont'd double jeopardy, 31:1146—Cont'd lesser punishment at sentencing, mandatory supervision, revocation 31:1182 of. 31:1162 mistrial, 31:1168 long-term offender provisions, 31:1186 multiple penal consequences, 31:1159 prohibition orders, 31:1185 "offence," meaning of, **31:1149** "punishment," meaning of, 31:1179 parole, forfeiture of, 31:1169 reduction of penalty after sentence, 31:1184 perjury following convictions, 31:1174 replacement of offence by another, preliminary inquiry, discharge at, 31:1180 31:1156 sliding scale of punishment, 31:1181 presumption against retrospectivity treatment/punishment, 31:1188.50 of greater punishment, 31:1177 "charged," meaning of, 31:943 probation, breach of, 31:1155 civil proceedings, inapplicability of, 'punishment," meaning of, 31:1150, 31:947 31:1165 contempt of court, application re, purpose of prohibition, 31:1147 31:948 same offence element, 31:1148 corporations and organizations, second or subsequent offences, application to, 31:949 31:1158 dangerous offender application inapstay of proceedings, 31:1157 plicable, 31:946 use of firearm during indictable double jeopardy, 31:1146 offence, 31:1167 binary vs. global right, 31:1177 young person, failure to comply, civil consequences of offence, 31:1155 31:1163 ex post facto offences, no, 31:1141 common law rule, 31:1176 extradition hearing, inapplicability to, completion of punishment for same 31:950 offence, 31:1153 fair and public hearing conditional discharge, revocation of, abolition of peremptory challenges, 31:1151 31:1131 contempt and criminal harassment, accused compelled previously to 31:1166 testify, 31:1081 Crown appeal accused's failure to attend trial, of acquittal, 31:1171 31:1077, 31:1079 on facts, 31:1172 bail hearing, publicity ban at, summary conviction acquittal, 31:1075 31:1173 certificate evidence, 31:1072 dangerous offender application, conflict of interest for counsel. 31:1160, 31:1161 31:1067 deportation, 31:1152 contempt proceedings, 31:1073 DNA samples, taking of not counsel, right to "punishment," **31:1165** at trial, 31:1064 early parole, abolition of, 31:1170 effective counsel, 31:1066 extradition hearing, 31:1154 on appeal, 31:1065 hung jury, 31:1168 cross-examination on past convicincluded offence, 31:1164 tions, 31:1080

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Offence, person charged with, 31:942	Offence, person charged with, 31:942
—Cont'd	—Cont'd
fair and public hearing—Cont'd	independent and impartial tribunal
Crown stand asides, 31:1069 , 31:1081	—Cont'd prejudicial comments by government
extradition hearing, use of affidavits	officials, 31:1105
at, 31:1071	purpose of, 31:1085
fairness, concept of, 31:1062	standard of independence, 31:1088
fair trial, right to, 31:1063	information re specific offence, 31:952
in camera hearing, 31:1076	additional offence disclosed by evidence, 31:964
inherently prejudicial practices,	avoidance of process, 31:955
16:40	Crown election, 31:962
jury trial, Attorney General requir-	failure to refer to charging section,
ing, 31:1082	31:958
perpetuated evidence, 31:1074	included offences, 31:959
police prosecutors, 31:1083	multiple and alternative offences,
preliminary inquiry, sealed packet at, 31:1070	31:960
publicity, excessive, 31:1078	purpose in giving, 31:953
forfeiture of goods, inapplicability to,	real prejudice without, 31:954
31:951	specific averment, 31:963
independent and impartial tribunal	subsequent charge, 31:961
administrative tribunals, non-ap-	summons, 31:965
plication to, 31:1093	writing requirement, 31:956
contempt in face of court, 31:1104	innocence, presumption of, 31:1032
court martial	see also reverse onus
General Court Martial, 31:1101 standing, 31:1102	juvenile delinquent, application to, 31:1034
independence vs. impartiality,	key principles of, 31:1031.50
31:1084, 31:1087	non-application of, 31:1036
independent commissions, financial security of, 31:1089	public and press, application to, 31:1038
judges	purpose of presumption, 31:1033
competency of, 31:1095	reverse onus re mens rea, 31:1037
disciplinary hearing against,	trial, application at, 31:1035
31:1096	jury trial, right to, 31:1120
financial security of, 31:1089, 31:1090	abolition of peremptory challenges, 31:1131
part-time, 31:1099	"benefit of trial by jury," meaning
removal of, 31:1097	of, 31:1122
sources of independence, 31:1087	contempt of court, 31:1126
supernumerary, federal judges,	corporations, 31:1135
31:1098	court martial trial, 31:1134
judicial immunity, 31:1100	Crown adding charge, 31:1127
judicial participation in investigative	Crown option offence, 31:1136
hearing (s. 83.28), 31:1091	Crown's right, 31:1010
maintenance orders, enforcement of, 31:1106	dangerous offender application, 31:1125
office held at pleasure, 31:1094	discharge of juror, 31:1132

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Offence, person charged with, 31:942 Offence, person charged with, 31:942 -Cont'd —Cont'd jury trial, right to, 31:1120—Cont'd reverse onus-Cont'd five years or a more severe punishpresumption of sanity, 31:1049 ment, 31:1121 presumption re age, 31:1050 judge's opinion on evidence, exprespresumptions of fact, 31:1042 sion of, 31:1124 registered weapon certificate, iuvenile delinquent, 31:1137 31:1048 loss of, 31:1129 strict liability and due diligence, re-election to, 31:1130 31:1056 representative jury, right to, 31:1125 truth as defence to wilfully promoting hatred, 31:1052 retrial of original election, 31:1133 valid statutory presumption, 31:1045 waiver of by accused, 31:1128 separate charge, 31:1028 withdrawal of charge, 31:1140 time of act/omission, criminality young person, 31:1138, 31:1139 requirement, 31:1182 lesser punishment where variation in, trial within reasonable time, 31:967 31:1175 administrative delay, 31:969 nature of charge, 31:944 appeal, delay raised only on, offence in force 31:1013 access to law, 31:1142 application to all trial courts, 31:971 prior interpretation, 31:1145 Charter applications re, framework war crimes, 31:1143 for, 31:981 parole eligibility, application to accelercorporate accused, 31:975 ate (s. 745.6), **31:945** Crown appeal, 31:1007 presumptions Crown's right to jury trial, 31:1011 see reverse onus Crown's stay of proceedings, 31:998 reverse onus dangerous offender application causassociation with prostitutes, 31:1051 ing delay, **31:1003.30** bail pending trial and appeal, delay, requirement to raise issue in 31:1054 timely manner, 31:1026 bawdy house, found in, 31:1055 delay as from charge, 31:977 blood alcohol reading, 31:1053 delay as question of law, 31:1004 evidentiary burden, 31:1041 delay caused by co-accused, 31:1006 examples delay caused by defence, 31:1005 invalid reverse onuses/ delay reasonable, 31:995 presumptions, 31:1058 extradition hearings, 31:1014 valid reverse onuses/ extraordinary remedies causing presumptions, 31:1059 delay, 31:1003 excuse or justification guilty plea withdrawal causing delay, generally, 31:1046 31:1003.50 burglar tools, re, 31:1047 individual right, as, 31:970 facts peculiarly within accused's judge's delay, 31:997 knowledge, 31:1060 jury roll, right to representative, justifiability of, 31:1040 31:1103 mandatory presumption, 31:1043 motion, discretion re when to hear, permissive presumption, 31:1044 31:976 possession of recently stolen propmultiple trials, 31:1002 erty, 31:1061 new proceedings, 31:1012 presumption of innocence, as violating, 31:1039 overall delay, 31:1002

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Offence, person charged with, 31:942	Official languages, 31:1359—Cont'd
—Cont'd	English and French—Cont'd
trial within reasonable time, 31:967	as official languages, 31:1369
—Cont'd	federal courts, 31:1373
post-verdict delay, 31:999	federal institutions
pre-charge delay, 31:980	communication by public, 31:1384
pre-information delay, 31:979	(provincial functions) in New Bruns-
prejudice to accused, 31:1009	wick, 31:1370
presumptively unreasonable delay,	municipal matters, 31:1385
31:984, 31:985	New Brunswick, linguistic rights in,
promise to appear, 31:979	31:1386
purpose of guarantee, 31:968	preliminary inquiry in accused's
re-trial delay, 31:1004	official language, 31:1377 provincial offence tried in accused's
review of trial findings, 31:1008	official language, 31:1378
unreasonable delay	transcript of evidence, access to,
below presumptive ceiling, 31:986	31:1381
co-accused/others caused delay, 31:1006	trial in accused's official language (ss.
defence delay, 31:1002	530, 530.1), 31:1376, 31:1436
defence-waived/caused delay,	understanding language chosen,
31:1010	31:1374
direct indictment, 31:897	Override provision, 31:101
direct indictment after laying	constitutional override power, 31:102
information, 31:989	declaration of override, 31:103
exceptional circumstances, 31:985	formal requirements, 31:105
factors, 31:990	general override, 31:104
meaning of, 31:981	Peaceful assembly, freedom of
presumptive ceiling, 31:983	freedom of association, 31:351
presumptively unreasonable delay, 31:984, 31:985	freedom of expression, relation to, 31:352
re-election re mode of trial,	prisoners, by, 31:350
31:988	Perpetuated evidence, 16:229
transition, application of, 31:982	Precedents, changes to law and
trial judge management to avoid,	reconsideration of, 31:1196.30
31:996	Preliminary inquiry and, 13:22, 13:54
unreasonable delay, 31:994	Presumption of Innocence
verdict deliberation delay, 31:999	see INNOCENCE, PRESUMPTION
youth court delay, 31:974	OF
Official languages, 31:1359	Principles of fundamental justice, 31:422
bilingual/minority official language proceedings, 31:1379	aboriginal accused, "proportionate sentence," 31:615
bilingual statutes, 31:1375	abuse of process
change in venue re language of trial,	generally, 31:593
31:1382	Charter applicability, 12:110
complementary language rights, three,	entrapment as, 31:600
31:1298	pre-charge delay as, 31:595
counsel of choice, right to, 31:1380	relaying of charge as, 31:603
disclosure in language of trial, 31:1436	access to personal information held by
English and French	government, 31:346, 31:539
advancements of, 31:1371	accomplice as Crown witness, 31:586

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Principles of fundamental justice, 31:422	Principles of fundamental justice, 31:422
—Cont'd	—Cont'd
adequate investigation, right to, 31:494	drinking and driving charge
adjudication on facts and law, 31:510 administrative appeal, submission on,	administration of ASD, alcohol in mouth, 31:584
31:520	automatic suspension of licence,
administrative hearing, 31:535	31:614
amnesia, accused suffering from,	drunkenness
31:573	common law defence of, 31:525
application of law, arbitrariness and	removal of, 31:609
disproportion, 31:507	evidence
arbitrariness, overbreadth and gross	bail hearing, at, 31:645
disproportionality, 31:505	perpetuated, 31:585
arbitrary laws, 31:506	restriction on adducing, 31:591
bail hearing	right to test, 31:566
evidence at, 31:645 right of accused to testify at, 31:647	videotaped (ss. 715.1 and 715.2), 31:588
bodily harm, unlawfully causing,	videotaped evidence of witness with
31:552	disability, 31:589
breathalyzer, refusal re, 31:646	ex parte trials, 31:582
child, counsel for, 31:649	extradition hearing
compendious expression, as, 31:487	generally, 31:527
compensation orders, 31:556	fair process requirement, 31:638
compulsion, statutory defence of,	foreign country, standards in, 31:641
31:502	use of depositions at, 31:635
compulsory treatment, 31:642	extraterritorial crimes, 31:528, 31:529
concepts involved, 31:486	fair notice, 31:511
confession, trickery in obtaining,	fault
31:519	objective, 31:550 , 31:552
consent defence, removal of, 31:607	regulatory offences, for, 31:570
counsel, limitation on access right, 31:501	firearms, no constitutional right to bear, 31:576
Crown's right of appeal, 31:598 dangerous driving, 31:554	foreign jurisdiction, deprivation by, 31:651
dangerous offender application, 31:531	full answer and defence, 31:493,
delay	31:572, 31:592.50
appellate, 31:597	Hague Convention re child refugee, 31:648
pre-charge, 31:595 , 31:980	harmless conduct, criminalization of,
test re pre-charge, 31:596	31:450
deportation, 31:529, 31:636	inadmissibility of non-citizens re
detention of mentally unfit accused,	national security, 31:530
31:543	incapacity to make full answer and
direct indictment, 31:557	defence, 31:572
disclosure	injunction, 31:499
informer's identity, of, 31:567	inmates
right to, 31:571	see parolees and inmates
stay for non-disclosure, 31:565	issuing process, 31:581
discretion, exercise of, 31:498	jail sentence, mandatory, 31:571
discussed, 31:485	joinder of counts, 31:558

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Principles of fundamental justice, 31:422	Principles of fundamental justice, 31:422
—Cont'd	—Cont'd
jury	parolees and inmates—Cont'd
Crown's right to address last, 31:604	mandatory supervision, withholding,
mandatory jury trial, 31:611	31:627
right to civil, 31:540	parole application, 31:624
secrecy, 31:605	parole term, non-association, 31:630
legal rights provisions, interplay with, 31:484	right to council at bearing 31:625
210.00	right to counsel at hearing, 31:625 van rides to and from court, 31:634
loitering in park by sex offender, 31:553	penal negligence, 31:550
manifest unfairness, 31:497	penalty, reasonable notice re greater,
manslaughter, 31:551	31:538
mens rea	people smuggling, offence of, 31:640
care/control of motor vehicle, 31:496	peremptory challenges and stand
need for, 31:495	asides, 31:569 , 31:1131
military service offences, 31:655	possession of controlled drugs, 31:555
mistake of fact re age, 31:606	preliminary inquiry, at
moral fault, need for, 31:495	disclosure, refusal to order, 31:620
moral voluntariness, need for, 31:495	jurisdiction re remedy, 31:618
multiple punishment, 31:577	re-election, Crown's consent to,
murder	31:621
attempted, 31:549	right to, 31:622
constructive, 31:544	sealed packet, opening of, 31:619
first degree, 31:545	presence at hearing right of accused, 31:579
implied intent re, 31:546	presumption of innocence, 31:488
objective liability and, 31:548	previous convictions, cross-examina-
provocation to, 31:547	tion on, 31:603
non-publication of accused's identity,	principles re, key, 31:484.50
31:641	private information records, access to,
obscenity	31:565
definition of, 31:503	procedural fairness, 31:492, 31:492.50,
ignorance of nature of obscene mat-	31:535
ter, 31:612	procedural safeguards against miscar-
offence in force at time of commission, 31:490	riage of justice, 31:489
oppressive/vexatious proceedings,	prosecutorial discretion, 31:568
31:594	psychiatric assessment, refusal to submit to, 31:524
oral hearing, 31:536	public inquiry prior to trial, 31:512
overbreadth, 31:509 , 31:640	publicity, widespread, 31:599
parolees and inmates	rape shield provisions, 31:591
day parole, 31:626	reasons for judgment, failure to give,
discretion of institutional head,	31:578
31:632	regulatory offences, fault and imprison-
double-bunking, 31:633	ment for, 31:570
isolation/withholding programs,	removal from court, 31:583
31:628	right of appeal, 31:653
knowledge of case against, 31:631	right to control defence, 31:500
mandatory release, 31:629	right to remain silent, 31:518

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Principles of fundamental justice, 31:422 Principles of fundamental justice, 31:422 —Cont'd —Cont'd right to state-funded counsel, 31:652 witnesses—Cont'd tainting of Crown witness by police, safe injection facility, 31:644 31:601 sealed packet, access to, 31:560 untried or unsentenced accomplice seat belts, mandatory, 31:650 as, 31:586 self-incrimination Youth Criminal Justice Act. 31:534 compulsory records in regulated Private prosecution, 12:95 industry, re, 31:517 Protection of privacy, 4:2 Crown's theory of liability, re, 31:515 Religion, freedom of, 31:186 forensic DNA samples, taking of, driver's licence, photograph require-31:475 ment, 31:224 investigative hearing re terrorism religious beliefs, definition of, 31:192 offences, 31:516 same-sex marriages, freedom not to perform, 31:202 pre-charge inquiry and, 31:514 terrorist activity, 31:219 residual right against, 31:513 wearing kirpan at school, 31:218 right of witness against, 31:523 Remedies, 31:1398, 31:1408 statutory compulsion, 31:12.50 appropriate and just remedy sexual offenders, mandatory registraappellate intervention, 31:1469 tion of, 31:574.50 declaration of law at judgment, statement 31:1472 elicitation of by trickery, non-active, efficacious requirement, 31:1462 31:520 extension of invalid law, 31:1473 income tax, 31:521 nexus with legislative objective, tax statement, statutory compulsion 31:1470 to make, 31:522 nexus with wrong, 31:1463 statutory definition, lack of, 31:508 range of remedies, 31:1464 stay of proceedings, 31:559 reduced sentence as remedy, 31:1475 stolen property, prior possession of, reference to past practices, 31:1471 31:613 remedy not appropriate, 31:1474 substantive review. 31:491 stay as exceptional remedy, 31:1477 substitution of health care decisions, tainted possession of seized items, 31:643 31:1485 summary judgment, 31:541 costs, 31:1466, 31:1494 suspension of civil proceedings, 31:617 court of competent jurisdiction additional powers, vesting of, behind screen, 31:590 31:1434 transfer to adult court, 31:616 administrative or statutory tribunals, "true adjudication," requirements for, 22:105, 31:1438 31:510 appellate court unrepresented accused, 31:654 Charter remedy on appeal, vagueness, 31:508 31:1461 vicarious liability, 31:542 dangerous offender appeal, war crimes, 31:526 23:193, 31:1459 weapons prohibitions, mandatory, inherent and ancillary powers, 31:575 31:1457 witnesses new Charter issues on appeal, right to confront, 31:587 31:1460

CHARTER OF RIGHTS—Cont'd Remedies, 31:1398, 31:1408—Cont'd	CHARTER OF RIGHTS—Cont'd Remedies, 31:1398, 31:1408—Cont'd
court of competent jurisdiction	exclusion of evidence
—Cont'd	no stay where evidence admissible,
appellate court—Cont'd	31:1479
pre-trial ruling, appeal of, 31:1458	provisions re, 31:1478 , 31:1519
remedy by, limitation on, 31:1456	exemption, issuance of, 31:1480
statutory court, as, 31:1455	impounding seized documents, 31:142
collective agreement, 31:1439	injunction
Criminal Code exhaustive of	interlocutory, 31:1483
appeals, 31:1436	issuance of, 31:1480
extradition proceedings, 31:1437	judicial review
jurisdiction	mandamus inappropriate re stay,
no increased, 31:1435	31:1503
requirement of prior, 31:1433	other remedies available, 31:1505
preliminary inquiry	prerogative writ where no appeal,
no power to stay, 31:1441	31:1502
not court of competent jurisdiction, 31:1450	presumption against prerogative remedy, 31:1504
power to exclude evidence,	onus of proof
31:1442	assertion of violation, 31:1430
provincial court	balance of probabilities, 31:1429
Crown compensation, no power to	causal link requirement, 31:1432
order, 31:1446	prima facie violation, 31:1431
jurisdiction to award remedies,	procedure
31:1445	affidavits, cross-examination on,
mandamus, no power to order,	31:1513
31:1446	evidence, requirement to hear,
no additional jurisdiction, 31:1444	31:1518
power to declare legislation invalid, 31:1443	factual backdrop, need for, 31:1515
superior court	frivolous application, 31:1516
admission on criminal motions,	judge raising Charter issue, 31:1517
31:1454	motion
co-ordinate jurisdiction, 31:1452	civil motion during criminal
federal legislation, attack on,	proceedings, 31:1512 defence at trial, as, 31:1510
31:1448	
inherent jurisdiction of, 31:1447	during criminal trial, 31:1509
matter before inferior court,	individual pre-trial, 31:1506 pre-trial Charter, 31:1507
31:1450	summary dismissal of, 31:1508
motion to strike for no cause of	withdrawal of, 31:1511
action, 31:1451	normal, 31:1514
motion vs. action, 31:1453	· · · · · · · · · · · · · · · · · · ·
summary conviction appeal court,	purposive interpretation of s. 24(1), 31:1408
31:1449	right of appeal
damages	admission of evidence ruling,
availability of, 31:1465, 31:1492	31:1499
constitutional damages, 31:1491	Charter rulings as questions of law,
constitutional tort, 31:1490	31:1499
Crown prosecutorial misconduct,	interlocutory order, 31:1497
31:1466	moot appeal, 31:1501

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Remedies, 31:1398, 31:1408—Cont'd	Search and seizure, unreasonable, 31:655,
right of appeal—Cont'd	31:656 —Cont'd
non-publication order, of, 31:1496	administrative searches—Cont'd
stay of proceedings, of, 31:1495	mandatory information under ITA,
total absence of evidence, 31:1500	31:786
standing to apply	privacy, low expectation of, 31:785
abortion injunction, 31:1419	regulatory searches, 31:784
action for declaration, 31:1413	tax seizure, 31:788
anticipatory breach, 31:1426	American authorities, relevance of, 31:793
charge and violation, nexus between, 31:1425	burden on accused, 31:675
charged with offence, being, 31:1409	computers, privacy interest in, 31:681
Charter jurisdiction after trial	concurrent search purposes, 31:672
terminates, 31:1411	corporations, 31:658
costs to successful civil party,	customs searches, 31:712
31:1428	conduct of, 31:783
damages, action for, 31:1417 interventions, 31:1418	lower standard of reasonableness, 31:781
issue estoppel, 31:1424	temporary restraint, 31:780
mootness, 31:1412	warranted, 31:783
personal right, 31:1410	warrantless, 31:763
premature application, 31:1427	warrant provision of Customs Act,
procedural bars, 31:1420	31:782
public interest standing, 31:1416	disjunctive nature of terms, 31:665
reasonable cause of Charter action	dwelling house, 31:791
and standing, 31:1414	electronic surveillance
s. 8 Charter declaration, 31:1415	constitutional validity, 31:772
third party	electronic beeper, 31:777
searches, 31:1422	search and seizure, constituting,
violations, 31:1421	31:771
wiretaps, 31:1423	surreptitious entry of private residence, 31:775
trade unions, 31:363	video surveillance, 31:779
stay	videotaping, 31:778
declaration of unconstitutionality, of, 31:1481	wiretaps
issuance of, 31:1480	admissibility of evidence,
unreasonably seized items, return of	principles, 4:84
copies, notes, etc., 31:1488	consent, 31:773
delay of return, 31:1487	consent re admissibility, 31:774
discretion to order return, 31:1484	emergency, 31:776
factors re detention, 31:1486	"everyone," meaning of, 31:658
return vs. admissibility, 31:1489	foreign search, 31:659
Restitution orders, 18:375	forms of, 31:664
Search and seizure, unreasonable, 31:655 ,	impact on subject of, 31:666
31:656	informational privacy, 31:681
generally, 3:3	inquiry re grounds, 31:685
administrative searches	interference with private and family
audit powers. 31:787	life. 31:670

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Search and seizure, unreasonable, 31:655,	Search and seizure, unreasonable, 31:655,
31:656 —Cont'd	31:656 —Cont'd
investigative detention, pat-down	search—Cont'd
search incidental to, 31:693,	visual observations, 31:710
31:807	warrantless
investigative techniques, impermis-	see warrantless search
sible, 31:692	with warrant
legislation permitting, 31:697	see search with warrant
plain view, seizure pursuant to, 31:794	search of the person
prior judicial authorization, 31:676	choking re drug search, 31:766
privacy	frisk search, 31:764
individual, 31:669	incident of arrest, 31:762
office, of, 31:792	internal search, 31:767, 31:770
reasonable expectation of, 31:662,	strip search, 31:768, 31:783, 31:784
31:668	suspicion, 31:769
rights, 31:790	timing, 31:763
state intrusion on, 31:671	search warrant
subject matter of search as factor, 31:667	defective, 31:691
private search, 31:660	entry prior to, 31:696
real property, seizure of, 31:789	general, 31:677
1 1 1	hearsay grounds, 31:683
reasonable and probable grounds for warrant, 31:678	invalid federal provisions re, 31:682
reasonableness	judicial discretion re issuing, 31:680
factors determining, 31:687	reasonable and probable grounds
meaning of, 31:663	requirement, 31:678
•	search with warrant
self contained meaning in provision, 31:698	blood sample by warrant, 31:738
reasonable suspicion for search, 31:679	determination by judge, 31:734
retrospectivity, 31:795	disorderly house search warrant,
s. 7 analysis, redundancy of, 31:657	31:731
search	DNA judicial warrants, 31:733
3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3	ex post facto justification, 31:746
blood samples	extended search warrant, 31:742
demand for, 31:709	general search warrant, 31:730
taken by hospital, 31:708	informer's statement, disclosure of,
demand for	31:744
blood samples, 31:709	prior unconstitutional search, 31:750
breath sample, 31:705	quashing warrant
driver's licence, 31:706	admissibility of evidence, 31:740
information, 31:704	cross-examination of affiant,
eavesdropping, 31:711	31:745
illegal vs. unreasonable vs. arbitrary,	indirect collateral attack, 31:747
31:690	reasonableness of execution, 31:736
inspection of documents, 31:707	reasonableness of issuance, 31:735
meaning of, 31:702	seizure of other items, 31:743
posted signs indicating, 31:700	typographical/technical errors,
reasonable, 31:688	31:739
safety search, warrantless, 31:703	weapons, re, 31:732
unreasonable execution of, 31:689	writs of assistance, 31:737

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Search and seizure, unreasonable, 31:655,	Search and seizure, unreasonable, 31:655 ,
31:656 —Cont'd	31:656 —Cont'd
seizure	warrantless search—Cont'd
blood sample, 31:724	reasonable suspicion exception,
breath sample, 31:726	31:760
breath sample under provincial	school official, by, 31:752 weapons, for, 31:755
legislation, 31:723	Testimonial self-incrimination, 31:1219
by police from third party, 31:674	
confiscation, 31:722	affidavit evidence, 31:1233
consent and, 31:713	applicability of protection, 31:1228
detention order, 31:728	bail hearing, 31:1242
fingerprints, 31:727	civil liability, 31:1194
forced production of documents	civil or administrative proceedings, prior, 31:1232
civil, 31:719	contradictory evidence, 31:1238
criminal, 31:720	cross-examination
forfeiture and restraint, 31:718	accused to impeach credibility,
impounding car, 31:715	31:1237
impounding materials, 31:701	accused witness to incriminate him,
of other item, 31:699	of, 31:1236
person, of, 31:717	non-accused witness, of, 31:1234
real property, 31:714	timing of ruling, 31:1235
records, inspection and photocopies	examination for discovery, 31:1245
of, 31:721	extent of protection, 31:1226
restraint order, 31:729	forfeiture hearing, 31:1245
standing to attack, 31:673	incriminating evidence, 31:1230
subject matter of search as privacy	non-absolute nature of, 31:1229
determinant, 31:667	non-accused witness, jury instruction
substantial interference with rights	re, 31:1237
requirement, 31:686	perjury, 31:1238
totality of circumstances, 31:684	preliminary inquiry, 31:1241
warrantless search	prior conviction, admission at trial,
arrest	31:1240
after, 31:756, 31:757	purpose of protection, 31:1227
before, 31:759	re-trial after appeal, 31:1247
auto, for, 31:695	sentencing hearing, 31:1244
consent and waiver, 31:751	testimonial protection, 31:1231 voir dire, 31:1243
courthouse perimeter searches,	waiver of immunity, 31:1248
31:753	Thought, belief, opinion and expression
exigent circumstances	access to courts
described, 31:761	financial impediments, 31:317.50
need for, 31:694	in camera proceedings, 31:319
lawful detention, following, 31:758	innocent persons, identities of,
open fields doctrine, 31:750	31:321
presumption of unreasonableness,	no absolute ban on, 31:316
31:748	non-absolute right, 31:317
prison inmates, of, 31:754	open-court principle, 31:318
private property, right to enter,	personal records, automatic ban,
31:749	31:309

CHARTER OF RIGHTS—Cont'd	CHARTER OF RIGHTS—Cont'd
Thought, belief, opinion and expression —Cont'd	Thought, belief, opinion and expression —Cont'd
access to courts—Cont'd	expression, freedom of—Cont'd
prohibition re filming re courtroom, 31:320	inquiry re violation—Cont'd steps, 31:250
acts and deeds, protection of, 31:245 broad and purposive interpretation,	lawyer's expression on legal matters, 31:284
31:236	letter of recommendation, 31:279
coercion or constraint, absence of, 31:232	municipal employees as municipal councillors, 31:267
communication re prostitution, 31:240	national security, protection of,
confidentiality order in civil suit, 31:242	31:261, 31:346 negative obligation, as, 31:244
contempt of court by media publica-	oath of citizenship, 31:273
tion, 31:244	obscene matter (s. 163), 31:285
effective expression, 31:237	obscene theatrical performance,
expression, freedom of	31:287
abortion services, protest re, 31:235	personal information, use of in
access to government information,	labour contexts, 31:256
31:252	picketing, peaceful, 31:254, 31:275,
advertising by professionals, limits on, 31:258	31:276
child pornography, 31:286	posters in public areas, 31:280
common law limits on, 31:259	professionals
conduct permitted by, 31:249	limits on advertising by, 31:258
confidentiality order in civil suit,	picketing, 31:277
31:242	professional criticism, 31:270
contempt by scandalizing court, 31:275	regulation of advertising by, 31:349
criminal indecency, 31:290	regulation of unregistered, 31:269
criticism of fellow teacher, 31:281	publications, 31:259
defamatory libel	public property, access to, 31:253
civil, 31:266	purposes of, 31:248
criminal, 31:265	racial contempt, 31:272
demonstrations, 31:259	referendum, right to vote at, 31:271
distribution of leaflets, peaceful, 31:254	Remembrance Day prohibition, 31:278
election or referendum spending, 31:260	right of teacher to use film as educational tool, 31:282
extent of protection, 31:246	right to vote at referendum, 31:270
gross indecency, 31:290	school employee as school trustee,
hatred, promotion of, 31:263	31:268
ideas and beliefs, protection of,	seal-hunt filming, 31:283
31:247 information, access to government,	sexual immorality in home endanger- ing child's morals, 31:289
31:252	terrorist activity, 31:219
information supplied by union to	union dues, compulsory, 31:257
members, 31:255	wilful promotion of hatred, 31:262
inquiry re violation	wilful publication of false statement,
issues considered \$1.72	311/04

CHARTER OF RIGHTS—Cont'd CHARTER OF RIGHTS—Cont'd Thought, belief, opinion and expression Thought, belief, opinion and expression -Cont'd —Cont'd press, freedom of the-Cont'd freedom re, meaning of, 31:234, 31:242 sealing order, 31:293 labour issues search warrant of media premises, 31:305 electioneering, ban on, 31:348 subpoenaed media official, 31:306 picketing as expression, 31:347 publication bans language of choice, 31:243 mental aspect of human activity, see also press, freedom of the 31:236 accused's identity, 31:337 non-absolute nature of, 31:233 alleged wrongdoer, identity of, political vs. commercial speech, 31:241 31:341 application to lead other sexual press, freedom of the activity, 31:336 concealing identity of person/place searched, 31:307 bail hearing, at, 31:324 complainant's/witness's/juror's court exhibits, examination of, 31:310 identity (ss. 486.4, 486.5), 31:335 court exhibits, publication of during disclosure of identity of victim/ trial, 31:314 witness (sexual proceedings), court proceedings audio publication of, prohibition 31:337.50 disclosure of witness's identity, re, 31:295 31:337.30 cameras in courtroom, 31:294 election information, 31:345 concealing identity of accused, evidence at change of venue applica-31:304 tion, 31:339 concealing identity of journalistic journalistic source, re, 31:331 source, 31:301, 31:303 jurisdiction to make, 31:327 concealing identity of witnesses, jurors, identification of, 31:334 31:302 mandatory disclosure ban of child contemptuous pretrial publicity, 31:309 pornography proceedings, limited access re interviews and 31:337.50 marital proceedings, 31:342 photos, 31:296 materials disclosed in civil suit, necessity of reporting, 31:292 31:343 press vs. private citizen, 31:297 review of indefinite ban, 31:344 publication of court exhibits after trial, 31:313 right to fair trial, 31:329 rights after acquittal, 31:311 temporary ban, 31:332 scrutiny and openness of, 31:298 young person's identity, 31:340 special status for media, 31:291 publication of prejudicial information, defamation by, 31:299 contempt for, 31:330 distribution of newspapers, 31:315 public servants publication ban criticism of government by, 31:239 bail hearing, at, 31:324 public expression by, 31:238 court of appeal, by, 31:328 Vote, right to, 31:379 inferior court judge, by, 31:326 absentee voting, 31:395 superior court judge, by, 31:327 application of, 31:383 trial judge, by, 31:325 democratic principles, relevance of, 31:395 responsible communication defence, 31:300 deviations from voter parity, 31:385

CHARTER OF RIGHTS—Cont'd	CLASSIFICATION OF OFFENCES
Vote, right to, 31:379—Cont'd	—Cont'd
effective representation, 31:384	Crown option offences, 7:17 —Cont'd election
election results, annulment of, 31:387 judges, 31:392	abandonment of, 7:29
liberal interpretation of enfranchising	by indictment resulting in election by
statutes, 31:382	accused, 7:37
mentally disordered persons, 31:393	by prosecutor, 7:24
municipal office, right to run for,	by provincial court judge, 7:26
31:398	change of, 7:30
municipal plebiscite, 31:402	conviction deemed indictable
municipal voting, 31:403	offence, 7:33
political speech vs., freedom of, 31:386	endorsement requirement, 7:25
prisoner	failure of Crown re, 7:28
already sentenced, 31:391	in absence of accused, 7:27
on remand, 31:390	military offence, 7:20
probation, persons on, 31:394	not contravening Charter, 7:22
provincial assembly, disqualification re	timing of, 7:38
membership, 31:400	guilty plea to, 14:70
public funding to registered parties, 31:389	hybrid/mixed offence, sentence for, 7:40, 18:151
purpose of guarantee, 31:380	indictable, meaning of, 7:35
referendum, 31:401	indictable for purposes other than trial, 7:36
registered electoral parties, 31:388 residency requirement, 31:397	joinder of dual and indictable offences,
school trustee, right to run for, 31:399	7:31
third-party spending limits, 31:39.50	jury trial, right to, 31:1136
voter identification, requirement re,	mixing not fatal, 7:32
31:396	procedure on, 7:19
CLASSIFICATION OF OFFENCES	prosecutor's discretion, 7:18
Anomalous classification, 7:10	provincial court judge, within absolute
By jurisdiction of court, 7:11	jurisdiction, 7:21
court of criminal jurisdiction, 7:14	terminology re, varied, 7:17
electable indictable procedures, 7:12	time limitations
indictable procedures, 7:11	generally, 1:37
offences not otherwise classified, 7:16	determination on election, 1:39
summary conviction court, 7:15	no bar, 7:39
superior court (plenary jurisdiction),	English classification, 7:3
7:13	Federal offences, 7:9
Canadian	Felonies, 7:1
after 1892, 7:2	French classification, 7:5
three types, 7:6	Indictable offences
Common law, at, 7:1	provincial court judge, in absolute
Crown option offences, 7:17	jurisdiction of, 7:21, 7:46
appeal consequences, 14:70	attempted property offences over \$5,000, 7:52
arrest by private citizen re, 5:3	discretion to hold preliminary, 7:51
attempted property offences under \$5,000, 7:23	monetary amount indicated, 7:49
discrimination under Charter, 31:1335	non-consensual jurisdiction, 7:46
dual offence as included offence, 7:34	not exclusive jurisdiction, 7:48

CLASSIFICATION OF OFFENCES COMMISSION EVIDENCE—Cont'd -Cont'd Factors considered on application, 16:198 Indictable offences—Cont'd Foreign commission in Canada provincial court judge, in absolute counsel representing accused, status of, 16:218 jurisdiction of, 7:21, 7:46 —Cont'd discretion re, 16:216 summary trial on information, 7:47 letters rogatory, 16:214 value over \$5,000, 7:50 documents only, 16:220 superior court (s. 469), triable only in non-enforcement of, 16:219 generally, 7:41 preconditions, 16:215 forms of indictments, 7:42 Forms of evidence, 16:203 non-jury trial, right to, 7:45 Fresh evidence on appeal, 16:203 procedure, 7:41 Illness or other cause, application re, Quebec trials, 7:43 16:204 waiver of jury trial, 7:44 Media, presence of at hearing, 16:208 Misdemeanours, 7:1 Reading in Petty offences, 7:1 Crown's discretion re, 16:212 Public welfare offences, 7:7 preconditions, 16:210 Summary conviction offences (s. 785), Refusal to answer/produce documents, 7:53 agents at trial, 16:26 Trial judge as commissioner, 16:209 described, 7:53 **COMMITTAL** U.S. classification, 7:4 Consent. 11:25 **CO-CONSPIRATORS** For extradition, 32:75, 32:114 See also CONSPIRACY For trial Acts and declarations of unindicted cocertiorari to quash conspirators, 19:73 see Certiorari Authorized intercepted communications, committal or discharge of accused, 4:104 13:58 Corroboration re declaration of, 19:108 extended jurisdiction re, 1:121 Evidentiary rules, application to, 19:56 joinder of separate committals, 11:59 Exclusion of evidence, 31:1579 Preliminary inquiry, at see PRELIMINARY INQUIRY Pure narrative not admissible against, Quashed, 11:15 19:63 Warrant of. 18:205 **COMMISSION EVIDENCE COMMON LAW** Civil rules of practice, application of, 16:201 Abuse of process, power re, 12:110 Commissioner's power to compel Arrest without warrant at. 5:1, 5:12, 5:13 testimony, 16:202 Attempts at, 20:5 Commission out of Canada Bail at. 6:1 accused, presence or absence, 16:207 Charter application of, 31:109, 31:127 application re, 16:205 Classification of offences at, 7:1 considerations re granting, 16:206 Conspiracy at, 19:16 foreign law, application of, 16:211 Criminal negligence, definition at, 28:2 letters rogatory re, 16:213 Criminal pleadings at Counsel's duty of co-operation, 16:221 see CRIMINAL PLEADINGS Denial of cross-examination, 16:199 Drafting of statement of offence, 9:61 Described, 16:197 Drunkenness defence at, 21:38, 31:525,

31:609

Evidence on application for, 16:200

COMMON LAW—Cont'd	COMPULSION, DEFENCE OF—Cont'd
Duplicity and multiplicity, rule re, 9:77, 9:83	Duress of circumstances, British definition of, 21:96
Duress, definition of, 21:126	Duress vs., 21:119
Exceptions, evidentiary rule re, 9:107	Kidnapping, availability for, 21:109
Expression, common law limits on	Onus of proof, 21:118
freedom of, 31:259	Principal offenders, application only to,
Guilty plea at, 14:57	21:108
Homicide, culpable, at, 27:1	Rationale for, 21:107
Indictable appeals at, 23:1	Related defences, 21:101
Indictments, amendment of at, 9:201	Related terms, 21:99
Insanity, tests at, 22:1	Ruzic case, after, 21:105 Spousal coercion, abolition of presump-
Joinder	tion of, 21:102
counts, 9:247	Statutory defence of, 21:103 , 31:502
summary conviction and indictable	Threats and
offences, 9:289	concomitancy of offence and, 21:111
Jury trial, powers re, 17:81	harm to third party, 21:112
Murder at, 27:35	immediate death/bodily harm, 21:110
Necessity at, 21:85	opportunity to escape threatener,
Parties to common intention, rule re, 15:69	21:115 particular crime requirement, 21:113
Possession at, 16:428	physical presence of threatener, 21:114
Preferring indictments at, 11:2	reasonable subjective belief re, 21:116
Preliminary inquiry at, 13:1	
Principals and accessories at, 15:1	CONFESSION
Provocation at, 27:143	Charter freedom of conscience and
Rules and principles of, 31:90	religion, 31:201
Search and seizure warrant, 3:1	Hearsay evidence rule, 31:519
Seizure of jurisdiction doctrine, 1:125	Obtained through trickery, 31:519 Videotaped, 16:184
Standing mute at, 14:14	Voluntariness, 31:519
Territorial jurisdiction, 1:57	
Verdicts	CONSCIENCE, FREEDOM OF
included offences, 16:278	See CHARTER OF RIGHTS
Waters, jurisdiction over at, 1:96	CONSENT
Withdrawal of charges at, 12:151	Abduction of young persons, 21:304
COMPETENCE AND	Committal, re, 11:25
COMPETENCE AND	Complainant's private records, types of,
See TRIALS — Witnesses	21:311.70
	Defence, as
COMPULSION, DEFENCE OF	assault, to
See also DURESS, DEFENCE OF	generally, 21:306
Affirmative defence, as, 21:106	mistake re consent, 21:313
Availability	assault causing bodily harm, 21:312
party to conspiracy or association,	discussed, 21:301
21:117	drunkenness, 21:227
secondary party, 21:121	removal of, 31:607
Charter validity, 21:104, 31:502	sexual assault
Duress by threats, British definition of,	generally, 21:307
21:136	air of reality re consent, 21:225

CONSENT—Cont'd	CONSPIRACY—Cont'd
Defence, as—Cont'd	Compulsion, defence of, 21:117
sexual assault—Cont'd	Conspiracy rule, change to, 16:335
apprehended consent, 21:314	Conspiracy to attempt, 19:10
evidence of other sexual activity,	Counselling and, 15:105 , 19:14
21:311, 21:317.50	Count re
mentally impaired accused, 21:316	divisibility of unlawful objects within
mistake re consent, 21:314	same count, 19:101
vitiated consent, 21:308	multiple agreements within same count,
sexual offences, specified, 21:302	19:103
Definition of (A.L.I.), 21:315	non-severed counts, 9:265
Excision of external genitalia, no consent, 21:303	one agreement subdivided into counts, 19:100, 19:111
Guilty plea to included offence, 14:65	severance of accused, 9:285
HIV positive, failure to disclose, 21:310	severance of counts, 9:261
Homicide, to, 21:300	Divisibility of conspirators, 19:97
Interception of communications, to, 4:13 ,	Duplicity and multiplicity and, 9:89
4:25	Elements of offence, 19:26
Jurisdiction, re, 1:8, 1:47	agreement
Medical treatment by mentally disordered person, to, 21:297	acting in concert vs. independently, 19:39
Obtained by compulsion, 31:482	actus reus, 19:34
Preferring indictments, 11:19, 11:25	actus reus, and mens rea, 19:36.50
Preliminary inquiry, 13:66	changes to, 19:38
Prosecuting offences	committal of offence, 19:42
see PROSECUTING OFFENCES — Attorney General	negotiations, 19:41
Re-election, 8:47	proof of, 19:36
Seizure, 31:713	pursuit of strict liability/recklessness
Statutory provisions re, 21:298	offence, 19:35
Supreme Court of Canada appeals	pursuit of unlawful object, re, 19:34 qualified, 19:41
consent judgments, 23:285	relevance of association, 19:40
Trafficking in person, 21:305	single act in general conspiracy,
Warrantless search, 3:235 , 3:236 , 31:751	19:43
Wiretaps, re, 31:773	tacit or implicit, 19:37
1 · · ·	intention
CONSPIRACY	mere intention insufficient, 19:46
See also CO-CONSPIRATORS	purchase of drugs, 19:48
Abetting, 15:65	recklessness insufficient mens rea,
Agreement to commit more than one offence, 19:98	19:47 to adhere to agreement, 19:44
Aiding and abetting vs., 19:16	to play some part, 19:45
Association and, 19:40	knowledge
Attempt and, 19:14, 20:13	absolute/strict liability offences,
Attempt to conspire, 19:8	19:33
Charge	degree of, 19:30
particulars in, 19:106	direct communication between
rule re, 9:41	conspirators, 19:29
severance of accused on, 19:107	general conspiracies, 19:28
sufficiency, 9:129	general nature of conspiracy, of,
wording of, 19:104	19:27

CONSPIRACY—Cont'd	CONSPIRACY—Cont'd
Elements of offence, 19:26—Cont'd	Jurisdiction, 19:86—Cont'd
knowledge—Cont'd	conspiracy in Canada—Cont'd
illegality, of, 19:31	to overthrow foreign government,
mere knowledge insufficient, 19:32	19:90
listed, 19:26	conspiracy in foreign country
Evidentiary rules re, 19:56	to commit offence in Canada, 19:92
accused not joined, where, 19:62	local nature of crime, 19:86
acts and declarations prior to agree-	overt acts conferring, 19:88
ment, 19:67	s. 465(3) and (4) conspiracies, 19:93
co-conspirators	venue, vs., 19:87
conviction/acquittal of co-conspira-	Jury trial, re, 19:51
tors, 19:94	Lawful object, to commit, 19:13
corroboration re declaration of,	Merger with substantive offence, 19:18
19:108	Multiple conspiracies, 19:99
pure narrative not admissible against,	Multiple convictions, 16:648 , 19:19
19:63	Nature of offence, 19:1
similar acts and declarations, 19:59	Offence of, 19:22
witness testifying re co-conspirators,	British statutory definition of, 19:19
19:60	common law, at, 19:16
conduct in furtherance of conspiracy,	overt acts in different countries, 19:18
19:57	types, 19:22
conduct prior to conspiracy, 19:66	Overt acts, 19:14, 19:18
continuation of conspiracy, 19:70	Parties to, 19:76
corporate documents, 19:72	husband and wife
declaration of non-conspirator, 19:73	marital privilege and, 19:83
declarations after termination of con-	with each other, 19:81
spiracy, 19:68	with others, 19:82
declarations as to future conduct, 19:64	organizations
declarations in furtherance of conspir-	directing minds
acy, 19:58	and organization, 19:80
documents and wiretap declarations, 19:71	fraud by, 19:79
joint accused, 19:61	number of, 19:78
motion for directed verdict, 19:57	liability of, 19:76
similar fact evidence, 19:112	probable membership, 19:77
termination of conspiracy	persons with legal immunity
by all but one of conspirators, 19:69	exemptions re, 19:84
declarations after, 19:68	immune victim and accused, 19:85
wider conspiracy, revelation of, 19:102	Plurality rule, 19:4
Extraterritorial jurisdiction, 1:78	Proof of
Historical origins of offence, 19:2	conspiracy charged, 19:96
Impossible object, to commit, 19:11,	existence of conspiracy, 19:52
19:12	membership of accused
Inciting to, 15:120	beyond reasonable doubt, 19:54
Individual liability, 19:109	probable, 19:53
Intention in common, vs., 19:15	three-stage process outline, 19:49
Issue estoppel/res judicata defence, 19:5	Rationale for offence, 19:7
Jurisdiction, 19:86	Reverse onus offence, conspiracy to com
conspiracy in Canada	mit, 19:9
to commit offence outside Canada, 19:89	Secondary party to, 19:17
17.07	Secondary party 10, 17.17

CONSPIRACY—Cont'd	CONSTITUTIONAL LAW—Cont'd
Separate, 19:20	Characterization of laws, 34:23 —Cont'd
Statutory forms of, 19:3	severability, 34:38
Three-stage process re	singling out for special treatment,
three more conspirators, 19:49	34:35
two conspirators, 19:50	Constitutionality of legislation, grounds
Tort of, 19:21	for challenging, 34:20
Unknown unindicted conspirators, 19:95	Constitution of Canada
Verdicts	amendments to, 34:7
acquittal of some conspirators, 19:75	defined, 34:4
conspiracies as included offences, re, 16:319	Conventional international law, 34:12
	Corrections, 34:56
conspiracy vs. substantive charges, 16:329, 19:74, 19:110	Courts, provincial vs. federal, 34:74
need for two convictions, 16:334	Criminal justice, administration of, 34:54
	Criminal law, 34:45
CONSTITUTIONAL LAW	Canada Evidence Act, 34:56
See also CHARTER OF RIGHTS —	definition of, 34:48
Constitution of Canada, primacy of	division of powers re, 34:46
Aboriginal peoples, 31:1583	enforcement of, 34:53
American courts, concurrency of jurisdic-	invalid federal laws re, 34:51
tion, 34:66	provincial encroachments on, 34:52
American executive orders, 34:75	provincial penal laws, 34:55
Canadian governments, roles of branches, 34:5	valid federal laws re, 34:50
Canadian vs. British laws, 34:10	Youth Criminal Justice Act, 34:49
Characterization of laws, 34:23	Criminal law and procedure, overlap
generally, 34:24	between federal-provincial matters,
colourability doctrine, 34:34	34:47
concurrent legislative jurisdiction,	Crown, 34:6
34:28	Declaration of unconstitutionality, imme-
constitutionality	diate vs. suspended effect, 34:78
assessment of, process re, 34:25	Emergency powers, 34:65.50
declaration of unconstitutionality,	Imperial Privy Council, appeals to, 34:3
effectiveness of, 34:78	Indian, meaning of, 31:1583
presumption of, 34:36	Interjurisdictional immunity, 34:30
distribution of legislative powers,	International law, customary, 34:13
34:24	Interpretation of legislative powers, 34:38
double aspect doctrine, 34:28	ancillary doctrine (incidental effect),
effect of particular law, 34:33	34:27, 34:41, 34:42
federalism, principle of, 34:29	Constitution Act
federal spending power, 34:31	classes of subjects, 34:39
interjurisdictional immunity, 34:30	criminal law, 34:46
"matter" of challenged law, determination of, 34:26	direct concurrency of powers, 34:43 exhaustiveness, 34:44
	delegation of powers, 34:45
national concern doctrine, 34:27 , 34:61 peace, order and good government,	federal paramountcy, doctrine of, 34:40
34:27, 34:60	Judicial review, 34:1
principled approach to, 34:27	core policy decisions, immunity of,
purpose of particular law, 34:32	34:18
reading down, doctrine of, 34:37	Judicial supremacy, 34:16
reading down, docume or, 54.57	addictar supremacy, ST.10

ONSTITUTIONAL LAW—Cont a	CONTEMPT OF COURT
Judiciary	Access to courts, obstruction of, 29:43
federal vs. provincial appointments,	Affidavit evidence re, 29:35
34:72	Alternative remedies, 29:29
jurisdiction of superior court to hear	Apology, purging contempt by, 29:59
constitutional challenges, 34:73	Appeal against conviction, 23:56, 29:60,
Ministerial override of judicial decision,	29:66
unconstitutionality of, 34:19	Attack on persons connected with court,
National unity and rule of law, 34:71	29:50
Non-criminal law matters, 34:58	Charter rights and
see also Characterization of laws	application re, 31:887
generally, 34:59	arbitrary arrest/detention, 31:822
civil rights in province, 34:63	contempt citation, 31:887
interprovincial trade, 34:64	double jeopardy, 31:1166
national concern doctrine, 34:27, 34:61	expression, freedom of, 31:244
peace, order and good government,	fair hearing, 29:56 , 31:1073
34:27, 34:60	independent and impartial tribunal,
property in province, 34:63	31:1104
taxing power, federal and provincial,	jury trial, right to, 29:58, 31:1126
34:65	right to counsel, being informed of,
trade and commerce, 34:62	29:57
Parliamentary privilege, 34:17	summary process, 29:56
Parliamentary sovereignty, 34:15 , 34:16	Civil contempt, 29:4
Prerogative power of mercy, 34:73	appeal, 29:60
Provincial legislative authority over	no parole for, 29:64
municipalities, 34:22	repeated breaches of civil order, 29:63
Provincial non-superior courts	sentencing for, 29:62
constitutional jurisdiction of, 31:82	Civil vs. criminal contempt, 29:10
vires jurisdiction of, 34:9	Compellability of contemnor, 29:9
Provincial superior courts	Contempt citation, particulars of, 29:38
constitutional jurisdiction of, 31:81	Contempt in face of court, 29:16 , 29:18
vires jurisdiction of, 34:9	_ · · · · · · · · · · · · · · · · · · ·
•	Contempt out of fact of court, 29:17, 29:20
Reference questions, discretion re, 34:14	Criminal contempt
Royal prerogative, 34:76	_
Senate, reform of, 34:8	appeal against, 29:6 described, 29:5
Standing, 34:2	
Statute law, steps in enactment of,	disobedience of court order, 29:47
34:24.50	examples of, 29:65
Statutory vs. constitutional superior	initiation by judge, 29:8
courts, 34:70	mens rea for, 29:45
Succession from Confederation, 34:8.50	provincial power to limit, 29:14
Superior vs. inferior courts, 34:69	Criminal offence, same conduct constitut
Supreme Court of Canada, Quebec	ing, 29:46
Members, 34:67	Definition of, 29:3
Treaties, power to make, 34:11	Dispute of previous ruling, 29:55
Tribunals, constitutionally disqualified	Function of appellant court, 23:189
(doctrine of necessity), 34:80	Initiating of proceedings, persons permit-
Unconstitutional law, effect of, 34:79	ted, 29:36
Unified national judicial system, 34:68	Intervention in proceedings, persons
Unwritten constitutional principles, 34:22	permitted, 29:36

CONTEMPT OF COURT—Cont'd CONTEMPT OF COURT—Cont'd Invalidity of order giving rise to No miscarriage of justice proviso (s. contempt, 29:49 686(1)(b)(iii)), **23:190**—Cont'd Journalist, refusal to disclose source, jurisdictional error, 23:190 29:48 jury charge Judge's jurisdiction re, 29:8 review of by appellate court, 23:199 Jurisdiction of court to punish for viewed as whole, 23:198 contempt in face of court, 29:18 jury findings of fact, review of, 23:200 contempt out of face of court, 29:20 procedural irregularity (s. county court judge, 29:27 686(1)(b)(iv)), **23:214** court of appeal, 29:28 rationale for, 23:191 court of record, 29:22 relationship between s. 686(1)(a) and s. 686(1)(b)(iii), **23:207** preliminary inquiry, 29:23 "preserve order in court" power, 29:24 slip of tongue, 23:201 statutory omissions, application to, provincial court judge, 29:23, 29:26 23:197 refusal to attend court to testify. tactics of counsel at trial, 23:213 29:24.50 tests, 23:204 superior court, 29:15 unfairness, appearance of, 23:205 Supreme Court of Canada, 29:28 Notice of basis of charge, 29:37 witness refusal to be sworn/testify, 29:25 Opportunity to explain conduct, 29:33 Order for new trial, 23:222 youth justice court, 29:21 Juror, misconduct by, 29:54 Origins of, 29:1 Lawyer Personal attack on judge, 29:42 misconduct by, 29:53 Power to allow, 23:175 wilful non-attendance by, 29:52 additional order under s. 686(8), Liability for 23:185 disregard of material evidence by trial Crown and ministerial, 29:12 judge, 23:183 trade union, 29:11 error of law, 23:186 vicarious, 29:13 evidence supporting verdict, 23:179 Municipal by-law, repeated breaches of, failure to mention or give effect to 29:34 material evidence, 23:183 No miscarriage of justice proviso (s. findings of fact, 23:176 686(1)(b)(iii)), **23:190** insanity verdict, substitute of (s. availability of, 23:189 686(1)(d)), **23:184** burden on Crown, 23:194 misapprehension of evidence, 23:180, Crown appeals, 23:192 23:181 Crown failure to rely on. 23:210 miscarriage of justice, 23:187 directed verdict on Crown appeal, three grounds for, 23:174 23:195 uneven scrutiny of evidence, 23:182 error of law, notwithstanding, 23:208 unreasonable verdict, 23:177, 23:180 exclusion of evidence for Charter Publication causing risk of prejudice, breach, 23:209 29:39 exculpatory evidence excluded, 23:196 Public inquiry during criminal prosecufactors considered, 23:203 tion, **29:40** failure of accused to testify at trial, Purpose of, 29:2 23:211 Quashing of guilty verdict, 23:174 failure of counsel to object at trial, Safeguard provided to alleged contemp-23:212 tor, 29:7.50 judge's findings of credibility, review of, 23:202 Scandalizing court, 29:41

CONTEMPT OF COURT—Cont'd	COSTS—Cont'd
Sentencing for, 29:61	Charter remedy re, 31:1494
Summary process	Civil costs, generally, 24:32
Charter validity of, 29:56	Extraordinary remedies and, 26:24
indictment/information, vs., of, 29:30 nature of, 29:32	Order for new trial, no order re costs, 23:245
use of, 29:31	Payment of to accused, 2:22
Tape recorder, use of in court, 29:51	Successful civil party, to, 31:1428
Third party contempt, 29:7	Summary conviction appeals, 24:30
Voluntariness of accused's statement,	COUNSEL
review of, 16:609	
Witness	Address to jury
defaulting, 1:198	see JURY TRIAL
refusal to be sworn, 29:25	Charter right to
Young person, 30:25	see CHARTER OF RIGHTS — Counsel, right to retain, Evidence
CORONER	exclusion of; criteria for exclusion
	Child, for, 31:649
Generally, 9:17	Commission evidence
CORPORATIONS	counsel's duty of co-operation, 16:221
Application of Charter to	Conflict of interest, 14:45 , 31:1067
equality rights, 31:1268	Conviction appeal
interpreter, right to assistance of,	failure of to object at trial, 23:212
31:1254	tactics of counsel at trial, 23:213
jury trial, right to, 31:1135	Decisions by, surrogacy principle, 12:20
life, liberty and security of the person	Disqualification of counsel at trial,
rights, 31:442	31:1064.50
person charged with offence, as, 31:949	Fair and public hearing and
search and seizure, freedom from	conflict of interest of counsel, 31:1067
unreasonable, 31:658	right to counsel, 31:1064
Conspiracy, party to	Guilty plea by, 14:56
see CONSPIRACY — Parties to	Insanity
Direct indictment against, 11:57	assignment of counsel, 22:78
Sentencing of see SENTENCING	Right to counsel
Words deemed to include, 33:87	fundamental justice, as, 31:652
words deemed to include, 33.87	on appeal, 31:1065
CORROBORATION	parolees and inmates, 31:625
Declaration re co-conspirators, 19:108	Supreme Court of Canada appeals, power
Differing requirements as discrimination, 31:1332	to appoint, 23:266 Trial, at
Prosecutor's discretion to prosecute,	
12:64	see TRIALS — Preliminary matters Young person, 30:35 , 31:911
Requirements, 16:685	10ung person, 30:33, 31:911
Statutory corroboration, 16:684	COUNSELLING
COCTC	Attempt, vs., 15:104
COSTS	Conspiracy and, 15:105 , 19:14
Against Crown, 24:31, 24:35, 31:1466	Parties to offence
Against lawyer, personally	see PARTIES TO OFFENCE
civil, 24:33	
criminal, 24:34	COUNSELLOR, CONFESSION TO
Charter discrimination and, 31:1356	Generally, 31:201

COURT MARTIAL

Bail pending appeal from conviction, **6:119**

Prosecutor's discretion, Charter equality rights and, **7:20**

Right to independent and impartial tribunal

General Court Martial, 31:1101 standing, 31:1102

Right to jury trial, 31:1134

COURTS

See also CLASSIFICATION OF OFFENCES

Court of competent jurisdiction

see CHARTER OF RIGHTS — Remedies

Fair and public

see CHARTER OF RIGHTS —

Offence, person charged with

Independent and impartial

see CHARTER OF RIGHTS —

Offence, person charged with

Judges

see JUDGES

Jurisdiction

see JURISDICTION

Provincial

see CHARTER OF RIGHTS — Remedies, Court of competent jurisdiction; JURISDICTION — Territorial

Summary Conviction Appeal Court, constitution of, **24:3**

Superior

see CHARTER OF RIGHTS — Remedies, Charter, Court of competent jurisdiction

Supreme Court of Canada

see SUPREME COURT OF CANADA APPEALS

Youth court

see YOUTH JUSTICE COURT

CRIMINAL LAW

See CONSTITUTIONAL LAW

CRIMINAL NEGLIGENCE

Acts or omissions or both, 28:29

Causing death in operation of motor vehicle, 28:20, 28:30

Civil standard, application of, 28:3

CRIMINAL NEGLIGENCE—Cont'd

Commission vs. omission, 28:15

Contributory cause of death, 28:21

Contributory negligence by victim, 28:22

Dangerous acts, duty to complete, 28:25

Dangerous driving vs., 28:27

Dangerous weapons or things, use of, **28:26**

Definition

Code, 28:1

common law, 28:2

Driving while intoxicated, 28:31

Drunkenness as defence, 28:11

Evidence after act, 28:18

Foetus, to. 28:5

Impairment as, 28:31

Intentional act encompassed within, 28:17

Manslaughter by, 27:126, 28:4

Manslaughter vs., 28:32

Medical treatment, objective standard re, **28:24**

Non-criminal statute, contravention of, **28:16**

Offences re, 28:1

Omitting to act in face of duty, 28:12

Parents and others having duty, 28:14

Recklessness

applied to criminal negligence, as, 28:9

general doctrine re, 28:7

Similar acts, 28:19

Street racing, 28:28

"Wanton or reckless disregard"

marked departure from objective standard, **28:10**

meaning of, 28:6

CRIMINAL PLEADINGS

Amendments

see INDICTMENTS AND INFORMATIONS

Civil action not suspended by criminal charge, **9:51**

Common law, at

charges, **9:26**

proper accusation requirement, 9:27 rules, 9:24

Duplicity and Multiplicity, 9:77

alternative modes of same offence, 9:93

autrefois acquit/convict, 9:84, 9:99 careless driving, 9:94

CRIMINAL PLEADINGS—Cont'd	CRIMINAL PLEADINGS—Cont'd
Duplicity and Multiplicity, 9:77—Cont'd	Particulars, 9:144 —Cont'd
common law rule, 9:77	Crown bound by
application of, 9:78	Crown's theory as particulars, 9:167
basis for, 9:83	general rule, 9:165
conspiracy, 9:89	oral particulars, 9:166
subordinate conspiracy, 9:91	Crown unable to furnish, 9:156
defect in form, 9:80	defining "factual transaction" Crown
duplications acts or omissions, 9:82	must prove, 9:67
duplicitous count	defining issues through, 9:148
amendment of, 9:86	disclosure, vs., 9:152
dividing, 9:87	evidence, vs., 9:150
examples of duplicity, 9:103	fettering of prosecution, 9:144
examples of non-duplicity, 9:104	indictment, as part of, 9:163
included offence not duplicitous, 9:85	judge's discretion, 9:158
late objection, 9:88	material facts, 9:149
matter of form, as, 9:100	particulars not to be ordered, 9:155
multiple agreements, 9:90	possession of goods obtained by indict
multiple objects, 9:89	able offence, 9:169
possession of narcotic, 9:95	pre-1955, 9:159
pre-1955 summary conviction cases,	premature application for, 9:164
9:92	prior knowledge considered, 9:157
recent trends, 9:79	purpose of, 9:145
s. 590, application of, 9:81	s. 587, paramountcy over s. 583, 9:16 1
tests re	sufficiency, lack of, 9:160
former, 9:97	theory of liability vs., 9:151
primary, 9:98	Provisos, 9:105
theft, 9:96	Reverse onus within underlying offence,
"unlawfully," use of word, 9:101	9:110
void for uncertainty doctrine, 9:102	Rules and principles
Exceptions, 9:105	charge
burden of proving, 9:106	anomalous situations re wording of,
common law evidential rule re, 9:107	9:33
Facts particularly within one's knowl-	conspiracy, 9:41
edge, 9:109	deeming clauses incorporated in,
Modern approach to, 9:48	9:30
Motion to quash	definitions, inclusion in, 9:28
see INDICTMENTS AND INFORMA-	divisibility of, 9:38
TIONS	interpretative provisions, inclusion
Negatives, 9:105	in, 9:28
need not be pleaded, 9:105	joint and several liability, 9:39
other averments, 9:108	legal character of, 9:31
Particulars, 9:144	multiple, 9:46
generally, 9:144	failure of proof (multiple offences),
aid to trial judge, as, 9:147	9:43
amendment of, 9:168	failure of proof at joint trial, 9:42
amounts, 9:174	indictment as minor premise, 9:34
application to non-trial judge, 9:146	information/indictment
broad range, 9:162	concurrent, 9:52
burden on accused, 9:153	defects in, 9:49

KIMINAL PLEADINGS—Coll a	CKINIINAL PLEADINGS—Cont a
Rules and principles—Cont'd	Sufficiency, 9:111—Cont'd
multiple accused	curative provisions—Cont'd
discretion re number of counts, 9:44	details not required, 9:138
failure of proof, 9:42	demand for particulars, 9:117
insufficient nexus between charge	evidence at preliminary inquiry, 9:126
and, 9:40	examples
objection to indictment before plea,	insufficiency, 9:131
9:32	sufficiency, 9:132
parties	factual detail, 9:111
accessory after fact, 9:37	golden rule, 9:122
party to offence, 9:35	guideline, 9:123
secondary, 9:36	high treason, 9:139
pleading provisions of Code, applica-	jurisdiction prior to election, 9:128
tion of, 9:45	knowledge of accused re case to meet,
pleadings rules, purposes of, 9:29	9:127
statement of charge, 9:47	murder
waiver of statutory compliance, 9:50	generally, 9:140
Single transaction, 9:66	first degree, 9:139
application of rule re, 9:74	property, ownership of
different victims, 9:70	person/persons unknown, 9:142
discretion re number of counts, 9:69	rule, 9:141
division of count into several counts,	special property interest, 9:143
9:76	purpose of statement, 9:113
duplicity and	recent approach, 9:124
distinction between, 9:71	reference to other counts, 9:121
overlap between, 9:73	rule re (s. 581(3)), 9:112
overlapping of counts vs., 9:72	s. 581(3), paramountcy of, 9:136
general rule, 9:66	section number
several incidents, 9:68	no reference to, 9:133
void for uncertainty, 9:75	reference to, 9:134
Statement of offence, 9:54	specificity requirement, 9:114
generally, 9:54	time, 9:116
all essential elements, 9:64	summary conviction offences, re, 9:125
alternative modes of wording, 9:57	time and place, 9:115
Canadian practice, 9:56	nature of offence, and, 9:118
certainty requirement, 9:62	"wilfully," omission of, 9:130
charge	words of enactment, 9:119
in popular language, 9:58	Surplusage, 9:170
in words of enactment, 9:60	broad time-frame, 9:176
reference to element of minimum	examples of, 9:184
sentence, 9:59	fatal variance, 9:171
common law drafting, 9:61	general rule, 9:170
English practice, 9:55	name, variance of, 9:183
specificity, 9:63	ownership, 9:182
Sufficiency, 9:111	place
alternative wordings of offence, 9:120	immateriality, 9:179
conspiracy charge, 9:129	required to give jurisdiction, 9:180
curative provisions	specified dates, between, 9:178
generally, 9:137	time and evidentiary matters, 9:177
generany, 7.131	i mile and evidentially matters, 7.1//

CRIMINAL PLEADINGS—Cont'd	CROWN—Cont'd
Surplusage, 9:170—Cont'd	Disclosure by—Cont'd
time immaterial, 9:175	late/non-disclosue, remedies at trial for,
"unlawfully," use of, 9:172	13:86
unnecessary particulars, 9:181	specific situations, 13:87
wrong section or subsection specified, 9:173	Discrimination under Charter, application to, 31:1269
CD OCC EXAMINATION	Divisibility of, 12:24
CROSS-EXAMINATION By judge re need for interpreter, 31:1260	Double jeopardy, Crown appeal as, 31:1360
Character evidence, on, 16:134	Immunity, 1:23
Charter affidavits, on, 31:1513	Insanity
Expert witness, of, 16:668	evidence, 22:42
Extradition hearing, at, 32:66	raised by Crown, 31:1334
Past convictions, on, 31:603, 31:1080	Interception of private communications,
Perpetuated evidence	notice duty, 4:170
see PERPETUATED EVIDENCE	Issue estoppel unavailable to, 14:157
Police statement, on, 31:932	Mandamus, 26:97, 26:98
Psychiatric assessment, on, 22:85	Onus re
Quashing search warrant, on, 3:128,	generally, 16:77
31:745	guilty plea sentence hearing, 14:55
Sexual complainant, 31:1338	mens rea, 21:325
Testimonial self-incrimination	mistake of fact, 21:233
see CHARTER OF RIGHTS	Particulars, Crown bound by, 9:165
Trial, at	Plea bargaining
see TRIALS	see SENTENCING — Plea bargaining
CROWN	Preliminary inquiry disclosure by, 13:83 , 13:109
See also PROSECUTING OFFENCES	Privilege
Action/injunction/mandamus against, 12:22	see Privilege
	Probation, 18:309
Admissions by, 16:164 Appeals by	Procedendo, right to invoke, 26:101
see Appeals	Re-election, consent to, 31:621
* *	
Assessment order, application for, 22:54	Right to address jury last, 17:88, 31:604
Authorized intercepted communications	Right to jury trial, 31:1010
access to sealed packet by Crown, 4:96	Sentencing
prerogative re leading evidence, 4:102	bargaining, 18:456
Automatism, onus on accused to establish, 21:30	onus, 18:224
	submissions, 18:228 , 18:239
Charge diagration 0:15	view of facts, 18:232
Charge discretion, 9:15	Separate indictments, discretion re trials
Commission evidence, discretion re reading in, 16:212	of, 9:280
Contempt of court, liability for, 29:12	Severance of accused, discretion re, 9:278
Crown option offences	Severance of counts, discretion re, 9:263 , 9:279
see CLASSIFICATION OF	
OFFENCES	Stand asides by, 17:23, 31:1069, 31:1081
Disclosure by	Stay of proceedings prerogative, 12:100
generally, 13:83	Supreme Court of Canada, appeal to, 23:251
defence request requirement, 13:88	Trial forum, election re, 8:14
actorice request requirement, 13.00	111al lorum, ciccuon 15, 0.14

CROWN—Cont'd DEATH—Cont'd Of child caused by assault on pregnant Undertaking, 12:145 Witnesses, duty to call, 13:112 woman, 27:5 Of victim after guilty plea, 14:110 **CROWN OPTION OFFENCES** Penalty, extradition and, 31:1202 See CLASSIFICATION OF OFFENCES Self-defence and CRUEL AND UNUSUAL TREATMENT see SELF-DEFENCE, DEFENCE OF — Unprovoked assault See CHARTER OF RIGHTS Threats and ensuing immediate death, **CUSTOMS** 21:110 Right to retain counsel, 31:871 **DEFENCE OF OTHERS** Search and seizure (PREVENTING CRIME) see CHARTER OF RIGHTS — Search Described, 21:137, 21:144.50 and Seizure, unreasonable Different forms of, 21:140 DANGEROUS ACT Onus of proof, 21:141 See also CRIMINAL NEGLIGENCE Related defences, 21:137 Duty to complete, 28:25 Use of force (s. 27), 21:193 Reckless murder and, 27:59 DEFENCE OF PROPERTY Unlawful see MANSLAUGHTER — Unlawful Generally, 21:197 American Law Institute definition, 21:211 Availability of defence, 21:197 DANGEROUS DRIVING Movable property See DRIVING OFFENCES force, degree of, 21:201 DANGEROUS OFFENDER peaceful possession of, 21:198 Appeals, 23:193, 31:1459 private bailiff repossessing, 21:202 Application judge, 18:381 reasonable belief. 21:200 Arbitrary arrest or detention, 31:810 reasonableness of accused's conduct, Charged with offence, not, 31:946 21:199 Cruel and unusual punishment, 31:1200 unavailability of defence, 21:201 Double jeopardy and, 31:1161 Real property and dwelling house Hearing, adjournment of, 18:383 defence of, 21:203 Legislation re, 18:379 force, use of, 21:204 Long-term offender, finding in substitukilling, justification of, 21:209 tion, **16:308**, **18:395** reasonable belief, 21:210 Principles of fundamental justice and, trespasser 31:531 duty to request departure of, 21:206 Right to jury trial, 31:1125 not restricted to trespassers within Right to retain counsel, 31:933 dwelling, 21:208 Sentencing of preventing trespass, 21:205 see SENTENCING shooting, 21:207 **DEATH DEFENCES** Abatement of appeal, 23:169 Accident Causing through operation of motor vehicle, 28:30 see ACCIDENT Homicide Automatism see HOMICIDE, CULPABLE see AUTOMATISM Compliance, impossibility of, 21:341 Informant, of, 10:67 Murder Compulsion see MURDER see COMPULSION, DEFENCE OF

DEFENCES—Cont'd	DELAY—Cont'd
Consent	Discretion re when to hear motion re,
see CONSENT	31:976
Correction of pupil/child, 21:344.50	Extradition, 32:106 , 32:113
Defence of others	Fundamental justice and
see DEFENCE OF OTHERS	see CHARTER OF RIGHTS —
(PREVENTING CRIME)	Principles of fundamental justice
Defence of property see DEFENCE OF PROPERTY	Reasons for arrest, being informed, 31:830
De minimis, 21:349, 21:350	Release from custody, 6:102
Drunkenness	Return of seized items, 31:1487
see DRUNKENNESS Duress	Right to retain counsel, being informed of, 31:888
see DURESS, DEFENCE OF	Sentencing considerations
Entrapment	see SENTENCING
see ENTRAPMENT	Systemic, 2:21
Evidentiary burden to raise defence ("air	Trial within reasonable time
of reality"), 21:2	see CHARTER OF RIGHTS —
"General defence," 21:1	Offence, person charged with
Inconsistent defences, 21:3	DEPORTATION
Insanity	Cruel and unusual punishment and,
see INSANITY	31:1203
Law, obedience to de facto, 21:348	Double jeopardy and, 31:1152
Medical emergency re drug overdose,	Extradition and, 32:2
21:342.50	Freedom of association and, 31:358
Mens rea, lack of see MENS REA	Principles of fundamental justice and, 31:529, 31:636, 31:637
Military orders, obedience to, 21:345,	Substantial risk of torture, 31:637
21:346	DETENTION
Mistake of fact	See also ARREST; RELEASE FROM
see MISTAKE OF FACT	CUSTODY
Mistake of law	After arrest without warrant, 5:35
see MISTAKE OF LAW	Certiorari and, 26:72
Necessity	Charter and
see NECESSITY	see CHARTER OF RIGHTS — Arres
Preventing crime	or detention, Counsel, right to
see DEFENCE OF OTHERS	detain
(PREVENTING CRIME)	Detention order on seizure, 31:728
Public good, 21:330	Hospital order
Ruling re availability of, 17:103	see SENTENCING
Self-defence	Insane person, 22:58, 22:110
see SELF-DEFENCE, DEFENCE OF	Mental illness and, 22:144, 31:1347
Superior's order, obedience to, 21:345	Mistake of law no basis for, 31:824
Superior's order, police obedience,	Pending appeal, 6:130
21:347	Pre-trial, 31:1208
Victim, illegality or negligence of, 21:343	Reasonable suspicion as basis for, 5:73
DELAY	Release from custody and, 6:39 Seized items, of
	see SEARCH AND SEIZURE
After charge, 31:977 Refere charge, 5:77 , 31:505 , 31:080	
Before charge, 5:77 , 31:595 , 31:980	Witness, of, 1:202

DETENTION—Cont'd DISCHARGE—Cont'd Young person, of 13:49, 13:74 see YOUNG PERSON DIRECT INDICTMENT Sentence, as Abandoning prior proceedings, 11:42 Adding accused after appeal not permitted, 11:38 Amendment of, 11:40 23:257 Application by private citizen, 11:49 Attorney General attendance not required, 11:46 31:1222 former Attorney General's signature, **DISCLOSURE** 11:47 power of to prefer, 11:54 Election or re-election on, 8:12, 11:45 Joinder of separated accused, 11:41 "Judge alone" indictment, no, 11:59 Judge not permitted to add charges, 11:39 Judicial review of decision to prefer, 11:35 New jurisdictional starting point, 11:37 Non-jury trial against corporation, 11:57 Not contravention of Charter, 11:36 Objection to preferring of indictment, 11:55 Override of accused's election, 11:43 Override of severance order, 11:44 Preliminary inquiry after discharge at, 11:48 non-completion of, 11:51 refusal to add charges at, 11:52 Quashing of indictment, 11:56

DISCHARGE

Appeals from, 23:57 Conditional probation and, 18:310 revocation of as double jeopardy, 31:1151 Discharged offence relaying, 12:91 Extradition proceedings and, 14:98, 32:15, 32:40 Fugitive offender, of, **14:98, 32:15** Juror, of, 17:62, 31:1132 Jury before verdict, of, 1:129 Mandamus and, 26:99 Motion to, 13:49

Substantial change of offence, 11:53

Withdrawal of order, 11:50

Preliminary inquiry, at, 11:14, 11:48,

Recognizance, of, 6:64

see SENTENCING

Sentence appeal, against, 25:40

Supreme Court of Canada appeal of,

Unavailability of

as cruel and unusual punishment,

Alibi, of, 16:404

Crown, by see CROWN

Intercepted communications, 4:35, 4:50

Jury deliberations, 17:188

Particulars, vs., 9:152

Preliminary inquiry, at

see PRELIMINARY INQUIRY

Principles of fundamental justice re

see CHARTER OF RIGHTS —

Principles of fundamental justice

Private communications

see DISCLOSURE OF PRIVATE **COMMUNICATIONS**

Search with warrant

informant's statement, 31:744

Trial language, in, 31:1383

Young person's records

see YOUNG PERSON — Records

DISCLOSURE OF PRIVATE COMMUNICATIONS

Cellular phone, 4:169

Exemptions to offence, 4:166, 4:168

Foreign officials, to, 4:167

Offence re. 4:165

DISCRIMINATION

Affirmative action, 31:1364, 31:1365

Appeal against sentence

class discrimination, 25:31

Charter equality rights and

see CHARTER OF RIGHTS — Equality rights

DISORDERLY HOUSES

See SEARCH WARRANT

DNA EVIDENCE

See OPINION EVIDENCE

DNA EVIDENCE—Cont'd	DRUNKENNESS—Cont'd
Admissibility of DNA testing, 3:51	Beard case—Cont'd
Search warrant re, 3:27, 3:50, 3:99	rules in, 21:40
DOCTRINE OF RECENT POSSESSION	Common law, at, 21:38
See POSSESSION	Courage to commit crime, 21:79
	Defence, as, 21:37
DOUBLE JEOPARDY	Drinking and driving offences
Acquittal, Crown appeal of, 31:1171	administration of ASD, alcohol. in
Autrefois acquit and convict	mouth, 31:584
see AUTREFOIS ACQUIT AND	mens rea for, 21:48
CONVICT	unforeseen impairment, reasonable
Charter and	person standard, 21:49 General intent crime
see CHARTER OF RIGHTS — Offence, person charged with	examples of, 21:82
Revocation of probation, 18:312	inclusion in specific intent crime, 21:67
•	Hypoglycaemia as defence, 21:47
DRIVING OFFENCES	Insanity, drunken, 21:43
Care/control of motor vehicle, 31:496	Insanity and, 21:78
Careless driving, 9:94	Intent
Causing death in operation of motor vehi-	and foresight, 21:58
cle, 28:30	basic vs. ulterior, 21:51
Dangerous driving, 28:10, 28:27, 31:554	degree of drunkenness, 21:56
Drinking and driving	general, 21:82
see DRUNKENNESS	natural consequences of person's act,
Included offences	21:55
actual driving, 16:313 care and control, 16:312	specific, 21:63 , 21:65 , 21:81
•	specific vs. general, 21:50
DRUGS	Intoxication
Aiding sale or purchase of, 15:49	American Law Institute definition of,
Entrapment and	21:83
see ENTRAPMENT	British draft Criminal Code definition
Possession of, 16:459	of, 21:84
Sentencing of drug offences	three levels of, 21:41
see SENTENCING	Irresistible impulse, 21:66
DRUNKENNESS	Knowledge, relation to, 21:58
Aggravated assault (s. 268), 21:76	Misdirection re incapacity, 21:64
Alcohol or drug	Mistake of fact and, 21:59, 21:227
drunkenness by, 21:44	Murder
involuntary consumption of, 21:45	planned and deliberate, 21:70
medicinal consumption of, 21:46	reckless (s. 229(c)), 21:71
Amnesia, 21:80	second degree murder, 21:68
Assault causing bodily harm (s. 267),	Onus of proof re, 21:53
21:77	Provocation (s. 232), 21:73
Attempted offences and, 21:60	Recklessness, crimes of, 21:52
Automatism and, 21:26, 21:62	Right from wrong, knowledge of, 21:66
Automatism vs. insanity, 21:61	Secondary party, re, 21:69
Beard case	Self-defence (s. 34), 21:74
natural consequences of act, intending, 21:55	Self-induced extreme intoxication, 21:26.50, 21:42
pre-Beard, 21:39	Sexual assault, 21:75

DRUNKENNESS—Cont'd	ELECTION—Cont'd
Sobriety, presumption of, 21:54	Crown option offences
Specific intent	see CLASSIFICATION OF
crimes, examples of, 21:81	OFFENCES
drunkenness, and, 21:63	Direct indictment, on, 8:12, 11:45
general intent included in, 21:67	Discretion not to accept, 8:65
having regard to all circumstances,	multiple accused
21:65	limitation re, 8:65
Violent passions, release of through,	same mode of trial for, 8:66 preliminary inquiry where election not
21:57	recorded, 8:67
DURESS, DEFENCE OF	Endorsement of, 8:22
See also COMPULSION, DEFENCE OF	Evidence disclosing value over \$5,000,
Aiding and abetting, 21:132	where, 8:21
American Law Institute definition, 21:135	Forum of trial, Crown election re, 8:14
Availability	Information as whole, on, 8:10
gang members, 21:124	Jury trial
murder, 21:123	deemed election for, 8:27
principal and secondary parties, 21:122	mandatory, 8:20
secondary party, to, 21:121	presumption of, 8:17
Britain, in, 21:125	waiver of, 8:26
British draft Criminal Code definition of	Mandatory nature of, 8:19 Mode of trial, re, 8:1, 11:59
duress by threats, 21:136	New trial, no election on, 8:4
Common intention, 21:133	Nonsuit motion, on, 16:256
Duress, defined, 21:126	Other indictable offences, on, 8:2
Examples of successful defence, 21:134	Overriding of by Attorney General (s.
Incest committed under, 21:100	568), 8:68, 11:43
Onus on Crown, 21:127	preliminary inquiry requirement, 8:70
Rationale for, 21:120	previous election, of, 8:72
Related defences, 21:101	re-election
Related terms, 21:99	no later, 8:71
Spousal coercion, abolition of presumption of, 21:102	of, 8:73
Threat	right to require jury trial, 8:68
future harm, of, 21:130	s. 568 election not subject to review, 8:69
presence of threatener, 21:129	signing of indictment (577(a)), 8:74
safe avenue of escape, 21:131	Pre-election evidence, 8:24
standards of belief re, 21:128	Preliminary inquiry, request for, 8:3
standards of belief re, 21:128	Provincial court judge, for trial by
ELECTION	see Summary trial
Amended information	Re-election, 8:46
no further election on, 8:13	charge read on, which, 8:62
Arraignment and, 8:4	compliance with statutory form, 8:55
Charter requirements, 31:962, 31:1130	informed waiver of, 8:58
Co-accused, separate election in absence	consent requirement, 8:47
of, 8:9	Crown consent to, 31:604
Combines, re, 8:15	direct indictment, on, 8:64
Conspiracy and substantive counts, 9:263	discretion not to accept, 8:65
Corporate accused, for, 8:15	election not complied with, 8:57

ELECTION—Cont'd	ELECTION—Cont'd
Re-election, 8:46 —Cont'd	Under former Codes—Cont'd
election other than prov.ct., where, 8:52	1927 Code, 8:6
election trial by prov.ct., where, 8:53	until 1969, 8:7
failure re, 8:56	Waiver
irrevocable step, 8:46	jury election, 8:26
jury trial, 31:1130	reading of election, 8:25
mode of trial, 11:62	Writing, in, 8:11
new trial, 8:63	Young person, by
on consent, 8:47	mode of trial, 30:22 , 31:120
on entire indictment, 8:49	EMERGENCY
preliminary inquiry, at, 13:32, 31:621	Intercepted communications
SCC new trial order, on, 23:284	see AUTHORIZED INTERCEPTED
stayed indictment, recommencement of, 8:50	COMMUNICATIONS
summary conviction offence, 8:51	Wiretaps, 31:776
to judge alone, 8:59	ENTRAPMENT
trial at different level, 8:60	Agent provocateur
waiver of reading of, 8:61	acting on own initiative, 21:288
S. 469 offence, 8:41	mere solicitation by, 21:295
Speedy trial (judge alone)	American Law Institute definition of,
charges disclosed by evidence, 8:39	21:297
election on direct indictment, 8:45	Availability in Canada, 21:276
form of indictment, 8:41	Bona fide investigation (reasonable
guilty plea, 8:38	suspicion for inquiry), 21:282,
judge-alone indictments, 8:44	21:282.50
jurisdiction before indictment filed,	British rejection of, 21:274
8:42	Canadian position re, 21:273
jurisdiction on re-election, 8:43	Conceptual analysis, 21:294
non-appearance of accused, 8:40	Drugs
post-1955, 8:34	dial-a-dope investigation, 21:289
pre-1955, 8:33	paid drug agent, 21:286
Quebec superior court, 8:37	police providing accused, 21:285
s. 552 judge, 8:35	reverse sting, 21:284
s. 469 offence, 8:36	Factors considered, 21:280
Substantial compliance of, 8:23	Guilty plea, defence raised after, 21:291
Summary trial	Hearsay evidence as basis of "reasonable
former practice, 8:5	suspicion," 21:276
information as charging document, 8:31	Inducement of average non-predisposed person, 21:279
judge (provincial court)	Investigative steps, 21:281
declining election, 8:30	Legal effect of, 21:292
limited powers of, 8:32	Onus on accused, 21:293
strict compliance (former requirement),	Opportunity commit offence, 21:293
8:28	Police falsehoods, 21:287
substantial compliance, 8:29	Question of law, as, 21:290
Trial by judge alone	Remedy for, 21:293.50
see Speedy trials	Re-trial on entrapment alone, 21:296
Under former Codes	Third party, through, 21:278
1970-85, 8:8	U.S. position re, 21:275

EQUALITY RIGHTS EVIDENCE—Cont'd Extrinsic materials See CHARTER OF RIGHTS see CHARTER OF RIGHTS — Inter-**EVIDENCE** pretation, principles of Admissibility of Forms of, 16:92, 16:196 see also CHARTER OF RIGHTS — Fresh evidence Evidence, exclusion of; TRIALS see FRESH EVIDENCE ON APPEAL — Evidence Fundamental justice and accessory after fact, 15:135 see CHARTER OF RIGHTS authorized intercepted communications Principles of fundamental justice see AUTHORIZED INTERCEPTED Hearsay COMMUNICATIONS — Trial see HEARSAY EVIDENCE issues Opinion certiorari and, 26:68 see OPINION EVIDENCE conspiracy charge, 19:63 Perpetuated curative admissibility, doctrine of, see PERPETUATED EVIDENCE 16:690 Prior consistent statements DNA evidence, 3:51, 16:676 see SELF-SERVING EVIDENCE national DNA data bank, 3:54 Self-serving extradition proceedings, 32:152 see SELF-SERVING EVIDENCE fresh evidence on appeal, 23:141, Similar fact evidence 23:142, 23:154 see CHARACTER EVIDENCE guilty plea, 14:63 Statutory corroboration, 16:684 joint submissions on sentencing, Young person rejected, 18:243 see YOUNG PERSON motion to quash search warrant, on, **EXAMINATION-IN-CHIEF** 31:740 See TRIALS private communications, 4:21 similar fact evidence, 16:631 **EXHIBITS** text messages, 16:450 Continuity of, 16:476 unreasonably seized items, 31:1489 Examination of, 31:310 to 31:312 wiretaps, 31:774 Extradition proceedings and, 32:150 Character Jury room, in, 17:157 see CHARACTER EVIDENCE Marking of real evidence as, 16:169 Circumstantial, 16:683 Numbered vs. lettered, 16:160 Commission Publication of after trial, 31:313 see COMMISSION EVIDENCE Retention of, 23:132 Complainant's private records, 31:609.50 Return of, 3:175 Demonstrative, 16:168.50 Trial, at Exclusion of see TRIALS see also CHARTER OF RIGHTS — EXTRADITABLE CONDUCT Evidence, exclusion of; Remedies; Generally, 32:1 TRIALS — Evidence Conduct as offence in foreign jurisdiction accused's bad character, 16:517, 16:623 proof re, 32:18 conviction appeals, on, 23:209 requirement re, 32:17 Defined, 32:14 self-serving evidence Discharge, proceedings after, 32:15 see SELF-SERVING EVIDENCE Double criminality see OPINION EVIDENCE jurisdictional elements of, 32:20

EXTRADITABLE CONDUCT—Cont'd	EXTRADITION—Cont'd
Double criminality—Cont'd	Mutual legal assistance, 32:129—Cont'd
requirement, 32:17, 32:19	evidence-sending order
Double jeopardy, 32:21	report re, 32:147
Foreign materials requirement, 32:23	target of, 32:147
Jurisdictional issues, 32:16, 32:167 32:20	fines, 32:137
Time of commission of offence, 32:22	foreign orders, filing of, 32:138, 32:139
EXTRADITION	foreign state or entity, meaning of, 32:130
Autrefois acquit and convict pleading, 14:98	lending exhibits, 32:150 letters rogatory, 32:129
Charter issues, 31:406 , 31:409 , 31:1202 , 31:1213	Minister's responsibility for, 32:134 offences, 32:136
Crimes	privilege for foreign records, 32:157
see EXTRADITABLE CONDUCT	request and approval as preconditions,
Criminal matters, as, 32:6	32:133
Definition, 32:1	request for, 32:132
Deportation, vs., 32:2	restriction of, 32:134
Discharge at, 14:98	safe conduct, 32:154
Disguised extradition of alien, 32:5	search and seizure, 32:140
Extended jurisdictional basis, 1:55	special authorization to enter Canada,
Extradition Act, Charter validity, 32:7	32:153
Extradition agreements, publication of, 32:12	terms and conditions of sending item abroad, 32:142
Extradition of aliens and refugee claimants, 32:5	transferred person, detention of, 32:155 video or audio-links evidence, 32:148
"Extradition partners," designation of, 32:13	witness refusal to answer, ruling on, 32:156
Fair process requirement, 31:638	Principles governing, 32:9
Fresh evidence on appeal, 23:148	Recognition of foreign states and govern-
From Canada	ments, 32:5
see EXTRADITION FROM CANADA	Refugee status, of person granted, 32:32
Fugitive offender vs., 32:11	Refusal, Ministerial reasons for, 32:24 death penalty, 32:33
Mutual legal assistance, 32:129	discretionary grounds, 32:34
generally, 32:129	discriminatory grounds, 32:31
appeal of order or decision re, 32:151	military offence, 32:29
application of agreement or administrative arrangement, 32:131	Ministerial review of fugitive's surrender, 32:24
death penalty prosecution, evidence for use in, 32:144	political character, 32:26 , 32:27 political offences, 32:25
detained person, transfer of, 32:149, 32:155	time-barred prosecution, 32:28 unjust or oppressive grounds, 32:30
disclosure of young person's record, 32:135	Stages of process, 32:10
evidence-gathering order	To Canada
application for, 32:143	see EXTRADITION TO CANADA
refusal to comply with, 32:146	U.K., in, 32:4
safeguards for witness, 32:145	EXTRADITION FROM CANADA
evidence obtained abroad, admissibility, 32:152	Committal for extradition, procedure on, 32:75

EXTRADITION FROM CANADA EXTRADITION FROM CANADA —Cont'd -Cont'd Death penalty, Charter issue re, 32:80 Policy, purpose and objectives underlying, **32:8**—Cont'd Delay, 32:60 Deportation, 32:3, 32:117 committal, consent to, 32:114 court of appeal powers, re, 32:95 Disclosure of young person's record, Criminal Code provisions, incorpora-32:68 tion of, 32:94 Hearing, 32:48 delay, remedy re, 32:113 abuse of process, 32:61 Charter jurisdiction, 32:50 deportation, 32:117 escape and arrest of fugitive, 32:105 committal into custody evidence provided to requesting state, formal order of, 32:75 32:118 for surrender, 32:74 habeas corpus application, 32:113 court document, 32:52 joint appeal, 32:93 cross-examination of documents, judicial review, 32:93, 32:98 absence of, **32:66** Minister's reasons for surrender/ defences, 32:72 refusal, 32:84 disclosure, no right to full, 32:67 power to convey, 32:104 evidence quashing Minister's order, 32:99 calling on matters unrelated to prima rule of specialty in requesting state or facie issue, 32:73 entity, 32:103 inquiry re admissibility/sufficiency/ Supreme Court of Canada, powers of, availability of, 32:58 32:97 rules of. 32:64 surrender exclusion from, 32:55 additional offences disclosed by eviextradition agreements, proof of, 32:69 dence, where, 32:79.50 fitness of fugitive, 32:51 assurances from extradition partner, fugitive not present at foreign convic-32:101 tion, 32:63 assurances from requesting state, function of, 32:48 32:90 general procedure, 32:49 Canadian Aboriginal, 32:88 identity of fugitive, 32:57 citizen of Canada, 32:87 intervention by foreign state, 32:52 consent to, 32:114 judge's information to fugitive, 32:77 court intervention, 32:85 judge's report to Minister, 32:76 delay before, 32:106 person already convicted, 32:70 extradition agreement override of prima facie test, 32:59 refusal, 32:91 publication ban, 32:54 final, 32:110 record of case, 32:65 for other offences, 32:102 transfer of seized property, 32:78 fresh evidence, 32:83 treaty and foreign law, proof of, 32:69 fugitive charged or sentenced in warrant of remand, 32:53 Canada, 32:86 Minister's decision re, 32:92 witnesses Minister's powers re, 32:79 compulsion of to attend, 32:56 Minister's refusal, 32:89 right of fugitive to call, **32:71** order of Minister's duty of fairness, 32:81 contents of, **32:100** Policy, purpose and objectives underlying, priority of, 32:111 32:8 place of, 32:107 calculation of sentence of imprisonment, 32:112 postponement of, 32:108

EXTRADITION FROM CANADA	EXTRAORDINARY REMEDIES
—Cont'd	Availability of
Policy, purpose and objectives underlying,	Attorney General's discretion, re, 26:22
32:8—Cont'd	other remedy available, 26:21
surrender—Cont'd submissions to Minister re, 32:82	Certiorari
temporary, 32:109	see CERTIORARI
transit through Canada, 32:116	Costs, 26:24
waiver of extradition, 32:115	Court of appeal, original jurisdiction of, 26:12
Preliminary proceedings, 32:36	Discretionary remedies, as, 26:19
appearance in court, 32:45	Evidentiary rulings and, 26:5
authority to proceed	Federal Court prerogative writs, 26:13
arrest or summons after issuance,	General rule re, 26:1
32:43	Habeas corpus, 26:1
issuing of, 32:42	anticipatory jurisdiction re, no, 26:34
bail, 32:46	appeal re, 26:50
discharge if no proceedings, 32:40	application for
general procedure, 32:36	affidavit/extrinsic evidence, filing of,
judges, jurisdiction of superior court,	26:33
32:38	discretion not to hear, 26:40
Ministerial duties, 32:37	repeated, 26:38
provisional arrest warrant, 32:39	availability
request for extradition as condition pre-	after conviction, 26:35
cedent, 32:41	alternative remedy provided, where,
transfer to another place, 32:47	26:32
Rule of specialty, 32:103	collateral attack, 26:31
Search and seizure of items, 32:44	custody requirement, 26:39
Surrender	jurisdictional error, 26:30
see Post-hearing proceedings	where appeal provided, 26:32
EXTRADITION TO CANADA	bail application, as, 26:42 certiorari application and, 26:53
Generally, 32:119	charter guarantee, 31:962
Canadian offence not offence in foreign	discretion re release, 26:41
state, where, 32:123	extradition hearing, after, 26:49
Commencement of sentence or disposi-	federal detention, as review of, 26:44
tion in Canada, 32:128	illegal arrest, not available for, 26:29
Conveyance of surrendered person to	mandamus/declaratory relief in aid,
Canada, 32:126	with, 26:28
Detention order re temporary surrender,	meaning of, 26:27
32:127	nature of, 26:25
Foreign warrant conclusive re foreign	ninety-day review violation, 26:47
compliance, 32:125	parole ineligibility, as review of, 26:43
Fugitive serving sentence, 32:122	parole review, as, 26:44
Procedure, 32:120	personal appearance by subject of writ,
Request for extradition	26:26
evidence for, 32:121	right to be present, 26:46
fugitive serving sentence, 32:122	scope of re federal detention, 26:45
Rule of specialty in Canada, 32:124	superior court
Treaty requirement, 32:119	conviction by, 26:36

EXTRAORDINARY REMEDIES FALSE IMPRISONMENT —Cont'd See ARREST — Civil consequences of Habeas corpus, 26:1—Cont'd FAULT superior court—Cont'd Automatism, as bar to, 21:28 limited territorial jurisdiction of, Principles of fundamental justice and 26:37 see CHARTER OF RIGHTS plenary jurisdiction of, 26:48 Principles of fundamental justice Historical approach to, 26:2 Regulatory offences and, 31:570 Inferior court discretion to continue despite **FINES** application/appeal, 26:17 Appeal against sentence jurisdiction, suspension of, 26:16 suspension of fine, 25:27 Interlocutory appeals, limited, 26:15 Cruel and unusual punishment, 31:1209 Jurisdictional error Extradition and, 32:137 Charter contravention not resulting in, Remission of on pardon, 14:130 26:4 Sentence re error of law, vs., 26:3 see SENTENCING procedural fairness, vs., 26:3 Young person superior court, by, 26:9 see YOUNG PERSON — Sentences Mandamus, 26:93 FINGERPRINTING availability, 26:100 Arbitrary arrest and, 31:820 Crown Bail, requirement re, 6:29 against, 26:96 Evidence re possession, 16:474 by, **26:97** On arrest discharge, against, 26:99 see ARREST — With warrant nature of remedy, 26:94 Security of person and, 31:474 Nature of application for, 26:7 Taking and retention of fingerprints, Premature application for, 26:14 31:474 Procedendo, 26:99 Unreasonable search and seizure, as, right of Crown to invoke, 26:101 31:727 Prohibition, 26:78 Young person, of, 5:91, 30:167 availability prior to trial, 26:92 bias, 26:81, 26:82 **FIREARMS** discretionary nature of, 26:93 See also WEAPONS dismissal of motion for, 26:94 Charter and, 18:417 judicial interference with prosecution, Indictable offence, use of during, 31:1167 26:90 No constitutional right to bear, 31:576 nature of remedy, 26:79 Prohibition order re, 18:425 prior ruling on related matter by same Sentencing considerations judge, 26:88 see SENTENCING recusal of American judges, 26:89 Unlicenced firearm, right to bear in selfrecusal of superior court judge, 26:83 defence, 21:145 Provincial superior court jurisdiction over FITNESS TO STAND TRIAL federal boards. 26:11 See INSANITY Recusal of arbitrator, 26:82.50 Rules of court re. 26:6 **FOETUS** Summary dismissal of application, 26:20 Criminal negligence and, 28:5 Culpable homicide and, 27:4 FAIR AND PUBLIC HEARING Equality rights, application to, 31:1270 See CHARTER OF RIGHTS — Offence, Injury to, 27:4 person charged with

FOETUS—Cont'd FRAUD—Cont'd Life, liberty and security of the person Authorization to intercept communicarights, application to, 31:444 tion, 4:136 Directing mind of organization by, 19:79 FORCE, USE OF Elements of. 21:332 Arrest, during, **5:10.20**, **5:65** Mistake of law and, 21:271 Defence of others, in, 21:193 Prohibition order for, 18:213 Defence of property, 21:201, 21:204 FRESH EVIDENCE ON APPEAL Definition of re self-defence, 21:192 Admissibility and congency, 23:155.50 Excessive, 21:194, 27:44, 27:156 Admissibility requirement, 23:155 Necessary (unprovoked assault) Admission of, 23:141, 23:142 measure of, 21:167, 21:171 Affidavit requirement, 23:157 non-excessive (s. 34(1)), 21:166 Circumstances where not allowed, 23:164 relief re. 21:172 Crown, led by, 23:167 Preventing commission of offence, 21:193 Due diligence requirement, 23:162 Proportionality, 21:166 Evidence not disclosed at trial, 23:146 Provocation for manslaughter, 27:156 Examination prior to considering, 23:158 Examples of, 23:168 Reasonable, 3:107 Extradition appeal, 23:148 **FORFEITURE** Factual/legal findings, challenging, Appeal against sentence of, 25:24 23:144 Disorderly house, re, 3:196 In the interests of justice, 23:163 Fine, in lieu of, **18:210** Mental capacity, condition and insanity, 23:151 Forfeiture of goods not offence, 31:951 Minister's Reference, on, 23:149 Forfeiture of parole as double jeopardy, 31:1169 No substantial miscarriage proviso (s. 686(1)(b)(iii)), **23:160** Judicial interim release, on Preliminary inquiry, from, 23:147 amount of. 6:59 Previous testimony, re, 23:165 no appeal, **6:60** Recantation by key witness, 23:145 of recognizance, 6:58 Sealed envelope practice, 23:156 standing at hearing, 6:52 Sentencing hearings, on, 23:153 Recognizance, of, 6:58, 30:188 Special circumstances required, 23:142 Search and seizure and Subsequent acquittal, re, 23:166 see SEARCH AND SEIZURE Summary conviction appeals, on, 23:161 Suspension of order re on appeal, suspen-Third party records, 23:143 sion of, 23:133 To challenge trial process, 23:150 Unreasonable seizure and, 31:718 Two-step procedure, 23:159 Young person, 30:188 Verdict affect requirement, 23:160 **FORMS** Virtual appearance of party or witness, 23:142 Defects in. 10:56 Indictments, of, 7:42 **FUGITIVE OFFENDER** Language of, 16:509 See EXTRADITION Statutory interpretation, 33:86 FULL ANSWER AND DEFENCE Trial Abuse of process, denial of as, 12:122 see TRIALS Accused suffering from amnesia, 31:573 Youth Court, 30:190 Constitutional right, as, 31:493

FRAUD

Act, on, 33:74

Cross-examination re, 13:40, 16:117

Crown privilege vs., 16:554

FULL ANSWER AND DEFENCE —Cont'd

Innocence at stake vs., 16:41
Preliminary inquiry and, 13:40
Principle of fundamental justice, 31:493
Right to, 16:42

FUNDAMENTAL JUSTICE

See CHARTER OF RIGHTS — Principles of fundamental justice

GROSS INDECENCY

Generally, 31:290

GUILT, CONSCIOUSNESS OF

Altering appearance, 16:419
Attempted suicide, 16:421
Bribery, 16:425
Examples of, 16:414
Fabrication of evidence, 16:422
False alibi, 16:424
False statements
generally, 16:418
proper direction on, 16:420
False vs. fabricated alibi, 16:400
Flight or concealment from police, 16:416

Flight or concealment from police, **16:416** Interfering with witness, **16:427**

Meaning of, 16:409

Post-offence conduct, burden of proof re, 16:412

Post-offence demeanour, **16:423**Suborning false testimony, **16:426**Suppression or destruction of evidence, **16:417**

GUILTY PLEA

See also PLEADING
Admission, 14:58, 14:63, 14:68
Appeal from, 23:75
Autrefois acquit and convict and, 14:110
Common law, at, 14:57
Counsel, by, 14:56
Death of victim after, 14:110
Entrapment defence raised after, 21:291
Included offence, to, 14:65
Judge-alone trial election, 8:37
Principal of offence, of, 15:132
Sentencing and
see SENTENCING
Young person, 30:46

HABEAS CORPUS

See also EXTRAORDINARY REMEDIES

Appeals and, 26:50, 31:915

Certiorari, in aid of, 31:938

Charter and

see CHARTER OF RIGHTS

Extradition and, 32:113

Review of release from custody order, **6:105**

HEARSAY EVIDENCE

See also OPINION EVIDENCE Generally, **16:577**, **16:594**

Accused's statements

disputed by accused, 16:610 factors considered re, 16:608

Admissions

see also Voluntary statements against interest, **16:597**

agent/employee, by, 16:598

involuntary

confirmed by finding of fact, **16:607** person in authority, meaning of, **16:602**

to medical practitioner, 16:603

to person in authority, 16:602

vicarious, 16:598

voluntariness, proof requirement, **16:600**

Ante-mortem statements of victim, **16:584**

Banking records, 16:614

British statutory approach, 16:578

Business records at common law and by

statute, 16:616

Concept of, 16:576

Confession rule

reason for proof of voluntariness, **31:504**

Declaration

against interest by unavailable declarant, **16:611**

dying, 16:613

identity of declarant, 16:610

in course of duty, 16:612

Documents in accused's possession, **16:622**

Electronic documents, **16:616.50 to 16:621**

Exceptions to rule

children, hearsay utterances of, 16:588

HEARSAY EVIDENCE—Cont'd	HOMICIDE, CULPABLE—Cont'd
Exceptions to rule—Cont'd	Common law, at, 27:1
declaration of intention, 16:590	Consent to death no defence, 27:34
list of, 16:581	Criminal negligence, 27:19 , 27:126 ,
narrative evidence, 16:91	28:10
necessary and reliable requirement,	Death
16:586	acceleration of, 27:30
out of court identification, 16:389	brain, 27:29
spouse, utterances of, 16:589	caused by failure to discharge
state of mind, 16:590	undertaking, 27:26
utterance, 16:587	caused by threats, 27:20
Exclusionary rule, 31:517 Identification evidence, 16:585	caused by unlawful act, 27:16 cause of, 27:17
	causing death that might have been
Identification of accused, 16:380.50 Identity of declarant, 16:610	prevented, 27:25
Insanity, expert testimony re, 22:41	contributing cause of, 27:24
Intercepted communications, consent to,	crime initiating events culminating in,
4:27	27:31
Investigative hearsay, 16:583	defined, 27:28
Mr. Big, accused's statements to, 16:594	finding exact cause of, 27:15
Non-hearsay evidence, 16:579	intervening act as more direct cause,
Photographic evidence of property,	27:11
16:582	meaning of, 27:13
Prior statement	procuring by false evidence, 27:23
consistent, 16:592	proof of, 27:12
inconsistent, 16:593	recklessness as to, 27:52
tendering of accused's or third party's,	treatment or injury, from, 27:27
16:599	within year and day, 27:32
Proof that statement was made, 16:579	Driving offences, causation factor, 27:10
"Reasonable suspicion," as basis for,	Factual and legal causation, 27:7
21:277	Foetus, injury to, 27:4
Records, 16:615	Frightening child or sick person, 27:21
Search warrant, grounds for, 31:665	Heart attack, causing, 27:22
Statement obtained by torture, 16:596 Text messages, 16:450	Infanticide, 27:1
Unconstitutional hearsay evidence,	death of human child, 27:101
16:580	defined, 27:4, 27:99
Voluntary statements	disturbed mind, 27:106
see also Admissions	included offences, 27:112
generally, 16:604	jury approach to, 27:110
Charter motion, on, 16:605	mens rea, 27:107
Charter right to silence vs., 16:601	mental disorder and, 27:107, 27:111
voir dire to prove, 16:606	newly born infant, meaning of, 27:100
HOMICIDE CIL DADI E	onus on accused, 27:102
HOMICIDE, CULPABLE	origin of offence, 27:103
Anger, defence of, 27:50	partial defence to murder, as, 27:109
Assault on pregnant woman causing	post-partum recovery, 27:111 , 27:113
child's death, 27:5	related offences, 27:114
Causation, 27:7 to 27:10, 28:20	wilful act must constitute culpable
Child en ventre sa mere, 27:5	homicide, 27:104
Classification of, 27:2	Intent and guilty act, 27:6

IDENTIFICATION—Cont'd HOMICIDE, CULPABLE—Cont'd Procedural improprieties, 16:375 Killing by influence of mind, 27:33 Manslaughter Recognition identification, 16:366 see MANSLAUGHTER Sensory modes of, 16:362 Murder Similar fact evidence, proof through, see MURDER 16:643 Panic, effect on intent, 27:51 Single suspect, 16:368 Single witness, by, 16:367 Provocation, defence of, 27:173 Testimonial factors, 16:361 Threats causing death, 27:20 Videotape, identification from, 16:383 Unlawful act Videotape at crime scene, 16:382 causing death by, 27:16 homicide by, 27:18 Visual model guidelines on, 16:371 Victim testimonial factors affecting, 16:377 awareness of identity of, 27:15 Voir dire, necessity of, 16:365 human being, requirement re, 27:4 Warning re past miscarriages of justice, objective fault requirement, 27:125 16:372 HOSPITAL ORDER Witness approaching accused in court, See MENTAL ILLNESS; SENTENCING 16:380 **IDENTIFICATION** IDENTITY Alibi and, 16:378, 16:399 See ALIBI; IDENTIFICATION police failure to investigate, 16:376 **IMPRISONMENT** Description, necessity for, 16:364 See also SENTENCING Direction, need for careful and complete, 16:373 False, **5:56**, **5:64** Female prison guards, 31:1367 Dock, 16:379 Evidence of identity, 16:358 Liberty and, 31:448 Evidence supporting accused, 16:363 Mandatory minimum, 31:809 Mental illness and, 22:142 Expert evidence re, 16:360 In-court, 16:381 Type of prison, 18:439 Inherent frailties of evidence re, 16:364 **INCEST** Initial failure, later success, 16:386 Generally, 21:100 Lineups police practice re, 16:388 INCHOATE OFFENCES refusal of accused to participate in, See ATTEMPTS; CONSPIRACY 16:390 **INCLUDED OFFENCES** Multiple victims, 16:369 Multiple witnesses differing, 16:370 Adding to indictment, 9:225 Amending indictment, 9:225, 9:232 Necessity of proof. 16:357 Opinion evidence re, 16:359 Appeal against sentence, substitution of, 25:42 Out-of-court identification Attempted offence, 16:318 as original evidence, 16:389 Common law verdicts, 16:278 of accused, 16:380.50 Conspiracies as, 16:319 Parades Crown option offences see Lineups dual offence as, 7:34 Photographs Distinguishing features of, 16:279 identification following photographic id, 16:385 Double jeopardy, 31:1164 not to be used after arrest, 16:387 Driving offences, of, 16:312 use of, 16:384 Duplicity and, 9:85

INDICTABLE APPEALS—Cont'd INCLUDED OFFENCES—Cont'd Full offence charged; attempt proved, Conditional stay, appeal from, 23:62 16:317 Constitutional appeals, 23:51 Guilty plea to Contempt appeals, 23:56 consent required, 14:65 Conviction vs. sentence appeals, 23:11, Crown option offence, 14:70 23:12 non-acceptance of, 14:66 Costs, appeal against, 23:26, 23:63 Infanticide, 27:112 Custodial sentence, application for leave to appeal, 23:54 Information re specific offence, 31:959 Discharge, appeals from, 23:58 Nonsuit motion, directed verdict in, 16:254 Early Canadian approach to, 23:3 Erroneous concession of law, 23:68 Order for new trial on appeal, 23:233 Provincial offences not included in Evidence federal offences, 16:281 fresh Substituted verdict on appeal, 23:216 see FRESH EVIDENCE ON Summary conviction appeals **APPEAL** see SUMMARY CONVICTION not heard at trial, 23:52 APPEALS Extraordinary remedies appeals, 23:57 Summary conviction offence as, 1:45 Final judgment, meaning of, 23:64 Verdicts Final orders see VERDICTS appeal from, 23:61 power to re-open or vary prior judg-INCOME TAX ment or order, 23:91 Disclosure order re information, 3:233 Findings of fact, 23:35 Extended jurisdiction re residence, 1:116 Findings on non-appealed charge, 23:77 Freedom of conscience and, 31:229 Frustration of appeal, 23:46 Fundamental justice and, 31:521 Further argument, power to hear, 23:92 Tax statement, statutory compulsion to Grounds of appeal make, 31:522 questions of law Territorial jurisdiction exception, 1:84 see Questions of law INDEPENDANT AND IMPARTIAL Guilty plea, appeal from, 23:75 TRIBUNAL Interlocutory orders, appeal from, 23:65 See CHARTER OF RIGHTS — Offence, Intervention person charged with addition of new grounds, 23:80 INDICTABLE APPEALS application re, 23:78 Abuse of process, miscarriage of justice circumstances justifying, 23:82 requirement, 23:191 evidentiary record, no expansion of, Academic appeal, 23:59 23:81 Administrative orders, attacking, 23:70 scope for submissions, 23:79 Appeal court Judgment obtained by fraud, 23:49 nature of, 23:4 "Justice requires" order, appeal from, new issue raised by, 23:39 23:53 Appeals in general Mixed appeal of indictable and summary civil or criminal, 23:6 conviction offences, 23:9 nature of, 23:5 Moot appeal, 23:60 Bifurcated appeals, 23:47 Negated alternative defence, 23:67 Collateral attack, rule against, 23:69 New issues, raising on appeal, 23:66 Combined indictable and summary Nullity, appeal from, 23:73 conviction appeal, 23:26, 24:60 Order of separate appeals in same matter, Common law, at, 23:1 23:11

INDICTABLE APPEALS—Cont'd	INDICTABLE APPEALS—Cont'd
Other common law remedies, 23:2	Procedure, 23:94—Cont'd
Parties to, 23:7	restitution/forfeiture orders—Cont'd
Procedural irregularity	suspension of, 23:133
failure to object to at trial, 23:90	rules of court
Procedure, 23:94	application of, 23:95
abandoned appeal, reconsideration of,	conflict with Code, 23:107
23:116	service
amendments to appeal provisions,	evasion of by respondent, 23:121
23:134	failure to serve notice of appeal,
attendance, right of	23:122
appellant in custody, 23:125	out of Canada, 23:123
re sentence, 23:126	substitutional, 23:124
compliance with appeal requirements,	transcripts
failure re, 23:97	inaccurate, 23:131
computing time, 23:111	partial, 23:129
court appealed to, 23:93	trial judge, request of, 23:139
court of appeal powers	trial proceedings, of, 23:128
generally, 23:100	waiver of appeal, 23:112
ancillary and inherent, 23:103	Quashing of indictment, appealability,
costs, re, 23:101	23:64
production re non-charged crimes,	Questions of law
23:102	generally, 23:28
stay of acquittal, 23:106	accused's routes of appeal to SCC and,
summary dismissal of frivolous	23:15
appeal, 23:99	admissibility of evidence
suspension, re, 23:104	failure to object at trial no bar, 23:44
Crown appeal	appeal by accused, 23:24
Attorney General's instructions,	contradictory position on appeal, 23:43
23:127	counsel's address re law, 23:45
defective notice, 23:96	Crown appeals
dismissal for abuse of process/fraud,	acquittal on greater offence, re,
23:114	23:32
dismissal for want of prosecution	expanded, 23:23
considerations re, 23:113	insanity or fitness verdict, re, 23:31
erroneous dismissal, 23:118	misdirection in jury charge, 23:29
reconsideration on merits, 23:119	reasonable doubt, re finding of,
exhibits, retention of, 23:132	23:33
extension of time	rejected evidence, re, 23:30
criteria for granting, 23:108	evidence, misapprehension of, 23:19
factors considered, 23:109	examples of, 23:16
reconsideration, 23:110	examples of matters not questions of
frivolous appeal, 23:120	law, 23:34
jury charge, judge's certification of,	failure to make findings on preliminary
23:130	matters, 23:20
leave to appeal, application for, 23:94	first and second degree murder as two
legal assistance for appellant (s. 684),	distinct offences, 23:18
23:98	"law alone," meaning of, 23:17
restitution/forfeiture orders	legal effect of facts, 23:22
stay of 23:105	miscarriage of justice 23:38

INDICTABLE APPEALS—Cont'd	INDICTMENTS AND INFORMATIONS
Questions of law—Cont'd	—Cont'd
new ground of defence	Amendments, 9:201—Cont'd
appellant still in system, 23:42	alternative mode of same offence, add-
new issue on appeal, 23:41	ing, 9:226
new issue raised by appeal court, 23:39	bill of indictment, 9:201
new theory of liability, 23:40	charge of different offence, 9:222
no substantial miscarriage proviso (s.	common law, at, 9:201
686(1)(b)(iii)), 23:37	date/place/items/quantity, 9:217
notice of appeal	defective charge, 9:227 discretion re, 9:205 , 9:213
inclusion of grounds in, 23:27	essential averment, omission of, 9:229
question of fact, vs., 23:12	evidence of variance, 9:210
reasonable doubt, 23:21	examples of, 9:237
Questions of mixed fact and law, 23:14	extraordinary remedy, on hearing or
Questions re interpretation of administra-	appeal from, 9:235
tive statute, 23:13	included offence, adding, 9:225
Reasons for judgment	irreparable prejudice resulting, 9:215
after verdict, 23:85	joinder of charges/accused, to permit,
defence evidence, higher level of	9:209
scrutiny, 23:89	jurisdiction vs., 9:204
discharge at preliminary inquiry, 23:84	limitation period, after, 9:208, 9:219
disregard of material evidence in, 23:88	new charge, 9:223
multiple counts, re, 23:87	new election probably not necessary,
principles re, 23:82.50	9:221
requirement of, 23:83	new plea unnecessary, 9:220
Reinstatement of, 23:115	new trial ordered, 9:234
Respondent's entitlement to raise argu-	no timely objection, 9:233
ments, 23:76	on appeal
Section 686(8) order, appeal from, 23:53	s. 683(1)(g), 9:230
Summary conviction appeal,	subject-matter, re, 9:231
distinguished from, 23:8	underlying/included offence, re,
Third party appeals, 23:50	9:232
Trial judge's report, 23:135	pre-1955 cases, 9:203
comments on jury verdict, 23:137	pre-trial objections re patent defects,
conflict of with evidence, 23:136	9:206
contents of, 23:135	reference to wrong Act, 9:236
no or corrected reasons for judgment, 23:138	remedial approach, 9:202
	resworn charge, 9:239
transcript and other matters, 23:139	same transaction, 9:214
Tribunal's standing, 23:72	summary conviction offence
Ultra vires legislation ruling, 23:74	insufficient charge, 9:228
Writ of error, 23:2	timing of, 9:211
INDICTABLE OFFENCES	trial judge acting on own motion, 9:212
See CLASSIFICATION OF OFFENCES	variance between evidence and charge, 9:216
INDICTMENTS AND INFORMATIONS	when power available, 9:207
Accused and defendant, use of terms, 9:3	widening count, 9:224
Amendments, 9:201	wrong oath not nullity, 9:240
adjournment following, 9:218	Charges against different Acts, 9:6

INDICTMENTS AND INFORMATIONS	INDICTMENTS AND INFORMATIONS
—Cont'd	—Cont'd
Charging documents, 9:1	Information—Cont'd
Complaint, 9:10	defects in—Cont'd
Conclusion	facsimile signature, 10:65
at common law, 9:21	improper form, 10:55
British Columbia practice, 9:22 Coroner's inquisition, 9:17	jurisdiction disclosed on information, 10:61
Counts, 9:5 Criminal proceedings	multiple offences, where containing, 13:13
criminal proceedings	onus on accused, 10:57
stay/withdrawal prior to issuance of	plea to defective information, 10:64
process, 10:11	receiving justice, presumption re
Crown discretion re charge, 9:15	capacity, 10:62
Drafting modes, 9:23	reference to previous convictions,
General rules, 9:1	10:66
Indictment	statutory forms, 10:56
commencement of, 9:19	unsworn information, 10:58
defined, 11:1	duplicative, 10:52
direct	issuing process
see DIRECT INDICTMENT	generally, 10:36
meaning of, 9:4	allegations and evidence at hearing,
parchment no longer required, 9:20	10:47
parts of, 9:18	defective process, 10:51
*	duty of justice, 10:38
persons entitled to prefer, 9:14	non-compliance with information
preferring	requirements, 10:53
see PREFERRING INDICTMENTS	other charges than on process, 10:54
statement of venue no longer required, 9:20	postponing execution of arrest warrant, 10:40
Information	pre-enquete
abatement of proceedings	disclosure to counsel, 10:44
death of informant, 10:67	duty to hear all witnesses, 10:45
amendments to, 10:68	duty to hear informant, 10:46
information need not be resworn,	ex parte, 10:43
10:69	indictable offences, 10:42
not constituting new proceedings, 10:68	motion to quash at, 10:49
1000	prerogative remedies and, 10:37
charging document in prov.ct., as, 10:1	prescription on face of information,
complaint	10:36
inclusion of, 9:11	subsequent application for, 10:48
vs., 9:12	test for, 10:39
contents of, 9:8	laying
criminal, 9:16	entitlement, 10:6
Crown stay, review of, 10:11	factual basis of information, 10:29
defective vs. nullity, 9:240	false oath, 10:14
defects in	former complaint, 10:22
generally, 10:55	former form, 10:21
date/place, omission of, 10:63	historical forms, 10:20
defacement, 10:59	identification of accused, 10:15
face and back, 10:60	language of, 10:30

INDICTMENTS AND INFORMATIONS	INDICTMENTS AND INFORMATIONS
—Cont'd	—Cont'd
Information—Cont'd	Joinder of accused—Cont'd
laying—Cont'd	illegal possession of property, 9:287
new information, consent require-	Joinder of counts
ment, 10:12	Canadian practice, 9:252
pre-1955 practice, 10:23	Charter consideration, 31:558
private information, practice in	common law practice, 9:247
receiving, 10:8	doctrine of election, 9:248
public official, by, 10:7	English practice since 1915, 9:250
purpose of, 10:19	English provision, 9:251
reasonable grounds requirement, 10:13	general rule, 9:241
reception of	joinder of separate accused by judge,
by one justice, 10:24	9:254
mandatory, 10:26	murder indictment
ministerial act, as, 10:27	English practice re, 9:246
release prior to laying (s. 5050(b)),	multiple murders, 9:245
10:16	practice re, 9:244
restriction on, 10:25	mutually exclusive counts, 9:253 one felony rule, 9:249
review of, 10:17	overload of indictment, 9:243
territorial factors, 10:18	Joinder of indictable and summary
meaning of, 9:7	conviction offences, 9:242
null information, 10:14	Joinder of offences disclosed by evidence,
oral, 9:13	11:61
prior conviction, reference to in, 9:65	Joinder of separate committals for trial,
private information, referral of, 10:18	11:60
purpose of, 9:9	Joinder of summary conviction and
replacement, 10:52	indictable offences, 9:289
resworn, 9:240	common law rule, 9:289
Sovereign	failure to elect, 9:292
information not necessarily in name	information, in, 9:242 , 11:5
of, 10:3	not necessarily fatal, 9:293
prosecution in name of, 10:4	pre-1955 rule, 9:291
summary conviction appeal, use in,	present rule, 9:290
10:2	Motion to quash, 9:185
terrorism offence, investigative hearing	aider by verdict
of, 10:41	doctrine of, 9:198
time limitation re laying	first-time objection, 9:199
generally, 10:31	consolidation of former procedures,
application of, 10:31	9:185
continuing offence, 10:33	criterion for, 9:186
partial prescription, 10:34	English practice, 9:196
specific, 10:35	essential averment, omission of, 9:194
whole day to be considered, 10:32	late motion re jurisdiction, 9:191
use of, 10:1	late objection on appeal, 9:200
Information vs. indictment, use of, 9:2	motion in arrest of judgment, 9:193
Joinder of accused	offence unknown to law, 9:197
generally, 9:266	power re nullity, 9:192
accessory after fact, 9:286	prior to election, 9:190
the contract of the contract o	

INDICTMENTS AND INFORMATIONS **INJUNCTION** —Cont'd Abortion, re, 31:1419 Motion to quash, 9:185—Cont'd Attorney General, application by, 12:21 relaying of quashed charge, 9:188 Charter remedy, as, 31:1480 result of. 9:187 Crown, against, 12:19 rule re timeliness of objections, 9:189 Fundamental justice and, 31:499 waiver of objection, 9:195 Restitution order, 18:373 Pleadings generally Sentence see CRIMINAL PLEADINGS see SENTENCING Severance applications **INMATE** during trial, 9:283 Arbitrary detention of, 31:821 heard by trial judge, 9:281 Fundamental justice and renewal of motion, 9:284 see CHARTER OF RIGHTS when made, 9:282 Principles of fundamental justice Severance of accused Right to counsel, 31:625 consideration against, 9:275 Warrantless search of, 31:754 considerations favouring, 9:269 conspiracy count, 9:285 INNOCENCE, PRESUMPTION OF Crown's discretion re, 9:278 See also REVERSE ONUS delayed severance, 9:272 As basis for bail, 31:1114 discretionary nature of order, 9:276 Fundamental justice and, 31:488 effect of, 9:271 Impartial judge, right to, 31:1086 English and French accused, 9:277 Juvenile delinquent, application to, examples of, 9:288 31:1034 factors for and against, 9:269 Non-application of, 31:1036 grounds for, 9:270 Pending appeal, 31:1115 insufficient grounds for, 9:273 Pending new trial, 31:1116 Public and press, application to, 31:1038 power re, 9:267 Purpose of presumption, 31:1033 preliminary inquiry, at, 9:274 Reverse onus re mens rea. 31:1037 Severance of counts Trial, application at, 31:1035 application to trial judge, 9:257 considerations re, 9:259 **INSANITY** conspiracy and substantive counts Amnesia vs., 22:35 Crown election, 9:263 Automatism improper use of, 9:262 drunken insanity vs. drunken automatism, 21:62, 22:33 practice re, 9:261 insane vs. non-insane, 22:32 Crown's discretion re, 9:279 mental disorder vs. non-mental disorgeneral rule, 9:255 der. 22:32 onus on accused and appellant, 9:258 Canadian test of preliminary inquiry, at, 9:256 "appreciate," meaning of, 22:15 relationship between non-severed discussed, 22:9 counts, 9:265 mens rea of offence, 22:18 separate indictments nature and quality of the act, 22:16 Crown's discretion re trials of, 9:280 "wrong," meaning of, **22:24** sex counts, 9:264 Common law tests for, 22:1 similar fact evidence, 9:260 Conduct insanity vs. hearing insanity, **INFANTICIDE** 22:70 Consent verdict of NCR, 22:42.50 See HOMICIDE, CULPABLE; **INCLUDED OFFENCES** Diminished responsibility defence, 22:38

INSANITY—Cont'd	INSANITY—Cont'd
Disease of the mind	Disease of the mind—Cont'd
appeal of disposition	treatment pending disposition—Cont'd
grounds, 22:129	requirement for, 22:123
powers of appeal court, 22:131	unfitness verdict
suspension of dispositions pending,	continued detention in hospital,
22:130	22:110
unreasonable disposition, 22:132	review of, 22:109
bail pending, 22:107	verdicts
compellability of accused, 22:115	not acquittal, 22:29
conditional discharge, 22:119	unfitness and insanity for same
conditional disposition, 22:121	offence, 22:126
constitutionality of scheme, 22:101	victim impact statements, consideration
definition discussed, 22:12	of, 22:126
directing jury re, 22:20	Drunken, 21:44
disposition information, 22:116	discussed, 22:34 drunken automatism vs., 22:33
dual status offender, 22:128	i ·
effective date of disposition, 22:125	Equality rights and, 31:1334 Expert testimony re, 22:41
enforcement of orders, 22:137	Fitness to be sentenced, 22:77
factors re disposition, 22:99	Fitness to be sentenced, 22:77 Fitness to stand trial, 22:68
high-risk accused	appeal from finding, no interlocutory,
detention of, 22:96	22:90
finding, 22:127	assignment of counsel, 22:78
hearing re, 22:95	burden of proof, 22:75
review of, 22:134	consequences of finding, 22:94
in-court hearing, 22:102	court-ordered assessment, 22:84
interprovincial transfers, 22:136	deaf mute, 22:72
irregularities, 22:120	defence counsel unable to receive
joint submission, rejection of, 22:113	instructions, 22:79
mental disorder amounting to, 22:11, 22:19	detention of permanently unfit accused,
NCR detainee, detention of, 22:95	22:91
non-publication of names, 22:114	duty to conduct hearing re, 22:76
procedure at, 22:111	evidence at hearing, 22:83
psychopathy as, 22:14	finding of unfitness, 22:88
record of proceedings, 22:117	bail after finding, 22:89
review board	factors to finding, 22:71
Charter jurisdiction of, 22:105	results of, 22:88.50
constitution of, 22:104	hearing on multiple informations,
costs against, 22:106	22:82
hearing before, 22:108	incapacity to act in best interests, 22:73
powers of, 22:112	jury disagreement re, 22:87
stay of proceedings recommendation,	postponement of issue, 22:80
22:135	preliminary inquiry re, 22:74
review of disposition, 22:133, 22:134	presumption of, 22:69
review of order, 22:97	principles re, 22:70.55
terms of disposition, 22:98, 22:118	s. 16 insanity vs. s. 615 insanity, 22:70
treatment as part of disposition, 22:124	sufficiency of evidence, inquiry re,
treatment pending disposition	22:93
direction re, 22:122	treatment order, 22:92
direction re, aa.122	deathent order, 22.72

INSANITY—Cont'd	INSANITY—Cont'd
Fitness to stand trial, 22:68—Cont'd	Procedure, 22:39—Cont'd
trier of issue, 22:81	direction to jury
"unfit to stand trial," defined, 22:68	order of consideration, 22:47
Incapacity, exemption due to, 22:10	re insanity, 22:45
Irresistible impulse vs., 22:36	re insanity verdict, 22:46
Jurisdiction over "mentally disordered,"	expert testimony
22:2	hearsay evidence re, 22:41
Mental disorder	practice re, 22:40
automatism and, 22:32	insanity evidence
British draft Criminal Code defence,	introduction by Crown, 22:42
22:6	rebuttal by Crown, 22:45
definition of, 22:12	insanity verdict, 22:48, 22:49
expert evidence, rejection of, 22:19.50	legal insanity vs. unfit to stand trial,
former Canadian test of insanity, 22:7	22:50
not criminally responsible defence,	Sanity, presumption of, 22:10
22:11	Sentencing and, 18:257
psychomotor epilepsy, 22:21	Specific delusions, 22:23
question of law, as, 22:19	Specific intent vs., 22:37
M'Naghten's Case, 22:3	U.S. tests, 22:4, 22:38.50
Natural imbecility, 22:22	Verdict of insanity
Not criminally responsible defence, lead-	generally, 16:270
ing evidence re, 22:43	appeal of and order for new trial,
Procedure, 22:39	23:239
appeals re findings/verdicts, 22:67	autrefois acquit and convict, 14:96
appeal stage, at	Charter validity, 22:30
court of appeal raising insanity,	effect of
22:63	Britain, in, 22:25
jurisdiction to hear appeal despite	Canada, in, 22:26
unfitness, 22:64	high-risk accused
order for new trial, 22:66	effect of finding, 22:28
raising insanity at, 22:62	finding, 22:27
substitution of insanity finding,	not acquittal, 22:29
22:65	special, 22:29
assessment	substitution of, 23:184
appearance after, 22:59	Withdrawal of defence by judge, 22:16
detention during, 22:58	
protected statements during, 22:61	INTENT
assessment orders	See also MENS REA
contents of, 22:57	Generally
court's motion, on, 22:56	see DRUNKENNESS
Crown application for, 22:54	Attempts
defence counsel application for,	see ATTEMPTS
22:55	Conditional, 20:8
enforcement of, 22:137	Conspiracy
grounds for, 22:51	see CONSPIRACY — Elements of
review board assessment orders,	offence
22:52	Duress, 21:133
time limitations for, 22:53	General intent crimes
assessment reports, 22:60	see DRUNKENNESS; MISTAKE O
burden of proof, 22:39 , 22:75	FACT

INTENT—Cont'd	INTERCEPTION OF PRIVATE
Homicide, 27:6 , 27:38	COMMUNICATIONS—Cont'd
Insanity vs. specific intent, 22:37	Reasonable expectation of privacy re
Knowledge vs., 21:335	communications, 4:9
Murder	Text messages, interception of, 4:17
see also MURDER — Second degree	Time of interception, 4:11
implied intent re, 31:546	INTERNATIONAL CRIMINAL LAW
parties to common intent, 15:87	Customary international law, jurisdiction
three forms of intent, 27:38	over, 1:68
transferred intent, 27:55	International conventions, 32:165
Parties to common intent rule, 15:69	International crime, Canadian prosecution
Parties to offence	of, 32:171
see PARTIES TO OFFENCE — Com-	International Criminal Court, 32:170
mon intention, parties to	International criminal law, 32:159
Preparation distinguished from, 20:19	International customary law, 32:166
Specific intent	International law
see DRUNKENNESS; MISTAKE OF FACT	defined, 32:158
	general principles of, 32:167
Transferred, 27:55	sources of, 32:163
INTERCEPTION OF PRIVATE	International law of the sea, 32:169
COMMUNICATIONS	Judicial decisions and teachings, 32:168
Access to, 4:94	Jurisdiction, non-territorial bases of,
Admissibility of communications, 4:21	32:163
Authorized	Sovereign state contractual capacity in
see AUTHORIZED INTERCEPTED	foreign state, 32:161.50
COMMUNICATIONS	Sovereignty, 32:35
Foreign interception, 4:19	Statehood, recognition of, 32:160
Impersonation of recipient, 4:18	Territorial sovereignty, 32:162
Interprovincial interceptions, 4:20	INTERPRETATION ACT
Intra-provincial interception, 4:20	See STATUTORY INTERPRETATION
Multiple parties to, 4:10	See STATOTORY INTERIRETATION
Notice of, 4:170	INTERPRETERS
Crown's duty re, 4:170	See CHARTER OF RIGHTS
extent of notification, 4:172	INDEDIGENON
failure, re, 4:173	INTERVENTION
notice to all charged, 4:171	Appeal, on indictable
Permitted forms of, 4:7	see INDICTABLE APPEALS
Place of interception, 4:12, 4:170	Attorney General of Canada, by
Possession of devices	non-Code prosecutions, in, 12:49
see POSSESSION OF INTERCEP-	Charter remedy, 31:1418
TION DEVICES	Extradition
Prevention of bodily harm (s. 184.1), for, 4:15	court intervention re surrender, 32:85, 32:93
Prevention of serious harm (s. 184.4), for, 4:16	foreign state, intervention by, 32:52 Private prosecutions, in, 12:57
Prior consent to interception, 4:13	Summary conviction proceedings, 12:56
"Private communication," meaning of,	Summary conviction proceedings, 12:36 Supreme Court of Canada appeals, 23:255
Reasonable expectation of non-intercen-	INTOXICATION

tion, 4:8

See DRUNKENNESS

ISSUE ESTOPPEL	JUDGES—Cont'd
See PLEADING — Res judicata	Cross-examination by—Cont'd
JOINDER	re need for interpreter, 31:1260
Accessory after the fact, 9:286	Crown option offence election by, 7:26
Accused, of	Delay caused by, 31:997
see INDICTMENTS AND INFORMA-	Disregard of evidence by, 23:183
TIONS — Joinder of accused	Duty to ensure fair trial and counsel's civility, 17:71
Amendment to indictment to permit, 9:209	Extradition hearings, 32:38 , 32:73 Failure to mention or give effect to mate-
Charge, 9:209	rial evidence, 23:183
Common law, at	Functus officio, as, 1:137 , 16:482
see COMMON LAW	Guilty plea
Counts, of	acceptance/rejection by, 14:24, 14:34
see INDICTMENTS AND INFORMA-	change of
TIONS — Joinder of counts	judge's discretion on, 14:41
Dual and indictable offences, 7:31	Independence and impartiality of
Offences disclosed by evidence, 11:59	see CHARTER OF RIGHTS —
Preferring indictments and, 11:19	Offence, person charged with
Separate committals, 11:58	Indictable appeal
Separated accused, 11:40	trial judge's report
Summary conviction and indictable offences	see INDICTABLE APPEALS
see INDICTMENTS AND INFORMA-	Indictable offence jurisdiction of
TIONS	see CLASSIFICATION OF
	OFFENCES — Indictable
JUDGES	offences
Additions to charge by, 11:38	Integrity, presumption of, 26:80 Interest in outcome, prohibition against,
Adjournments, discretion re, 16:33	26:87
Amendment to indictment by, 9:212	Issue estoppel, determination of, 14:148
Application to for exclusion of evidence,	Joinder of separate accused by, 9:254
31:1528	Jury and
Authorization for intercepted communications, 4:31 , 4:37 , 4:87 , 4:99	aids to, 17:147
Bias, recusal of judge for general, 26:85	charge to
Calling witnesses, 16:193	generally
Case management	see JURY CHARGE; JURY
see CASE MANAGEMENT JUDGE	TRIAL — Addressing jury
Certification of jury charge, 23:130	certification of, 23:130
Certiorari application	premature, 17:82
protection order for provincial court	direction to stand by, 17:17
judge, 26:77	excusing, 17:16
Commission of evidence by, 16:209	interview in judge's chambers, 17:156
Compellability of, 16:539	pre-screening, 17:36
Competency of, 16:539	verdicts
Contempt of court and	exhortation by judge, 17:180
see CONTEMPT OF COURT — Juris-	judge's function re, 17:170
diction of court to punish for	judge's report, 23:137
Co-ordinate jurisdiction, of, 3:125	vetting, 17:26
Cross-examination by	Mistrial, 1:138, 17:74
of interpreter, 31:1260	Nonsuit function, 16:247, 16:248, 16:262

JUDGES—Cont'd	JURISDICTION—Cont'd
Particulars and, 9:147, 9:158	Cessation of, 1:134—Cont'd
Personal attack on, 29:42	excusing witness, 1:196
Plea/sentence bargaining, involvement in,	irregularity of summons/warrant, 1:192
14:50, 18:454	prisoner required as witness, 1:203
Preliminary inquiry transcript, reading,	subpoena
16:486	collateral attack of, 1:185
Pre-trial judge as trial judge, 16:14	duces tecum, 1:186
Prior rulings by same judge, prohibition	duration of, 1:188
re, 26:88	jurisdiction re issue of, 1:184
Private inquiries by, 18:236	material evidence requirement, 1:183
Publication ban by inferior court judge, 31:326	modified to circumstances of case, 1:179
Publication ban by superior court judge, 31:327	motion to quash
	generally, 1:194
Questioning of witnesses by, 16:192 Raising Charter issue, 31:1517	at trial, 1:195
Recusal of American judge, 26:89	search warrant vs., 1:187
Recusal of inferior court judge, 26:84	service of, 1:190
Re-opening accused's defence, discretion	service of document, 1:189
re, 16:158	service outside Canada, 1:180
Re-opening case, discretion re, 16:157	substitutional service of, 1:191
Revocation of parole application, 18:310	witness at large, 1:182
Right to vote, 31:392	witness defaulting on, 1:197
Severance applications, 9:257 , 9:281	unsubpoenaed witness in courtroom, 1:181
Special pleas, disposal of, 14:74	warrant
Substitution of during jury trial, 1:131	issue of instead of subpoena, 1:199
Sureties, naming of, 6:48	territorial effect of, 1:200
Unable to continue/act, 1:135, 18:318	witness absconding on recognizance,
Withdrawal of insanity defence by, 22:17	1:201
Youth court	witness fee, 1:193
see Youth Justice Court judge	Consent to, 1:9
JUDICIAL NOTICE	Court levels, of, 1:6
Court records re previous convictions,	Court records, over, 1:9
18:267	Customary international law, 1:68
Facts, of, 16:681	Defined, 1:1
Laws, of, 16:682	Extended, 1:109
Proclamation/regulation, of, 33:78	generally, 1:109
_	"arrested" (s. 470), 1:112
JUDICIAL REVIEW	committal for trial, 1:121
Charter remedies see CHARTER OF RIGHTS —	extradition and, 1:55
Charter remedies	extraterritorial aspect of charge infor-
Constitutional law and, 34:1	mation, 1:110
Extradition order, of, 32:93 , 32:98	"found" (s.470), 1:111
,	"in custody"
JURISDICTION	entering plea, 1:114
Bases, 1:3	general (s. 470), 1:113
Cessation of, 1:134	non-jury trials, 1:123
contempt by defaulting witness, 1:198	preliminary inquiry
detention of arrested witness, 1:202	appearance at (s. 470), 1:115

JURISDICTION—Cont'd	JURISDICTION—Cont'd
Extended, 1:109—Cont'd	Loss of, 1:139 —Cont'd
preliminary inquiry—Cont'd	summary conviction proceedings
transfer of offence during, 1:117	appearance by agents in, 1:161,
provincial legislation, 1:124	16:26
residence (Income Tax Act), 1:116	proceeding in absence of defendant,
search warrant (interprovincial), 1:118	1:163
superior court, 1:122	technological appearance in court,
territorial, 1:88	1:159, 1:159.50 time limits, no waiving of, 1:172
where process returnable, 1:120	unfit appellant, 1:167
wiretap authorization (interprovincial),	withdrawal or stay of charge, Charter
Federal Court, 1:75	jurisdiction, 12:162
Judge as persona designata, 1:7	young person, failure to arraign, 1:169
Loss of, 1:139	Over offence, 1:46
absolute vs. relative nullity, 1:144	commencement vs. institution vs.
adjournment	continuation of proceedings, 1:46
by clerk/registrar, 1:151	consent of Attorney General
in absence of defendant, 1:158	continuation of proceedings, 1:51
non compliance with, 1:147	federal, 1:48
of ruling or judgment, 1:149	provincial, 1:47
Part XIX adjournment, 1:150	disclosure re jurisdiction on informa-
to fixed date, 1:148	tion, 1:52
to holiday, 1:157	dismissal for want of prosecution, 1:51
without information, 1:152	inferior court, limited jurisdiction, 1:53
appearance by counsel of record, 1:160	Over person, 1:10
appearance by designated counsel, 1:26	absence of accused, 1:28
appearance notice, failure to confirm,	acts of state in foreign jurisdiction, 1:20
1:168	adjournment at jail, 1:30
bench warrant, 1:154	armed forces
conditional appearance, 1:156	generally, 1:25
dismissal for want of prosecution,	Canadian, 1:24
1:155	Canadian citizen, 1:15
exceeding jurisdiction, 1:143 indictable offence proceedings	Canadian offence committed outside
proceeding in absence of accused,	Canada, 1:14
1:164	Crown immunity, 1:23
irregularities	diplomatic and consular immunity,
allowing new process, 1:171	1:17
cured by appearance, 1:170	diplomatic/sovereign immunity, 1:18
jurisdiction acquired/regained, 1:153	foreign acts of state doctrine, 1:21
loss of over offence, 1:140	foreign offender re territorial sea, 1:16
consequence of, 1:142	international organization, 1:22
loss of over offender, 1:146	presence of accused in court (indict-
no initial jurisdiction, 1:145	able), 1:27 presence of defendant (summary
no loss of	conviction), 1:29
over indictment, 1:141	state immunity, 1:19
over offence, 1:139	young person, 1:10
remand	Procedural requirements, waiver of, 1:9
non compliance with 1.147	Palicious metters over 21:105 21:1226

URISDICTION—Cont'd	JURISDICTION—Cont'd
Seizure of jurisdiction, doctrine of, 1:125	Territorial, 1:54 —Cont'd
adjournment by any official, 1:132	federal jurisdiction over provincial
common law rule, 1:125	land, 1:60
discharge of jury before verdict, 1:129	foreign acts of state doctrine, 1:21
indictable offences, 1:128	foreign law and Canadian sovereignty,
judge unable to continue/act, 1:135	1:56
mistrial by judge without jury, 1:138 present statutory rule, 1:127	guilty plea to offence committed in another province, 1:64
substitution of judge during jury trial, 1:131	guilty plea to offence committed in same province, 1:65
summary conviction (former rule), 1:126	importation of illegal drugs into Canada. 1:90
	Income Tax Act exception, 1:84
waiver of jurisdiction after evidence, 1:133	international matters, 1:68
_,	judicial powers in extended territories,
Summons, affect of on jurisdiction accused need not appear before issuing	1:106
justice, 1:175	limitation on, 1:53.50
irregular summons, 1:177	mail in different jurisdictions, 1:94
place of service, 1:174	non-province part of Canada, 1:63
summons signed by clerk or another judge, 1:178	offence committed outside Canada, 1:67
summons vs. notice outside Canada, 1:176	offence committed outside state territory, 1:105
Superior Court, 1:5, 1:6	official, limited jurisdiction of, 1:91
Territorial, 1:54	overt act (conspiracy), 1:90
accused not in jurisdiction during offence, 1:76	provincial jurisdiction over Aboriginal rights, 1:72
acts of state in foreign jurisdiction,	provincial territorial jurisdiction over federal matters, 1:59
Charter application outside Canada,	over provincial matters, 1:71
1:54.50	to sit in other provinces, 1:74
common law rules, 1:57	proving place of offence, 1:87
concurrent jurisdiction, 1:92	question of law re situs of crime, 1:108
continuing offence (importing), 1:91 Controlled Drugs and Substances Act	real and substantial link to Canada,
exception, 1:85	Security of Information Act exception,
county jurisdiction, 1:80	1:83
crime is generally local to realm, 1:54	summary conviction court, 1:86
divisions of, 1:80	terrorism offences exception, 1:82
doctrine of stare decisis applicable to	unorganized territory in Canada, 1:62
provincial courts, 1:72	vehicle/vessel/aircraft, 1:93
enforcing foreign judgment, 1:69	venue vs. jurisdiction, 1:81
extended territorial jurisdiction, 1:61 ,	waters
1:88, 1:106	arctic, 1:96
extraterritorial	Canadian fishery waters, 1:97
conspiracy	Canadian waters/territorial sea, 1:66
s. 465(3), 1:78	common law, at, 1:95
s. 465(4), 1:79	continental shelf, 1:98
jurisdiction re offences committed	exclusive economic zone, 1:99
outside Canada, 1:77	Great Lakes, 1:102

JURISDICTION—Cont'd	JURY TRIAL
Territorial, 1:54—Cont'd	See also CHARTER OF RIGHTS —
waters—Cont'd	Offence, person charged with
high seas (hot pursuit), 1:104	Addressing jury, 17:82
sea ice, 1:107	after judge's instructions, 17:84
territorial sea, 1:96	charge by judge
Time limitations, 1:31	see instructions by judge
continuing/separate offences, 1:42	closing addresses by counsel
Crown option offences generally, 1:38	absence of evidence, comment re, 17:98
determination on election, 1:39	conduct of counsel, 17:92
informations and, 1:41	Crown's theory of liability, 17:91
partial prescription, 1:44 prescription on face of information,	disregarding of law, comment re, 17:97
1:36 prescription periods, 1:31	failure of accused/spouse to testify, 17:135
repeal of, 1:40	fixed view, comment re, 17:95
specific vs. general, 1:34	incorrect statement of fact, 17:99
specified, 1:33 statutory vs. judicial, 1:32	insanity verdict, consequences of, 17:102
summary conviction offences	legal principles, reference to, 17:96
generally, 1:35	limitations on, 17:90
as included offence, 1:45	order of
where time is essential, 1:37 Types of, 1:2	accused not calling witnesses, 17:85
	Charter consideration, 17:88
JURY	Crown's right to go last, 17:88
See JURY TRIAL	multiple accused, where, 17:86
JURY CHARGE	penalty, comment re, 17:101
See also JURY TRIAL — Instructions by	powerpoint presentation, use of, 17:83
judge Alibi, re, 16:398	premature instructions by judge, 17:82
Conviction appeal court review of, 23:198	right of reply, 17:89
Disease of the mind, 22:20	tailoring of evidence, re, 17:91.50
E-mails between judge and counsel, 17:105	unrepresented accused, 17:87
	visual aids, use of, 7:21
Expert witness, 16:666	instructions by judge
Included offences, 16:300	see also JURY CHARGE
Insanity	accused's testimony, re, 17:117
see INSANITY — Procedure	alternative bases for liability, 17:122
Judge's certification of, 23:130 Jury's entitlement to, 17:155	assumption that jury understands, 17:109
Prior conviction, 16:126	biases and stereotypes, 17:119.30
Provocation for manslaughter, 27:165 ,	content of, 17:112
27:168	contrary evidence as between voir
Similar fact evidence, 16:639	dire and trial, 17:127
Written copy of, jury not entitled to, 17:155	counsel not making submission, where. 17:113

JURY TRIAL—Cont'd	JURY TRIAL—Cont'd
Addressing jury, 17:82—Cont'd	Addressing jury, 17:82 —Cont'd
instructions by judge—Cont'd	opening statement, content of, 17:87
defences	parole ineligibility, 18:174
deliberately rejected by accused,	unrepresented accused, 17:100
17:125	Allegations of misconduct against
invalid but insisted on by accused,	counsel, 17:72
17:131	Attorney General requiring, 8:69,
delay between jury addresses and, 17:108	31:1082
direction to convict, 17:131	Challenges re petit jury
duty of counsel to assist court,	array, challenging, 17:8
17:125	for cause
errors in, counsel duty to object,	acceptance/withdrawal of, 17:37 grounds for, 17:24
17:115	impartiality, 17:25
failure of accused/spouse to testify,	improper question on, 17:33
17:135	pre-screening by judge, 17:36
failure to call witness/tender evi-	procedure on, 17:34
dence, 17:122	questions
finding of fact constituting offence,	put by counsel, 17:35
17:138	re pre-trial publicity, 17:29
immediate instruction, 17:110	racial bias, 17:31
judge's opinions, 17:129	tentative opinion or belief, 17:32
law, explanation of, 17:136	vetting by trial judge, 17:26
legal errors in, appellate review of, 17:115.30	multiple accused, re, 17:20
limiting instructions, failure to give,	peremptory
16:640.50	abolition of, 31:1068, 31:1131
mandatory, 17:116	by accused, 17:22
natural consequences of act,	historical basis for, 17:21
presumption re, 17:138	procedures re, 17:19
non-accused witness incriminates self, where, 31:1237	separate polls, challenging, 17:7 , 17:18 , 17:20
objection to charge, 17:181	stand asides by Crown, 17:23, 31:1069
out-of-court statement, re, 17:121	31:1081
pre-charge conference, 17:104	timing, 17:18
premature, 17:82	types of, 17:7
purpose of, 17:112	Co-accused, rules re, 17:118
re-charge, 17:139	Common law powers re, 17:81
rejection of defence by accused, re,	Conversion to non-jury trial, 17:63
17:126	Deliberations by jury, 17:141
rhetorical questions, use of denigrat-	aids, 17:148
ing, 17:130	copies of Code provisions to jury,
right to disagree, 17:179	17:146
special instructions, 17:120	disclosure of, 17:188
standard of perfection, 17:116	evidence read to jury, 17:152
two-stage aproach to deliberation, 17:112.50	evidentiary materials given to jury, 17:148.50
voluntariness of accused's state-	exhibits in jury room, 17:157
ments, 17:137	interview in judge's chambers, 17:156
written theories of counsel, 17:108	judge's aids to jury, 17:147

JURY TRIAL—Cont'd	JURY TRIAL—Cont'd
Deliberations by jury, 17:141—Cont'd	Interference by trial judge, 17:133
juror's notes and counsel's summaries,	Judge
17:148	presiding, 17:48
jury addresses, reading back of, 17:153	selecting, 17:6
missing exhibits, 17:149	Jurors
monitoring of, 17:142	additional, 17:42
new evidence during, receipt of, 17:169	adherence to oath, presumption re,
nocturnal, re, 17:168	17:30
note-taking, 17:148	alternate, two forms of, 17:41
publication ban during, 17:145	available, 17:38
questions	background checks on, 17:11
answered in open court, 17:159 duty on judge and counsel re, 17:161	challenges
factual matters, re, 17:162	see Challenges re petit jury communication with
incorrect answer, re, 17:164	generally, 17:59
procedure re, 17:160	out-of-court communication, 17:58
withdrawal of, re, 17:165	discharge of
readback/replay/review of evidence,	cause for, 17:62
17:150	timing of, 17:65
refusal to deliberate, 17:158	disqualified, effect on jury, 17:46
secrecy of, 17:143	drawing by clerk, 17:14
secret communications with, no,	excusing of by judge, 17:16
17:144	impartiality of
sequestration of jurors, 17:141	after verdict, 17:70
submissions by counsel to jury, 17:163	in camera inquiry re, 17:66
suspension of, re, 17:166	partiality vs. accused, 17:28
transcript	partiality vs. bias, 17:27
no entitlement to have, 17:154	partiality vs. hardship, 17:69
read to jury, 17:151	proper inquiry, 17:67
verdict before full review of evidence,	real danger test, 17:68
17:167	tests re, 17:68
verdict sheet, 17:147	judge's direction to stand by, 17:17
Demonstration by expert witness	jury roll, representative, 17:9 , 31:1103
after start of jury deliberations, 17:80	misconduct by, 29:54
Election re	oath/affirmation, presumption of adher
see ELECTION	ence to, 17:64 omission of names, 17:54
Empanelling jury, 17:1	omissions re processing, 17:47
Fair trial and counsel's civility, judge's	physically disabled, 17:50
duty to ensure, 17:71	previous, 17:39
Fitness to stand trial, jury disagreement	qualifications
re, 22:87	federal, 17:4, 17:5
Functions of judge and jury, 17:2	provincial, 17:4
Fundamental justice and see CHARTER OF RIGHTS —	screening
Principles of fundamental justice	for exemptions, 17:12
intervene re, 17:73	for prejudice, 17:13
Ineffective counsel, duty to intervene re,	selection by electronic means, 17:14.50
17:73	separation of, 17:51
Instruction re unfair attack 17.134	sequestration of 17:52

JURY TRIAL—Cont'd	JURY TRIAL—Cont'd
Jurors—Cont'd	Jury verdicts, 17:170—Cont'd
talesmen, 17:4	hung jury
methods of summoning, 17:42	see Jury
number of, 17:43	improprieties, 17:187
tampering with, 17:59 Jury	judge' discretion to delcare mistrial after, 16:483
addressing	multiple, 18:227
see Addressing jury	partial verdicts, 17:177
deliberations by	particulars, absence of, 17:176
see Deliberations by jury	polling of jury, 17:184
discharge of before verdict, 1:129	Sunday or holiday, on, 17:172
discrimination issues re	trial judge's report, 23:137
see CHARTER OF RIGHTS —	unanimity
Equality rights — Discrimina-	alternative theories of guilt/
tion	innocence, re, 17:174
fundamental justice and	requirement re, 17:173
see CHARTER OF RIGHTS —	verdict sheet, 17:175
Principles of fundamental	Mistrial
justice	inadmissible evidence before jury,
hung, 14:104 , 17:185 , 31:1168	17:76
non-compliance by trial judge, 17:45	judge's power to declare, 17:74
note taking by, 17:78	necessity for, 17:76
parole ineligibility recommendation of,	prejudicial evidence, 17:76
18:181	prior rulings, application of, 17:75
putting accused in charge of, 17:44	Pleading, 14:17
questions by, 17:79	Protection order, 17:54
secrecy not contravening s. 7 of	Publication restriction, 17:53
Charter, 31:605	Right to
selection process, 17:3	see CHARTER OF RIGHTS —
summaries to assist, 17:77	Offence, person charged with
verdicts	Right to properly constituted jury, 17:40
see Jury verdicts	Substitution of judge during, 1:131
viewing by, 16:66	Verdicts
Jury instruction, immediate, 17:110	see Jury verdicts
Jury management, 17:49	Voir dire
Jury room, exhibits in, 17:157	need for, 17:127
Jury tampering, appearance of, 17:60	Waiver of, 7:44
Jury verdicts, 17:170	Written materials given to jury, 17:83
ambiguous, 17:182	LANGUAGE
_	
completion of, 17:183	Charge, used in, 9:58
disagreement	Complementary language rights, three, 31:1298
instruction re right to, 17:179	Disclosure in trial language, 31:1383
on greater but not lesser offence,	
17:178	Equality rights and, 31:1346
exhortation by judge, 17:180	Forms, of, 16:509 Information of 10:30
finality of, 17:186	Information, of, 10:30
functions of trial judge and jury re,	Language of choice, 31:243
17:170	Language of trial, 2:20, 31:1376, 31:1429
general verdict, 17:171	Legal vs. language rights, 31:68

MANDATORY PROVISIONS—Cont'd LANGUAGE—Cont'd Minority Jury trial instructions, 17:116 see CHARTER OF RIGHTS - Minor-Minimum sentence, 18:107, 31:809, 31:1216, 31:1218 ity language educational rights Official languages, use of, 31:1277, Presumptions, 16:691 31:1359 Prohibition order, 31:575, 31:1220 Statutory interpretation and Reception of information, 10:26 see STATUTORY INTERPRETATION Seatbelts, 31:650 Trial, of, 16:68 Sentences, 18:104 Supervision LAWYER revocation of, 31:1162 Contempt of court by, 29:52 withholding, 31:627 Legal aid lawyer, 31:1354 Verdict on finding of provocation, 27:179 Presence of during police interview, 31:930 **MANSLAUGHTER** Right to retain counsel, 31:850 Aiding or abetting, 15:47 Attempted, 20:14 **LEGAL AID** Charge re Equality rights, 31:1354 identification of unlawful act, 27:118 Information re on arrest, 31:860 unlawful act vs. criminal negligence, Legal aid lawyer, 31:1354 27:117 LIBERTY Co-accused, 27:135 See CHARTER OF RIGHTS Criminal negligence, 27:126, 28:4, 28:32 Drunken automatism, 27:132 LIFE, LIBERTY AND SECURITY OF Fundamental justice and, 31:551 THE PERSON Involuntary See CHARTER OF RIGHTS definition of, 27:116 LIMITATIONS Joint principal offender, liability as, Generally 27:133 see JURISDICTION Liability, levels of, 27:135 Crown option offences, 1:38, 7:39 Provocation for, 27:136 Indictment and information accused's state of mind, 27:136 amendments to, 9:219 attempted murder, unavailable for, Information 27:149 limitation re laying, 10:31 British definition, 27:145 Insanity, assessment order, 22:53 burden of proof, 27:139 Intermittent sentence, 18:355 common law, factors considered at, Young person, 30:24 27:143 consensual fight, provocation during, **MANDAMUS** 27:155 Generally cumulative provocation, 27:172 see EXTRAORDINARY REMEDIES evidence of, 27:160 Discharge and, 26:99 excessive force in self-defence, 27:156 Judicial review and, 31:1503 fight, involvement in, 27:157 Power to order, 31:1446 forms of, 27:141 Summary conviction appeals and, 24:50 historical development of defence, 27:138 MANDATORY PROVISIONS illegal arrest, 27:162 Hunting equipment, mandatory forfeiture

insult

and retaliation, 27:150

ordinary person test, 27:163, 27:166

of, 31:1242

Jury trial, 8:20

Jail sentence, 31:571, 31:809

IANSLAUGHTER—Cont'd	MANSLAUGHTER—Cont'd
Provocation for, 27:136—Cont'd	Unlawful act—Cont'd
jury instruction re, 27:165 , 27:168	"rolled-up instruction" to jury, 27:121
killing before passions cool, 27:153	unlawful dangerous act
legal rights, exercising, 27:158	meaning of, 27:125
loss of self-control	objective test, 27:127
revenge, vs., 27:151	Voluntary vs. involuntary, 27:115
subjective test re, 27:170	
mandatory verdict on finding of provo-	MAXIMUM SENTENCES
cation, 27:180	See SENTENCING
mistake of fact, 27:178	MENS REA
ordinary person standard, 27:163,	See also INTENT
27:166	Attempts, 20:10
partial defence, as, 27:142	Breach of probation, 18:321
predictable result of accused's wrong-	Concurrence of actus reus and mens rea,
ful conduct, 27:161	21:323
proportionality of retaliation, 27:154	Conduct and result, causal relationship
questions of law and fact, 27:175	between, 21:319
reasonable doubt, specific direction re,	Conspiracy and, 19:47
27:181	Crime, definition of, 21:317
revenge killings, avoidance of, 27:169	Criminal contempt, 29:45
self-defence, rejected evidence of	Culpability, requirements of, 21:338
constituting provocation, 27:179	Disobedience of court order, 29:47
self-induced, 27:159	Drinking and driving offences, 21:48
statutory form of, 27:140	External elements of offences and, 21:318
suddenness of, 27:150, 27:171	Fault, requirements of
sudden provocation, 27:150, 27:152,	A.L.I. Model Penal Code, 21:338
27:174	British draft Criminal Code, 21:339
third party, from, 27:177	Fraudulent, 21:332
traditional causes of, 27:146	Fundamental justice and, 31:495
transferred provocation, 27:176	General criminal theory, 21:316
unavailable in absence of evidential	Infanticide, 27:107
foundation, 27:147	Insanity, 22:18
victim's criminal conduct, 27:148,	Intention, 21:337
27:150	Knowledge element
voluntary vs. involuntary manslaughter,	generally, 21:333
27:137	evidence of general knowledge, 21:334
wrongful act or insult, 27:163	intention vs. knowledge, 21:335
Secondary offender, liability as, 27:134	Lack of
Sentencing re	defence, as, 21:315
see SENTENCING	onus on Crown, 21:325
Unlawful act	Meaning of, 21:324
accidental, 27:130	Mistake of law, 21:251
cause of death requirement, 27:120	
consensual fight, 27:124	Motive, 21:337
essential elements, 27:118	Negligence, meaning of, 21:331
insufficient intent for murder, 27:121	Objective fault offences, 21:326
non-criminal, 27:131	Presumption re, 33:30
omission of legal duty, 27:122	Purpose, 21:337
regulatory offence, commission of,	Reasonable or lawful excuse, 21:327
27:123	Recklessness, 21:333

MENS REA—Cont'd

Reverse onus and, 31:1037
"Unlawful act," meaning of, 21:329
Volition relating to act and intent, 21:322
Wilful blindness, 21:333
Wilfulness, 21:336

MENTAL DISORDER

See INSANITY: MENTAL ILLNESS

MENTAL ILLNESS

See also INSANITY
Hospital orders
Britain, 22:140
Indefinite civil detention, 22:138
Involuntary detention under provincial legislation, 22:141
Mentally disordered witness, 22:136
Provincial legislation re accused, 22:137
Psychiatrist's assessment, 22:85
Sentence to prison, 22:139
Statements by mentally ill offenders, 22:135

MINIMUM SENTENCES

See MANDATORY PROVISIONS

MINISTER OF JUSTICE

Appeal powers of, 23:294
Extradition
decisions of, 32:27
duties, 32:37
report to, 32:76
Review applications, 23:290

MINISTERIAL REVIEW APPLICATION

Crown disclosure, 13:102, 23:291

MISTAKE OF FACT

Absolute liability offence and, 21:214
Age, re, 31:606
American Law Institute definition, 21:238
Assault, 21:227
British draft Criminal Code, re, 21:239
Burden of proof on Crown, 21:233
Charter validity of Code re, 21:235
Classification of offence and, 21:213
Consent, re, 21:313
Correction of child and, 21:219
Criminal negligence and (s. 219), 21:222
Definition of, 21:216

MISTAKE OF FACT—Cont'd

Drunkenness, 21:59
consent in general intent crimes,
21:228
specific and general intent crimes,
21:227
Exculpatory defence, as supporting,
21:216

General rule re, 21:212
Immaterial mistake, 21:234
Mistake of law vs., 21:243
Mixed law and fact, 21:237
Nature of defence, 21:232
Provocation for manslaughter, 27:178
Public welfare offence, 21:215, 21:221
Reasonable grounds
absence of, 21:220
public welfare offences and, 21:221
Recklessness, 21:229, 21:231
Self-defence, 21:175

Sexual offences and air of reality re consent, 21:225 belief as to complainant's age, 21:226 statutory definition, 21:224

Strict liability offence, 21:214
Transferred, 21:236

Value judgment element, 21:218 Wilful blindness, 21:230

MISTAKE OF LAW

British draft Criminal Code, re, **21:239** Civil law

Colour of right defence, 21:268
Constitutional validity, mistake re, 21:244
Court rulings, reliance on, 21:262
Custom, reliance on, 21:263

mistake re negating mens rea, 21:251

Deficient legal advice, 21:246
Detention, not basis for, 31:824
Due diligence and, 21:256, 21:264

Fraud and (s. 380), 21:271

General rule re, 21:240 Ignorance and, 21:242

Ignorance of foreigner, **21:260** Immaterial mistakes, **21:267**

Impossibility of knowledge, 21:259

Legal advice, reliance on, 21:261

 $Legal\ obligations,\ re,\ \textbf{21:249}$

Legal question, based on, 21:245

Mens rea and, 21:251

MISTAKE OF LAW—Cont'd	MULTIPLE CONVICTIONS, RULE
Mistake of fact vs., 21:243	AGAINST
Money paid under, 21:250	See also AUTREFOIS ACQUIT AND
Officially induced error, 21:265	CONVICT
Private rights, based on, 21:247	Alternative conviction
Probation order, wilful breach of, 21:253	quashing on appeal, 16:350
Prohibited weapon, re, 21:240	Alternative counts permissible, 16:343
Public law, based on, 21:248	Alternative offences, 16:344
Rationale for exclusion of defence of,	stay at trial, 16:350
21:241	Application of
Scope of law, re, 21:252	generally, 16:339
Silence as consent to sexual conduct, 21:255	examples of improper application, 16:355
Statutory law, reliance on, 21:266	examples of proper application, 16:356
Subordinate legislation	where essential factual elements are
reasonable notice requirement, 21:257	same (s. 85), 16:354
unpublished, 21:258	Conspiracy and substantive convictions, 16:348
MISTRIAL	Conviction for most serious offence,
By judge without jury, 1:138	16:351
Double jeopardy and, 31:1168	Different
Inadmissible evidence before jury, 17:76	acts from same circumstances, 16:346
Judge's power to declare, 17:74	time periods, 16:349
Necessity for, 17:76	victims, 16:347
Prejudicial evidence, 17:76	Disposition on appeal where applied at
MOBILITY RIGHTS	trial, 16:352
See CHARTER OF RIGHTS	Same delict, 16:337
MODIONIC	Statutorily displaced, 16:353
MOTIONS	Substantially different offences, 16:345
Action vs., 31:1453	Substantially similar elements, 16:342
Admission on criminal motions, 31:1454	Sufficient proximity
Authorized intercepted communications	re facts, 16:340
motion to quash	re offences, 16:341
see AUTHORIZED INTERCEPTED COMMUNICATIONS	MULTIPLE PROCEEDINGS
Charter remedy, for	See INDICTMENTS AND INFORMA-
see CHARTER OF RIGHTS — Reme-	TIONS
dies — Procedure	MURDER
Directed verdict, for, 19:57	Accused's state of mind, 27:136
Discharge, re, 13:49	Appeals, 23:18
Dismissal summarily, 16:84.50	Attempted, 27:39.50, 27:149, 31:549
Indictment, to quash	Common law, at, 27:35
see INDICTMENTS AND INFORMA-	Constructive murder
TIONS	
Information, to quash, 10:49	see Second degree
Nonsuit, for	Drunkenness and
see NONSUIT, MOTION FOR	see DRUNKENNESS
Nullity, to quash, 9:192	Duress defence, 21:123
Pre-trial, 16:69	First degree
Search warrant, to quash, 3:133	aiding or abetting, 27:80
Subpoena, to quash, 1:192	charging requirement, 27:65

IURDER—Cont'd	MURDER—Cont'd
First degree—Cont'd	First degree—Cont'd
continuous sequence requirement,	underlying offences—Cont'd
27:97	non-underlying offences, 27:91
deliberate murder	robbery, 27:91
described, 27:70	Sections 231(5), (6), (6.01), (6.1) and
distinguished from planned, 27:68	(6.2), 27:89
deliberation	sexual assault, 27:93
disease of mind and, 27:77	unlawful confinement, 27:92
state of mind re, 27:76	Fundamental justice and
historical background, 27:64	see CHARTER OF RIGHTS —
joint principal parties, 27:79	Principles of fundamental justice
party provisions, non-application, 15:9	Included offences, 16:303, 16:304
planned murder	manslaughter, 23:220
described, 27:69	Intent re
distinguished from deliberate, 27:68	see Second degree; INTENT
planning and deliberation	Joinder of counts
bodily harm, re, 27:73	see INDICTMENTS AND INFORMA-
drunkenness and, 27:78	TIONS
prior to murder, 27:75	Joint principal offender, liabibility as,
relation to murder requirement,	27:45
27:71	Multiple murders, parole ineligibility,
police officer, murder of	31:1196.50
acting in course of duties	Offence of
evidentiary burden, 27:86	first and second degree same offence,
knowledge of fact, 27:83	27:3
objective fact re, 27:84	Parole ineligibility re
proof re, 27:85	see SENTENCING — Parole
knowledge of status, 27:82	Parties to
previous conviction for murder, 27:98	aiding offence
-	see PARTIES TO OFFENCE — Aid-
principal and secondary parties to, 27:88	ing offence,
	common intention, parties to, 15:87
principled approach to, 27:89	Pleadings, sufficiency of
punishment for, 31:1199	see CRIMINAL PLEADINGS
s. 229(c), incompatibility with s.	Previous conviction for, 18:258
231(2), 27:74	Second degree
s. 231 dependence on ss. 229 and 230, 27:67	accident as defence, 27:62
=7.00.	Britain, in
three types of, 27:66 transferred intent, 27:81	common law, 27:35
	definition of murder, 27:36
underlying offences	Canada, definition in, 27:37
accused acting together causing	constructive murder (s. 230)
death, 27:90	accident, 21:11
contributing causes of death, 27:95	
criminal harassment as, 27:94	felony murder rule, 27:63
kidnapping/forcible seizure/unlawful	express intent to murder (s. 229(a)(i))
confinement as, 27:91	attempted murder, 27:39.50
liability for murder during commis-	causation and, 27:40
sion of, 27:87	excessive force in self-defence,

MURDER—Cont'd	NECESSITY—Cont'd
Second degree—Cont'd	Strict or absolute offence, as defence to,
express intent to murder (s. 229(a)(i))	21:92
—Cont'd	NEGLIGENCE
form of, 27:39	See CRIMINAL NEGLIGENCE
natural consequences of act, 27:43	
proof by Crown, 27:42	NONSUIT, MOTION FOR
secondary party, liability of, 27:46	Absence of jury, heard in, 16:261
suicide pact, 27:41	After defence evidence, 16:264
implied intent to murder (s. 229(a)(ii))	Civil case, in, 16:244
consequences of act, ability to see,	Conspiracy trial, 16:265
27:48	Directed verdict
discussed, 27:47	appeal of, 16:267
objective recklessness, 27:53	conspiracy trial, at, 16:265
provocative acts, 27:49	jury trial, 16:260
reckless murder (s. 229(c))	re included offences, 16:254
dangerous act and unlawful purpose,	voir dire, after, 16:259
27:59	Effect of, 16:243
essential elements, 27:57	Election of accused re calling evidence
knowledge re likelihood of death,	hearing motion before, 16:256
27:61	English procedure, 16:251
separate act and purpose, 27:60	Evidence
unlawful object likely to cause death, 27:58	judge's weighing of, 16:247 , 16:248
substituted verdict re, 23:219	on appeal, 16:255
transferred intent in murder (s. 229(b))	quality of, 16:249
accident or mistake, 27:55	Hodge's Case, 16:266
discussed, 27:54	Joint trial, 16:257
transferred from suicide, 27:56	Judge's function, 16:262
Sentencing for, 18:167 , 18:168	Jury's function, 16:262
Young person, 30:81, 30:84	"No case," as, 16:251
	Premature before hearing evidence,
NECESSITY	16:252
American Law Institute definition of,	Question of law, as, 16:250
21:95	Reasonable doubt only at end of case,
Availability as defence, 21:88	16:245
British draft Criminal Code definition of	Reopening case subsequent to, 16:263 Test, 16:246
duress of circumstances, 21:96	/
Canadian position, 21:86	Wrongful dismissal of application, 16:255
Common law, at, 21:85	NOTICE
Compulsion and, 21:87	Abandonment, rescinding, 24:10
Elements of defence, 21:89	Admissibility of evidence, 16:498, 16:500
Examples of	Appeal, of, 23:28, 23:122, 23:269, 24:18
successful defence of, 21:97	Appearance, 1:168, 6:19, 6:96
unsuccessful defence of, 21:98	Authorized intercepted communications
Illegal act not disqualifying defence of,	notice of intention to adduce evidence
21:93	see AUTHORIZED INTERCEPTED
Nature of necessitous act, 21:91	COMMUNICATIONS — Trial
Onus of proof re, 21:94	issues
Reasonable belief, requirement of, 21:90	Constitutional challenges, notice to
Self-defence and, 21:87	Attorney General, 31:101

OPINION EVIDENCE—Cont'd NOTICE—Cont'd Contempt of court charge, notice re basis Expert opinion—Cont'd of, 29:37 admissible areas of, examples, 16:676 Fair. 31:511 fact-in-issue, re, 16:675 Greater penalty, re seeking forensic pathologist, 16:658 see SENTENCING hypothetical question, re, 16:675 Intention to adduce evidence, waiver of, inadmissible opinions, example, 4:156 16:663.50 Interception of private communications, judge's duty to explain to jury, 16:660 of, 4:170 jury rejection of, 16:667 Judicial mental disorder, rejection of evidence, see JUDICIAL NOTICE 22:19.50 Municipality re discrimination, to, range permitted, 16:674 31:1349 re disposition of accused, 16:671 Preliminary inquiry, 16:498 review of in non-jury trial, 16:647.30 Recommencement of proceedings, of, standard of review of, 16:661 12:104, 12:105 ultimate issue, re, 16:674 Subordinate legislation, of, 21:257 Expert witness Young person credibility of, 16:673 adult sentence application, 30:119, cross-examination of, 16:668 30:122 hearsay evidence, reliance on by, to parents, 30:36 16:670 jury direction re, 16:666 **NULLITY** notice of intended use of, 16:664 Absolute vs. relative, 1:144 qualification of, 16:662 Appeal from, 23:72 report, of, 16:665 Consent of Attorney General re prosecu-Non-expert opinion, 16:656 tion, lack of, 12:80 Trial judge's independent research, Defective information vs., 9:240 16:672 Motion to quash re, 9:192 Order for new trial on appeal, 23:241 **PARDON** Prior, 14:115 Effect of on sentencing, 18:195 Wrong oath not, 9:240 Pleadings re **OBSCENITY** see PLEADINGS Remission of fine on, 14:130 Fundamental justice and, **31:503**, **31:612 OBSTRUCT JUSTICE PAROLE** Attempt, 20:26 See also SENTENCING — Conditional release **OFFENCES** Appeal against sentence See CLASSIFICATION OF OFFENCES parole ineligibility period, 25:23 **OPINION EVIDENCE** Arbitrary arrest and detention and, 31:819, 31:823 Generally, **16:655** Defence expert's report, production of, Civil Contempt, no parole for, 29:64 16:669 Committing offence while on, 18:122 DNA evidence Day (PED — parole eligibility date), admissibility of, 3:51, 16:676 18:470 expert's opinion re typing, 16:676 Eligibility national DNA data bank, 3:54 application to accelerate, 31:945 Expert opinion discretion re, 18:94 admissibility of, 16:657 Forfeiture of as double jeopardy, 31:1169

PAROLE—Cont'd	PARTIES TO OFFENCE—Cont'd
Ineligibility	Accessory after fact, 15:122—Cont'd
appeal, 25:23	to another accessory, 15:127
habeus corpus application as review of,	trial of, 15:133
26:43	Actually commits offence, 15:16
jury recommendation, 18:181	constructive presence, 15:23
multiple murders, 31:1196.50	corporate criminal liability
Review hearing for release, 18:471	company, of, 15:32
Sentence continues during, 18:459.50 Sentencing and	corporation vs. corporate directors, 15:33
see SENTENCING	director, of, 15:33
Violent offenders, 18:472	organizations.see organization
PAROLEES	innocent agent, doctrine of, 15:24
Fundamental justice and see CHARTER OF RIGHTS —	joint principal parties (offenders), 15:17
Principles of fundamental justice Right to counsel, 31:625	joint principals not acting together dur ing crime, 12:22
PAROLE INELIGIBILITY	omission of legal duty, 15:20
See PAROLE	organization
SCHAROLL	criminal liability, 15:26
PARTICULARS	defined, 15:28
See CRIMINAL PLEADINGS	fault requirements, 15:25
PARTIES TO OFFENCE	regulatory liability, 15:27
See also AIDING AND ABETTING	"representative" defined, 15:29
Abetting offence, 15:57	"senior officer" defined, 15:31
"abetting," meaning of, 15:57	statutory liability, 15:27
act of encouragement, 15:57 conspiracy, of, 15:65	trials and preliminary inquiries, 15:31
failure to act, by, 15:64	positive act requirement, 15:19
intent to encourage principal, 15:63 legal duty to act, 15:59	principal assisting other principal, 15:21
mere presence, 15:61	principals to offence, 15:16
non-accidental presence, 15:62	Aiding offence, 15:35
preparatory stages of offence, 15:60	abetting offence, vs., 15:35
Accessory after fact, 15:122	accomplishment of offence, require-
aid in apprehension of offender, 15:123	ment, 15:37
assistance to offender	"aid," meaning of, 15:39
conscious purpose of, 15:124	aid/abet conspiracy, 15:44
charge specification, 15:129	directing mind, 15:51
disclosure of offence, 15:122	drugs
discrete offence, as, 15:121	importation into Canada, 15:48
escape apprehension, 15:128	sale/purchase of, 15:49
examples of, 15:135	drunkenness as defence to, 15:41
guilty plea of principal, 15:132	knowledge of details, 15:43
knowledge of committed offence,	knowledge of facts, 15:42
15:125	manslaughter, 15:47
married person, 15:135	murder
proof of underlying offence, 15:130 time of trial of, 15:131	aiding/abetting first degree murder, 15:46

PARTIES TO OFFENCE—Cont'd	PARTIES TO OFFENCE—Cont'd
Aiding offence, 15:35—Cont'd	Common intention, parties to, 15:66
murder—Cont'd	—Cont'd
aiding/abetting second degree mur-	scope of Code provision, 15:66
der (s. 229), 15:45	time factor, 15:79
s. 229(a), 15:45	unlawful purpose
non-particularization of aider or abettor	common intention to assist re, 15:74
in charge, 15:38	consent to, 15:73
omitting to act re legal duty, 15:36	knowledge of further offence, 15:77
passive acquiescence	offence committed differing from,
discussed, 15:52	15:75
unlawful assembly, no defence to, 15:53	requirement, 15:72 , 15:76
	Corporate criminal, regulatory and civil
physical presence, 15:52 , 15:56 principal and secondary offenders	liability, 15:34
acquittal of principal, 15:55	Counselling
liability of, 15:54	actus reus of, 15:109
purpose of aiding, 15:40	mens rea of, 15:110
unidentified person, aiding, 15:50	offence committed
Code provisions re, 15:8	generally, 15:91
Common intention, parties to, 15:66	consequence of offence counselled, 15:97
aider, presence of, 15:78	"counsel," meaning of, 15:91
assistance in preparation, 15:81	"counselling," meaning of, 15:98
common intention to assist, 15:74	counselling vs.
common law rule, 15:69	attempting, 15:104
common participation vs., 15:18	conspiracy, 15:105
common purpose	counsellor's liability, 15:92
abandonment of, 15:83	counselor not originating/initiating
termination of, 15:82	transaction, 15:102
drunkenness, defence of, 15:90	different offence, 15:96
duress, defence of, 15:89	direction at particular person, 15:93
elements of, 15:70	foreign jurisdiction, in, 15:106
events before and after crime, 15:80	"inciting," meaning of, 15:101
evidentiary rule re, 15:71	in different way, 15:95
knowledge of contemplated crime,	not present at offence, 15:104
15:88	"procuring," meaning of, 15:99
murder	"solicit," meaning of, 15:100
attempt requirement, 15:88	offence not committed
Charter invalidity, 15:87	generally, 15:107
objective liability, invalidity of,	counselling
15:68	as offence itself, 15:107
objective liability, 15:68	completion of, 15:119
"ought to have known"	direction of, 15:116
meaning of, 15:85	originator of, 15:111
murder, 15:87	particularize counseling, 15:102
possession offence, 15:84	secondary party, to become,
principal and secondary offenders	15:118
separate liability of, 15:67	inciting to conspire, 15:120
probability that greater or included	influence
offence will be committed, 15:86	on counselled person, 15:113
	on commone person, revite

PARTIES TO OFFENCE—Cont'd	PERJURY—Cont'd
Counselling—Cont'd	Testimonial self-incrimination, 31:1238
offence not committed—Cont'd	PERPETUATED EVIDENCE
influence—Cont'd	Charter issue, 16:229
on procured person, 15:114	Cross-examination
merger with completed offence, 15:108	burden on accused re, 16:232
procuring	opportunity at previous proceedings,
attempt, 15:117	16:237
influence on person procured,	Described, 16:222
15:114	Discretion re, 16:230 Discretion to adjourn trial, 16:242
instigation of, 15:115	Excluded types of evidence, 16:238
punishment, 15:112	Same accused, 16:225
Criminal liability, alternative bases of, 15:4	"Same charge," meaning of, 16:233
100.	Section 715
Duty to victim, accused with, 15:6 Joint and several liability, 15:5	as complete code, 16:226
"Joint criminal enterprise," meaning of,	not a complete code, 16:223
15:14	Trial fairness, conditions to ensure,
Legal duty, principal omitting to perform,	16:231
15:20	Witness
Manner of charging parties to offence,	changing mind, 16:236
15:7	non-permanent absence of, 16:241
Murder, first degree, 15:9	reasonable diligence to find, 16:240
Primary liability vs. vicarious liability,	refusing to testify, 16:234
15:3	unavailability of, 16:239
Principals and accessories	PHOTOGRAPHS
abolition of distinction, 15:2	See IDENTIFICATION; YOUNG
at common law, 15:1	PERSON
different level of convictions, 15:12	
immunity re principals, 15:11	PLEA AND SENTENCE BARGAINING
principal vs. secondary party, accused as, 15:13	See SENTENCING
Transferred intent, 15:15	PLEADING
Victim cannot be party, 15:10	Absence of plea, 14:15
• •	Failure to give accused in charge of jury,
PEACEFUL ASSEMBLY	14:17
See CHARTER OF RIGHTS	General plea, 14:11
PEACE OFFICER	General plea of not guilty, 14:11
See also ARREST — Without warrant;	Guilty plea, 14:20
POLICE Without warraint,	accomplice, of, 14:31
Ancillary powers of, 5:89	accused's presence in court, 14:20
Assault of, 5:23	admission against interest, as, 14:58,
Delivery of arrested person to, 5:46	14:68
Intercepted communications	after evidence, 14:64
emergency designation of peace officer,	appeal consequences
4:79	Crown option offence, 14:72
DED HIDY	remedy on appeal, 14:73
PERJURY	appellate power to set aside, 14:72.50
Following convictions, 31:1174	awareness of collateral consequences,
Issue estoppel, application to, 14:154	14:38

PLEADING—Cont'd	PLEADING—Cont'd
Guilty plea, 14:20—Cont'd	Guilty plea, 14:20 —Cont'd
change of	"voluntary plea," meaning of, 14:47
after sentence, 14:42, 14:46	withdrawal of
judge's discretion, 14:41	co-accused's acquittal, 14:51
onus re, 14:43	dissatisfaction with sentence, 14:46
Charter rights, as waiver of, 14:60	intoxication at time of plea, 14:49
co-accused, by, 14:32	irregularities, based on, 14:44
comprehension inquiry, 14:24.50	no offence disclosed, where, 14:48
conditions for acceptance of, 14:25	Jury, plea to, 14:18
counsel, by, 14:56	Multiple offences in information, where,
defence counsel's conflict of interest, 14:45	13:13 New trial, no plea at, 14:19
denial of alleged facts, 14:54	Pardon
included offence, to	administrative pardon, 14:125
consent required, 14:65	anticipatory pardon, no, 14:121
Crown option offence, 14:70	described, 14:120
non-acceptance of, 14:66	disabilities removed by, 14:128
ineffective counsel, 14:39	effects of, 14:124
inquiry even if counsel present, 14:37	expungement of historically unjust
knowledge of consequences of, 14:30	offences, 14:126
knowledge of relevant facts, 14:29	foreign, 14:132
legal effect of, 14:52	free pardon, 14:131
mental disorder, where, 14:47	manner of pleading, 14:122
mental health concerns re, 14:42	record suspension, 14:125
NCRMD verdict vs., 14:29	remission of fines, 14:130
non-included offence, to, 14:33	royal prerogative of mercy, 14:129
one of several accused, by	subsequent conviction after, 14:127
consequence of, 14:62	types of, 14:123
inadmissibility against other accused, 14:63	Refusal to plead, 14:13
personal plea, at common law, 14:57	Res judicata, 14:133
plea agreement	see also AUTREFOIS ACQUIT AND
indictable offence, 14:23	CONVICT; MULTIPLE CONVICTIONS, RULE
serious personal injury offence,	AGAINST
14:21	abuse of process vs. issue estoppel vs
young person, 14:22	14:134
plea negotiations, involvement of judge	civil judgments, 14:140
in, 14:50	civil trial following criminal trial,
qualified/equivocal, 14:61	14:139
sentence hearing, onus on Crown at,	estoppel by convention, 14:136
14:55	finality to litigation, 14:137
statement of facts after, 14:53	issue estoppel
struck by court, 14:69	availability of, 14:143
third party, by, 14:59	co-accused, unavailable to, 14:151
to judge	Crown, not available to, 14:157
acceptance by, 14:24	determination by trial judge, 14:148
discretion to accept, 14:34	effect of, 14:142
discretion to reject, 14:35	English practice, 14:158
validity requirements, 14:27	interlocutory rulings, 14:146

PLEADING—Cont'd	POLICE—Cont'd
Res judicata, 14:133—Cont'd	Duty re contact of counsel, 31:921
issue estoppel—Cont'd	Exclusion of evidence and
multiple counts, applicability to,	duty to preserve evidence, 31:1560
14:152	lack of good faith on part of, 31:1559
onus on accused, 14:150	misconduct, deterrence of, 31:1558
perjury, application to, 14:154	Flight from, 16:416
premature application, 14:149	Informal agreement with, breach of,
prior Charter ruling, 14:156	12:146
prior jury trial, 14:144	Interview, presence of lawyer during,
prior rulings in mistrials and	31:930
continued trials, 14:147	Lineups, practice re, 16:388
raised by plea of not guilty, 14:141	Military, 5:32
res judicata vs. abuse of process vs., 14:134	Misconduct, 5:64, 18:54 Murder of
sole isolated issue, 14:145	see MURDER — First degree
meaning of, 14:133	Police demand, compliance with, 31:857
prior conviction, 14:139	Police statement, cross-examination on,
prior determination of cause or issue,	31:932
14:138	Powers, generally, 5:5
promissory estoppel, 14:135	Prosecutor, 12:53 , 31:1083
proprietary (equitable) estoppels,	Provision of drugs to accused by, 21:285
14:135.50	Questioning by, 31:481, 31:868
restitution orders, 14:140	Records re young person, 30:169 , 30:174
Separate pleas, 14:16	Release from custody by
Special pleas, 14:74	see RELEASE FROM CUSTODY —
autrefois acquit and convict	Bail Reform Act, release under
see AUTREFOIS ACQUIT AND CONVICT	Right to retain counsel and, 31:920,
disposal of by judge without jury,	31:923
14:74	Tainting of Crown witness by, 31:601
double jeopardy	POSSESSION
see AUTREFOIS ACQUIT AND	Admission of theft, 16:445
CONVICT	Admission of theft conviction of trial,
new trial, on, 14:75	16:446
onus re, 14:43	Alternative charges to, 16:437
premature, 14:111	Bailee, 16:479
procedure on, 14:112	Completion of, 16:439
sentencing discharge, 14:76	Computer images, 16:449
Standing mute at common law, 14:14 Types of, 14:10	Constructive
Written statement of facts, guilty finding	elements of, 16:463
on basis of, 14:12	exclusive possession, 16:467
	forms of, 16:465
PLEADINGS	knowledge and control, 16:466
See CRIMINAL PLEADINGS	knowledge requirement, 16:464
POLICE	physical possession and, 16:468
See also ARREST; PEACE OFFICER	Continuity of items to prove possession,
Detainee's re-consultation with counsel,	16:476
31:922	Continuous, 16:441
Duties on arrest, 31:862	Conversion, by, 16:438

POSSESSION OF INTERCEPTION POSSESSION—Cont'd Doctrine of recent possession DEVICES application of, **16:433** Offence of, 4:164 described, 16:432 POST-OFFENCE CONDUCT Explanation for See GUILT, CONSCIOUSNESS OF failure to give, 16:436 reasonableness of, 16:434 PREFERRING INDICTMENTS res gestae, as part of, 16:435 Abuse of process and, 12:136 Fingerprint evidence, 16:474 Adding accused to indictment, 11:11 Forgetfulness as defence, 16:444 Adding discharged offence, 11:12 Forms of (s. 4(3)), **16:447** Adding offence disclosed from discharged offence, 11:13 Handwriting comparison, 16:475 Husband and wife sharing premises, Arraignment, by, 11:27 presumption re, 16:451 Attorney General Interruption of, by police, **16:440** consent by, 11:18 Joint former, signed by, 11:17 control, 16:469, 16:473 limited powers of, 11:16 ioint venture. 16:472 Committals from separate preliminary inquiries, joinder of, 11:21 knowledge, 16:471 Common law power, 11:2 knowledge, consent and control requirements, 16:469, 16:471 Consent committal, 11:24 passive acquiescence re consent, Corporate accused, 11:6 16:470 Dropping of charge, 11:7 Knowledge of presence of matter, 16:442 Failure to file indictment, 11:26 Knowledge re, 16:443 Indictable offences only, 11:5 Knowledge vs. possession, 16:430 Invalid committal, 11:15 Meaning of Joinder of offences, 11:20 common law, at, 16:428 "Judge alone" indictment, 11:56 s. 4(3) exclusive definition, **16:429** Jurisdictional starting point, 11:30 Motor vehicles, 16:478 Loss of information underlying indict-Occupancy of house/room/vehicle. ment. 11:25 16:453 Motion to quash indictment, 11:22 Offences, 16:430 New trial, no new indictment at, 11:23 Personal Other charges, 11:7 control, measure/right of, 16:460 Post-1969, 11:4 Pre-1969, 11:3 elements constituting, 16:454 knowledge required Preliminary inquiry request where no opportunity to request, 11:9 character of substance, of. 16:456 where no request, 11:8 narcotics/drugs, 16:459 Private prosecutor, by, 11:19 recklessness/wilful blindness, 16:458 Quashed committal, 11:14 manual handling, 16:455 Signing indictment as administrative act, medical emergency defence, 16:461.50 11:28 public duty (innocent possession), Withdrawal of indictment, 11:29 16:461 surrounding circumstances, 16:457 PRELIMINARY INQUIRY traces of prohibited substance, 16:462 Absence of accused, in, 13:24, 13:37 Presumption of husband's possession, Abuse of process, 12:127, 13:95 16:451 Accused's official language, in, 31:1326 Secondary participants and (s. 21), **16:452** Additional of other indictable offences at, 31:986.50 Text messages, 16:450

PRELIMINARY INQUIRY—Cont'd	PRELIMINARY INQUIRY—Cont'd
Agreement to limit scope of, 13:10	Discharge, 11:11, 11:47, 13:49, 13:59,
Autrefois acquit and convict, 13:31,	13:74
14:97	Disclosure, 13:79
Availability of, limited, 13:4	abuse of process, vs., 13:95
Certiorari and, 26:64	after committal
Charge, 13:30, 13:64, 13:66, 13:69	out-of-court statement by accused,
Charter of Rights and, 13:22, 13:54	13:79 Britain, in, 13:80
court of competent jurisdiction,	civil cases, in, 13:78
31:1440	cross-examination on, 13:111
discharge at, 31:1156	Crown's duty to call witnesses, 13:112
fundamental justice, 31:618	first party vs. third party, 13:83
sealed packet, 31:619, 31:1070	in camera hearing, 13:104
testimonial self-incrimination, 31:1241	intentional and inadvertent non-
Commencement of, 13:5	disclosure, 13:90
Committal for trial, 13:58	lost evidence, evidentiary effect of,
absolute jurisdiction offence, 13:68	13:89.50
additional charges (s. 548(1)(a)), for,	manner of disclosure, 13:92
13:64	non-disclosure of destroyed or unavail-
assessing all evidence, 13:62 assessing quality of evidence, 13:63	able information, 13:89
committal or discharge of accused,	non-disclosure on appeal, 13:96
13:58	personal records
consent to other charges, 13:66	in camera hearing, 13:104
defective information, on, 13:75	of complainant in acused's possession, 13:107
discharge at preliminary inquiry, 13:74	privacy interests re third party held
Hodge's Case, rule in, 13:61	information, 13:101
merger of information with indictment,	production to accused, 13:105
13:73	publication ban, 13:106
oral committal, 13:70	statutory access, 13:100
same transaction (s. 548(1)(a), 13:65	two-stage approach/procedure,
separate informations, on, 13:72	13:102
specific charge, 13:69	written application, 13:103
specific court, to, 13:71	police officers, re, 13:88
summary conviction offence, 13:67	police witness employment file, right
test for, 13:60	to, 13:87
variance, affect of, 13:76	prior to guilty plea, 13:94
Common law re, 13:1	prior to trial
Consent, 13:66	relevant information in Crown's pos
Constitutional right to, no, 13:3	session, 13:83
Contempt of court, 29:23	refusal to order and Charter, 31:603
Cross-examination re private records,	statements of defence witnesses, 13:98
13:99	third parties, non-disclosure to, 13:110
Crown disclosure, three regimes for,	third party records
13:82	Crown records vs., 13:109
Defence disclosure, 13:81	disclosure of, 13:108
Described, 13:2	timing of, 13:93
Direct indictment, 11:31 to 11:39, 11:47,	undertaking by defence counsel, 13:91
11:50	Election, 8:3 , 8:67 , 8:70

PRELIMINARY INQUIRY—Cont'd	PRELIMINARY INQUIRY—Cont'd
Evidence	Procedure—Cont'd
non-present accused calling witnesses,	publication ban, 13:45
13:17	re-election during, 13:32
rules of, 13:16	separate informations, 13:34
Evidence, rules of, 13:16	severance, 13:36
Extraordinary remedy during, 13:27	statutory caution
power to order reopening, 13:77	failure to give, 13:51
Fitness to stand trial, 22:74	jurisdictional nature of, 13:50
Full answer and defence, 13:40	one caution, 13:52
Indictable offences, 13:8, 13:9	other indictable offences, re, 13:53
Jurisdiction, extended, 1:115, 1:117	response to
Justice	Charter implication, 13:54
also acting at trial, 13:25	unsworn statement, as, 13:55
concurrent jurisdiction, no, 13:25	witness
duty of to inquire, 13:14	accused's right to call, 13:43
seizing of jurisdiction, 13:23	Crown's right to call additional,
statutory jurisdiction of, 13:21	13:42
Non-s. 469 offences with 14 years/more	refusal to testify, 13:41
punishment, 13:8	Purposes of
No request for, where, 13:6	cross-examination by accused, 13:19
Notice re evidence from, 16:500	former approach, 13:20
Order to stand trial	primary, 13:18
see Committal for trial	Re-election, 13:32 , 31:620
Personal information records (ss. 278.1 to	Regulation of, 13:14
278.91), statutory access to, 5:565 ,	Request for, 13:7
13:100	Severance of accused, 9:274
Prior hearing to identify issues and wit-	Severance of counts, 9:256
nesses, 13:12 Prior identification of issues and wit-	S. 468 offence, 8:3
nesses, 13:11	Sufficiency of evidence, 9:126
Procedure	Transcript, 16:486
	Withdrawal of charges during, 12:159
absconding accused, 13:37	Witnesses, forced calling of, 13:15
absent accused, 13:38	Young person, right to request, 30:23
amendment of charge, 13:30	PREROGATIVE WRITS
defence rights, 13:39	See EXTRAORDINARY REMEDIES
denial of argument, 13:46	
evidence	PRESS, FREEDOM OF THE
after caution, 13:57	See CHARTER OF RIGHTS — Thought,
transcript of, 13:47	belief, opinion and expression
unsworn, 13:48	PRESUMPTIONS
exclusion of public, 13:44	Adherence to oath, 17:30, 17:64
full answer and defence, 13:40	Constitutional validity, 31:21, 31:181,
informant's grounds, inquiry re, 13:29	34:36
joint trial and, 13:35	Husband's possession, 16:451
motion to discharge, 13:49	Inadmissibility of similar fact evidence,
motion to quash, 13:28	16:631
out-of-court statement by accused,	Innocence
13:56	see INNOCENCE, PRESUMPTION
particulars, 13:33	OF

Jury trial, 8:17 Mandatory presumptions, 16:691 Mens rea, 33:30 Natural consequences of act, presuming, 17:138 Offence authority, 12:41 due appointment, 12:40 regularity, 12:39 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CTITIZEN Arrest by generally see ARREST — Without warrant	PRESUMPTIONS—Cont'd	PRIVATE CITIZEN—Cont'd
Mandatory presumptions, 16:691 Mens rea, 33:30 Natural consequences of act, presuming, 17:138 Officace authority, 12:41 due appointment, 12:40 regularity, 12:39 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally	Judicial integrity, 26:80	Arrest by—Cont'd
Mens rea, 33:30 Natural consequences of act, presuming, 17:138 Offence authority, 12:41 due appointment, 12:40 regularity, 12:39 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Returospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus sec CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally	Jury trial, 8:17	Charter and, 31:134
Natural consequences of act, presuming. 17:138 Offence authority, 12:41 due appointment, 12:40 regularity, 12:39 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally See PROSECUTING OFFENCES Abuse of process, 12:141 Charter and, 12:95 Conduct of, 12:48 Crown stay, review of, 10:11 Intervention in, 12:57 Withdrawal of charges powers re, 12:155 timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:554 specified public interest privilege (s. 37, C.E.A.), 16:555 Informer, 16:556 Innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	Mandatory presumptions, 16:691	Direct indictment application, 11:49
Natural consequences of act, presuming, 17:138 Offence authority, 12:41 due appointment, 12:40 regularity, 12:39 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YQUING PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Generally see PROSECUTING OFFENCES Abuse of process, 12:141 Charter and, 12:95 Conduct of, 12:48 Crown stay, review of, 10:11 Intervention in, 12:57 Withdrawal of charges powers re, 12:155 timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:566 Triminal plea negotiations, 16:556 fundence of Queen's Privy Council, 16:553 Confidential communications, 16:554 Criminal plea negotiations, 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:555 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	Mens rea, 33:30	PRIVATE PROSECUTIONS
Trition Offence authority, 12:41 due appointment, 12:40 regularity, 12:39 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally see PROSECUTING OFFENCES Abuse of process, 12:141 Charter and, 12:95 Conduct of, 12:48 Crown stay, review of, 10:11 Intervention in, 12:57 Withdrawal of charges powers re, 12:155 timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:554 specified public interest privilege (s. 37, C.E.A.), 16:555 Informer, 16:556 Innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
Abuse of process, 12:141 due appointment, 12:40 regularity, 12:39 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Abuse of process, 12:141 Charter and, 12:95 Conduct of, 12:48 Crown stay, review of, 10:11 Intervention in, 12:57 Withdrawal of charges powers re, 12:155 timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Confidence of Queen's Privy Council, 16:553 Co		
autionity, 12:40 due appointment, 12:40 regularity, 12:39 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Return of seized items, 3:104 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Charter and, 12:95 Conduct of, 12:48 Crown stay, review of, 10:11 Intervention in, 12:57 Withdrawal of charges powers re, 12:155 timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:546 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:546 Cromital valuation in, 12:105 PRIVALEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Coun		
regularity, 12:30 Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally	· ·	1
Official capacity of receiving justice, 10:62 Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Crown stay, review of, 10:11 Intervention in, 12:57 Withdrawal of charges powers re, 12:155 timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:551 CSIS, 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:564 Marital, 16:570 Mentally		
Intervention in, 12:57 Withdrawal of charges powers re, 12:155 timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:554 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure see CHARTER OF RIGHTS — Search and seizure see CHARTER OF RIGHTS — Search and seizure see CYOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally		
Prerogative remedy, against, 31:1504 Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Withdrawal of charges powers re, 12:155 timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:554 specified public interest privilege (s. 37, C.E.A.), 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:544		
Retrospectivity, 33:104, 33:106 Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally		
Return of seized items, 3:144 Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally timing of, 12:156 PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:554 Scrown privilege described, 16:550 full answer and defence, vs., 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:550 solicitor-client privilege, 16:560 solicitor-client privilege, 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege, 16:548 Religious communications, 16:544 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:556 crom privilege formally 16:5555 Informer, 16:555 Informer, 16:556 Info		
Reverse onus see CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally PRIVILEGE Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:556 Crown privilege described, 16:550 full answer and defence, vs., 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:564 Adarital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:548 Religious communications, 16:548 Religious communications, 16:546 Criminal plea negotiations, 16:556 Crown privilege described, 16:550 Cromprivilege described, 16:550 Cromprivilege described, 16:550 Cromprivilege described, 16:554 Cromidential communications, 16:546 Criminal plea negotiations, 16:556 Crown privilege described, 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:554 Marital, 16:544 Marital, 16:544 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:571 Municipal, 16:571 Municipal, 16:574 Municipal, 16:575 Minicipal Marital C		
See CHARTER OF RIGHTS — Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory See STATUTORY INTERPRETATION — Special rules Trial See TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 See also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure See CHARTER OF RIGHTS — Search and seizure, unreasonable Young person See YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Generally, 16:543 Class vs. case-by-case, 16:544 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:556 Crown privilege described, 16:550 full answer and defence, vs., 16:555 Informer, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:554 Marital, 16:559 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:546 Criminal plea negotiations, 16:556 Crown privilege described, 16:550 Full answer and defence, vs., 16:555 Informer, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Jurnalistic, 16:547, 31:301, 31:303 Judicial, 16:559 Work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege See Crown privilege		
Offence, person charged with Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Sobriety, 21:54 Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:563 Crown privilege described, 16:550 full answer and defence, vs., 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:571, 34:20 Public interest privilege Solicitor-client privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:571, 34:20 Public interest privilege Solicitor-client privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:571, 34:20 Public interest privilege Solicitor-client privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:571, 34:20 Public interest privilege Solicitor-client privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege Solicitor-client privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:574 Municipal, 16:574 Municipal, 16:575 Mentally disordered statements, 16:574 Municipal, 16:570 Mentally disordered statements, 16:574 Municipal, 16:570		
Sanity, 22:10 Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CTIZEN Arrest by generally Confidence of Queen's Privy Council, 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:563 Crown privilege described, 16:550 full answer and defence, vs., 16:551 specified public interest privilege (s. 37, C.E.A.), 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:564 Marital, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:557 Work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:571, 34:20 Public interest privilege see Crown privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:546		
Search warrant validity, 3:114 Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally 16:553 Confidential communications, 16:546 Criminal plea negotiations, 16:563 Crown privilege described, 16:550 full answer and defence, vs., 16:554 specified public interest privilege (s. 37, C.E.A.), 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:546		
Sobriety, 21:54 Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Confidential communications, 16:546 Criminal plea negotiations, 16:563 Crown privilege described, 16:550 full answer and defence, vs., 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege, 16:548 Religious communications, 16:546 Religious communications, 16:546 Criminal plea negotiations, 16:563 Crown privilege described, 16:550 full answer and defence, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, 16:554 Marital, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege, 16:548 Religious communications, 16:546		_
Spousal coercion, 21:102 Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Criminal plea negotiations, 16:563 Crown privilege described, 16:550 full answer and defence, vs., 16:554 specified public interest privilege (s. 37, C.E.A.), 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege, 16:548 Religious communications, 16:549		
Statutory see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Crown privilege described, 16:550 full answer and defence, vs., 16:554 specified public interest privilege (s. 37, C.E.A.), 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege (s. 37, C.E.A.), 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, 16:560 and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally	• 1	· · · · · · · · · · · · · · · · · · ·
see STATUTORY INTERPRETATION — Special rules Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally described, 16:550 full answer and defence, vs., 16:554 specified public interest privilege (s. 37, C.E.A.), 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	-	
Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally full answer and defence, vs., 16:554 specified public interest privilege (s. 37, C.E.A.), 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:569 Litigation privilege, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	•	1 2
Trial see TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally specified public interest privilege (s. 37, C.E.A.), 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
See TRIALS Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally 37, Č.E.A.), 16:551 CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:560 solicitor-client privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	<u>*</u>	
Unreasonableness of warrantless search, 31:748 Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally CSIS, 16:555 Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	see TRIALS	
Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Informer, 16:556 innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	Unreasonableness of warrantless search,	· ·
Voluntary act, 21:29 PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally innocence at stake, vs., 16:557 procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	31:748	
PRISON See IMPRISONMENT; INMATE PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally procedure for claiming, 16:558 International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	Voluntary act, 21:29	
PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally International relations and national defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549	PRISON	
PRIVACY Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally defence and security privilege, 16:552 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege See Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
Administrative searches and, 31:785 Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Arrest by generally Administrative searches and, 31:785 Journalistic, 16:547, 31:301, 31:303 Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege See Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		defence and security privilege,
Life, liberty and security of the person and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Judicial, 16:569 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
and, 31:437 Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Judicial, 16:509 Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
Protection of, 4:2 see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Litigation privilege, 16:560 solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
see also PROTECTION OF PRIVACY Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally solicitor-client privilege, vs., 16:559 work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		Litigation privilege, 16:560
Right to retain counsel and, 31:928 Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally work product/solicitor's brief privilege, 16:564 Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
Search and seizure see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
see CHARTER OF RIGHTS — Search and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Marital, 16:570 Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
and seizure, unreasonable Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Mentally disordered statements, 16:574 Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
Young person see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Municipal, 16:572 Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
see YOUNG PERSON - Publication ban re name/identity PRIVATE CITIZEN Arrest by generally Parliamentary, 16:571, 34:20 Public interest privilege see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
PRIVATE CITIZEN Arrest by generally see Crown privilege Qualified privilege, 16:548 Religious communications, 16:549		
Arrest by generally Qualified privilege, 16:548 Religious communications, 16:549	ban re name/identity	
Arrest by generally Qualified privilege, 16:548 Religious communications, 16:549	PRIVATE CITIZEN	1 0
generally Religious communications, 16:549		
see ARREST — Without warrant Separate claims of, 16:545		
	see ARREST — Without warrant	Separate claims of, 16:545

PROSECUTING OFFENCES PRIVILEGE—Cont'd Settlement privilege, 16:562 Attorney General Solicitor-client generally, 12:1 conflict of interest, 16:567 acting attorney general, 12:35 described, 16:560 agent and counsel of attorney genfull answer and defence, 16:565 eral, 12:38 litigation privilege vs., 16:559 agent of attorney general non-use of pre-trial discovery/ consent required to prosecute, documents, implied undertaking, 12:34 16:569 delegation of authority to, 12:30 psychiatrist's assessment, 22:88 law society review of, 12:33 public safety exception, 16:566 of both federal and provincial rule of confidentiality, 16:569 attorney general, 12:31 waiver of. 16:567 private counsel, 12:32 Solicitor-client communications, constitutional status, 12:5 disqualifying access to, 16:568 deputy attorney general, 12:37 Specified public interest privilege, 16:551 federal attorney general Tribunal, 16:574 concurrent jurisdiction, 12:27 "Without prejudice" settlement comnon-Code prosecutions, 12:28 munications, 16:562 status to prosecute, 12:27 federal vs. provincial attorney gen-PROBATION eral, 12:25 Breach of, 18:321, 21:253, 24:24 injunction application by, 12:21 Charter and malicious prosecution, no immunity breach of probation, 31:1155 from action for, 12:3 voting rights, 31:394 Minister of Justice vs., 12:6 Conditional discharge and, 18:310 obligations re prosecutions, 12:14 prerogative vs. statutory powers of, Intermittent sentence and, 18:353 12:20 Requirement of discharge, 18:331 presumptions Revocation of and double jeopardy, authority, of, 12:41 18:312 due appointment, of, 12:37 Sentencing and regularity, of, 12:39 see SENTENCING provincial attorney general, 12:26 Young person solicitor general, attorney general see YOUNG PERSON — Sentences includes, 12:36 **PROCEDENDO** unified criminal court, constitutionality of, 12:23 Generally, 26:100 British Attorney General, 12:13 PROCEDURAL FAIRNESS consent of Generally, 26:3, 31:492 generally, 12:69, 12:83 agent of Attorney General, 12:73 PROCEEDS OF CRIME amending counts re offence requiring See SEARCH AND SEIZURE consent, 12:88 direct indictment, 12:90 **PROHIBITION** disclosure on information, 12:74 See EXTRAORDINARY REMEDIES federal attorney general, 12:72 **PROPERTY** formal matter, as, 12:78 See DEFENCE OF PROPERTY inchoate offences, 12:76

PROSECUTING OFFENCES—Cont'd	PROSECUTING OFFENCES—Cont'd
Attorney General—Cont'd	Private prosecutions, 12:51
consent of—Cont'd	appeal by prosecutor
information	indictable offences, 12:60
consent not part of, 12:82	intervention without conducting
same transaction as consent, 12:86	prosecution, 12:58
insufficiency of consent, 12:85	summary conviction offences, 12:61
non-consent offences, included,	Crown stay, review of, 10:9
12:75	indictable offences
nullity if no consent, 12:80	intervention in, 12:57
opportunity to prove, 12:79	issuance of process for, 12:50
oral consent, 12:83	judge-alone trials, in, 12:59
provincial attorney general, 12:71	Sovereign's name not required, 12:51
public prosecution, 12:81	summary conviction proceedings
relaying discharged offence, re, 12:91	compelling personal attendance of defendant, 12:54
relaying dismissed charge, 12:92	interventions in, 12:56
review of, no, 12:70	police prosecutor in, 12:53
satisfaction of justice re, 12:77	private agents in, 12:52
second consent, filing, 12:87	Professional rules of conduct, function of,
sufficiency, 12:89	12:7
sufficiency of consent, 12:84	Prosecutor
time for obtaining, 12:69	discretion of
final authority of (Shawcross doctrine), 12:8	generally, 12:62 , 12:148
	corroboration not required, 12:64
of Canada, 12:42	determining charges, 12:63
government-commenced proceed- ings, 12:45	exercise of, 12:9
narcotics offences, prosecution of,	hybrid offences, 12:66
12:42	limitation on, 12:65
non-Code prosecutions	previous convictions, re, 12:67
government-commenced proceed-	witnesses, 12:68
ings, 12:45	independence from police, 12:12
intervention in, 12:49	meaning of, 12:1
status re, 12:43	indictable offences, 12:1
private prosecution, conduct of,	summary conviction offences, 12:2
12:48	prosecutorial discretion, meaning of, 12:9, 12:62
ratification of prosecution, 12:47	prosecutorial independence, 12:11
rights of appeal of, 12:44	prosecutorial misconduct, 12:10
Crown, injunction/mandamus/action against, 12:22	Prosecutorial immunity, 12:4
Crown counsel, role in investigative hear-	Remediation agreement, 12:163
ings (s. 83.28), 12:18	court approval of, 12:165
Damages for prosecutorial misconduct, 31:1413	independent monitor, appointment of, 12:164
Defence counsel, obligations of, 12:15	legal effect of, 12:166
Federal Director of Public Prosecutions,	negotiation of, 12:163
12:29	Stay of proceedings
Lawyer's duty in advising client, 12:16	see STAY OF PROCEEDINGS

PROSECUTING OFFENCES—Cont'd

Withdrawal of charges, 12:151

Charter jurisdiction, termination of, 12:162

common law, at, 12:151

consequence of, 12:152

English practice, 12:153

indictments, withdrawal of, 12:160

power to stay and, 12:158

practice re, 12:154

preliminary inquiry, during, 12:159

public vs. private prosecutor, by, 12:155

timing of, 12:156, 12:157, 12:159

"withdrawal," meaning of, 12:161

PROSTITUTION

Association with, 31:1051

Charter validity, 31:453

Communication for purpose of, 31:240

Prostitute as victim, 18:45

PROTECTION OF PRIVACY

See also DISCLOSURE OF PRIVATE COMMUNICATIONS; INTERCEP-TION OF PRIVATE COM-MUNICATIONS; PRIVACY

Annual report to Parliament re, 4:5

Criminal Code provisions re

Charter validity, 4:2

compromise solution, as, 4:3

constitutional validity of, 4:2

purpose of, 4:1

Offences created for, 4:4

PROVOCATION

Common law, at, 27:143

Drunkenness and, 21:73

Illegal arrest as, 27:162

Manslaughter, for

see MANSLAUGHTER

Murder, as defence to, 31:563

Sentencing principles, 18:66.50

PSYCHIATRIC ASSESSMENT

Cross-examination on, right to, **22:85** Insanity

see INSANITY — Fitness to stand trial

Refusal to submit to, 31:524

PUBLICATION BAN

See also PUBLICITY

PUBLICATION BAN—Cont'd

Change of venue

application for, 2:7

evidence, ban on publication, 31:339

Extradition, 32:54

Freedom of the press and

see CHARTER OF RIGHTS —

Thought, belief, opinion and expression

Preliminary inquiry, 13:45

Young person

see YOUNG PERSON - Publication

ban re name/identity

PUBLIC INQUIRY

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

PUBLICITY

See also PUBLICATION BAN

Bail hearing, **31:1040**

Change of venue, application for, 2:12

Contemptuous press, 31:309

Excessive, 31:1078

Fundamental justice, 31:599

Pre-trial, 17:29, 31:309

PUBLIC WELFARE OFFENCES

Classification of, 7:7

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

QUESTION OF FACT

Death or serious bodily harm, 21:187

Exclusion of evidence, 31:1533

OUESTION OF LAW

Appeal to court of appeal on, 24:65

Attempts, 20:27

Delay as, 31:1004

Entrapment, 21:290

Exclusion of evidence, 31:1533

Mental disorder, 22:19

Nonsuit, motion for, 16:250

Situs of crime, 1:108

REASONS FOR JUDGMENT

Changes to, 16:488

Failure to give, 31:561

Indictable appeals, in

see INDICTABLE APPEALS

Summary conviction appeals, in

see SUMMARY CONVICTION

APPEALS

Use of to interpret formal order, 16:485

REGULATORY OFFENCES	RELEASE FROM CUSTODY—Cont'd
Due diligence re, 21:344	Bail Reform Act, release under, 6:17
Fault, element of, 31:570	—Cont'd
Unlawful act, as, 27:123	by police—Cont'd
RELEASE FROM CUSTODY	release by arresting officer, 6:20 , 6:25
Bail	restraint principle, 6:17
see also CHARTER OF RIGHTS —	time to lay information, 6:28
Offence, person charged with,	undertaking, 6:22
Principles of fundamental justice	judicial interim release
at common law, 6:1	abstention from communication
breach hearing, pending, 18:343	pending hearing, 6:33
confidence in administration of justice, 6:11	appearance at bail hearing, 6:30 , 6:32
extradition case, 6:16	cash deposit
factors formerly considered, 6:4	authority for, 6:42
former test for, 6:3	excessive, 6:43
in Britain and U.S., 6:2	conditions of, 6:40 , 6:41
prior to 1972, 6:5	custody order, duration of, 6:70
publication ban at hearing, 31:324	detention re another matter, 6:38
purpose of, 6:7	estreatment
right to counsel at hearing, 6:8	after stay of proceedings, 6:53
Bail Reform Act, release under, 6:17	effect of, 6:55
after arrest while on interim release	factors considered by justice, 6:31
cancellation of previous order, 6:115	forfeiture
contravention of bail terms, 6:113	amount of, 6:58
jurisdiction of issuer of warrant,	no appeal, 6:59
6:112	of recognizance, 6:57
reverse onus on revocation hearing, 6:111	standing at hearing, 6:51
**	hearing
subsequent summary conviction offence, 6:114	contested hearing, principles and guidelines, 6:37
by police	evidence at, 6:76
Aboriginal accused/vulnerable population, person from, 6:18	non-publication order, 6:78
"about to commit" arrests, 6:23	no questions re offence, 6:77
appearance notice, 6:21	interception of, 6:6
communication, abstention from	jurisdiction, 6:87
pending trial, 6:26	levy and committal, 6:60
compelling attendance, new modes of, 6:19	material change in circumstances, 6:80
fingerprinting, requirement to appear	murder charge, 6:83
for, 6:27	order
issuance of summons/warrant by	change of, 6:74, 6:79
justice, 6:29	continuing until sentence, 6:34
officer by	direct indictment, where, 6:73
without warrant, 6:24	duration of, 6:70, 6:71
with warrant, 6:25	foundation of spent, 6:75
police recognizance, 6:20	new information not affecting,
promise to appear, 6:21	6:72

RELEASE FROM CUSTODY—Cont'd	RELEASE FROM CUSTODY—Cont'd
Bail Reform Act, release under, 6:17	Bail Reform Act, release under, 6:17
—Cont'd	—Cont'd
judicial interim release—Cont'd	pending appeal
order—Cont'd	constitutionality of detention (s.
post-conviction to pre-sentencing,	679), 6:129
6:35	court martial conviction, from, 6:118
recognizance	decision of single judge, review of,
breach of, 6:68	6:134
certificate of default, 6:56	denial of leave to appeal, appeal
consensual variance of, 6:50	against sentence and, 6:127
defective, 6:61	discretion to refuse release, 6:127
discharge of, 6:63	extension of release, 6:133
effect of, 6:62	indictable conviction, from, 6:116
enforcement of, 6:54	new trial, release pending, 6:135
entered into before another justice,	onus on appellant
6:69	conviction and sentence appeal,
forfeiture of, 6:57	6:123
nature of, 6:39	conviction appeal, 6:122
presence in court, 6:52	establishing surrender, 6:125
render by surety, 6:65	sentence appeal, 6:124
terminated by direct indictment,	power to vary terms, 6:130
6:73	public interest, 6:128
release conditions, failure to comply	release prior to sentence, 6:132
with	release re sentence appeal, 6:119
judicial referral hearing, 6:88	revocation of appeal bail, 6:131
power to cancel release, 6:90	supreme court, to, 6:117
power to sustain release, 6:89	Supreme Court of Canada, to, 6:136
release order, arrest for breach of,	pending new trial, 6:120
6:67	pending reference hearing (CC, s. 690),
residual discretion (s. 522 offences),	6:121
6:84	review of release/detention order
reverse onus on accused	appearance notice, review of, 6:95
non s. 469 offences, 6:81	bail order,
s. 469 offences, 6:82	power to vary, 6:93
statutory principles applied at hear-	reviews of, 6:96
ing, 6:36	delay review
summons/warrant re indictment,	•
6:86	applicable despite prior review, 6:101
sureties	
	direction re expedition of proceed-
bail with, generally, 6:44 declaration of, 6:47	ings, 6:103
•	non-compliance with, 6:102
naming of by judge, 6:46	detention where trial delayed, 6:99
presence of at bail hearing, 6:45	habeas corpus application, 6:104
render by, 6:64	judge's error, 6:94
responsibility of, 6:49	justification of detention by Crown,
substitution of, 6:66	6:100
sufficient, 6:44	murder charge, 6:110
warrantless arrest re out-of-province	onus on applicant, 6:91
offence 6.85	procedure at hearing 6.92

RELEASE FROM CUSTODY—Cont'd	REVERSE ONUS
Bail Reform Act, release under, 6:17	Charter of Rights
—Cont'd	see CHARTER OF RIGHTS —
review of release/detention order	Offence, person charged with —
—Cont'd	bail, reasonable — reverse onus
s. 457.7 order, rehearing, 6:109	Counterfeit cases, 16:659
s. 469 order, etc., 6:105, 6:108	Judicial interim release, on, 6:81
s. 522 order	Revocation of bail hearing, 6:111
breach of release, 6:107	SEARCH
review of ss. 522 or 524 order by	See ARREST; CHARTER OF RIGHTS
court of appeal, 6:106	 Search and seizure, unreasonable;
s. 523 order, 6:98	SEARCH AND SEIZURE
vacating of, 6:97	SEARCH AND SEIZURE
Young person	See also ARREST; CHARTER OF
application to, 6:138	RIGHTS
Charged with offence (s. 515(1)), 6:9	Generally, 3:1
Extradition, pending, 6:16	Bank records, 3:186
Protection of public, 6:12	Charter protection, 3:3
Strength of Crown's case, 6:10	Common law warrant, 3:1
Undertaking, on	Extradition proceedings and, 32:44
primary duty re, 6:13	Forfeiture
reasonable conditions of, 6:14	see also FORFEITURE
variation, 6:15	appeal of order, 3:221
RELIGION, FREEDOM OF	conveyance on narcotics conviction, of,
See CHARTER OF RIGHTS	3:224
	criminal organization, 3:209
REMAND	drug offence-related property, 3:209
See also ADJOURNMENT	exemption from liability for possession,
Non-compliance with, 1:147	3:210
REMEDIATION AGREEMENT	forfeiture order and third party rights, 3:213
See PROSECUTING OFFENCES	in rem proceedings (s. 164), 3:201
DEC HIDICATA	law office search, 3:227
RES JUDICATA	offence-related property, 3:204
See AUTREFOIS ACQUIT AND	proceeds of crime
CONVICT; DOUBLE JEOPARDY; PLEADINGS; RULE AGAINST	generally (ss. 462.3, 490(9), 490.1,
MULTIPLE CONVICTIONS	491 and 491.1), 3:202
Media de conviendo	generally (ss. 462.3738), 3:206
RESTITUTION	disclosure of, 3:233
Appellate review of order, 18:376	if accused dies/absconds (s. 462.38),
Charter and, 18:375	3:212
Injunction and, 18:373	property obtained by crime (s. 491.1), 3:205
Mitigating factor, as, 3:138	relief from, 3:214
Orders	restitution of property, 3:222
see SENTENCING	specific powers, 3:200
Res judicata and, 14:140	warrant re (special warrant - s. 462.32),
Search and seizure and, 3:139 , 3:222	3:215
Suspension of on appeal, 23:133	weapon (s. 491), 3:203

SEARCH AND SEIZURE—Cont'd	SEARCH AND SEIZURE—Cont'd
Income tax information, order for	Seized items—Cont'd
disclosure, 3:234	detention order—Cont'd
Management order, 3:218	no notice or affidavit requirement,
Personal property	3:148
cell phone, 3:11	return of item
warrant not required re, 3:13	after expiry of order, 3:156
Postal search, overbroad, 31:807	before expiry of order, 3:155
Premises	test for, 3:146
computer, 3:10	documents, impounding, 3:185
electronic devices, 3:9.50	drug-related, restoration procedure,
garage vs. shop, 3:9	3:172
home vs. other premises, 3:7	examination of, 3:163
media premises, 3:8	forfeiture at trial, 3:183
suspects and non-suspects, of, 3:12	illicit things, retention of, 3:171
Proceeds of crime	items seized without warrant, 3:149
crimes re, 3:223	monetary proceeds to lawful owner, 3:160
disclosure of, 3:233	Narcotic Control Act application
law office search, 3:227	no civil remedy after dismissal,
money laundering/terrorist financing	3:169
act, 3:224, 3:232	procedure, 3:172
special search warrant, 3:79, 3:220	no Charter remedy, 3:150
subsequent assignment of property,	no return pending application/appeal,
3:219	3:161
Reasonable suspicion as basis for, 5:73	perishable items, 3:164
Relief from seizure/forfeiture, 3:214	presumption re return, 3:145
Residence	proceeds of crime items, return of,
basic premise re, 3:6	3:166
computer, 3:10	reasonable expenses, 3:166
electronic devices, 3:9.50	report to justice
garage vs. shop, 3:9	weapon seizure, 3:141.50
home vs. other premises, 3:7	when item not returned, 3:141
Restitution of property, 3:222	when item returned, 3:140
Restraining order (s. 462.33), 3:216 ,	restitution of, 3:139
3:217	return of
Search warrant	duplicates, 3:180
see SEARCH WARRANT	entitlement dispute, 3:173
Seized items	exhibits and non-exhibits, 3:176
appeal from order re, 3:165	factors considered, 3:169
application by person from whom item	items already in possession of police 3:178
was not seized, 3:159	items seized without authority, 3:170
copies made of, 3:162	
detention order	money following acquittal, 3:175
hearing	obtained illegally but not through
after expiry of order, 3:157	drugs, 3:174
before expiry of order, 3:158	on quashing of warrant, 3:167
justification for, 3:147	person in lawful possession at trial,
length of, 3:151	to, 3:182
multiple detentions, 3:153	prior to proceedings, 3:143

SEARCH AND SEIZURE—Cont'd	SEARCH WARRANT—Cont'd
Seized items—Cont'd	Application for—Cont'd
return of—Cont'd	reasonable and probable grounds, 3:30
property not required as evidence,	specificity requirement
3:181	re grounds of belief, 3:36
unlawfully seized items, 3:144	re material to be searched for, 3:35
seizure by non-peace officer, 3:142	re offence, 3:33
Seizure powers, specific, 3:199	re premises to be searched, 3:34
Solicitor's documents	re sources of belief, 3:37
alternative methods, 3:190	time factor, 3:31
privilege re (s. 488.1), 3:189	Blood samples, re, 3:63 , 31:738
sealing of documents pending appeal, 3:191	Bodily impression, 3:61
Statutory powers, 3:2	Challenging warrant and searches, elements of, 3:119, 3:120
Subsequent assignment of property seized, 3:219	Charter and
Wiretap evidence, admissibility, 4:84	see CHARTER OF RIGHTS — Search
Without warrant	and seizure, unreasonable
see WARRANTLESS SEARCH OR	Criminal Code authorizations, re, 3:80
SEIZURE	Disorderly houses, re
SEARCH WARRANT	additional powers, 3:195
See also ARREST	Charter contravention, 31:731
Application for	forfeiture hearing, 3:199
alternative procedures to search war-	forfeiture of items seized, 3:197
rant, 3:19	procedure, 3:194
anticipated/past offence, 3:17	s. 199 (revised), 3:193
conclusory statement of applicant,	DNA evidence, re, 3:27 , 3:53 , 3:99
insufficiency of, 4:117	national DNA data bank, 3:54
exclusionary evidence, inclusion of,	Execution of
3:14	computer system, 3:97
in camera proceedings, 3:18	control of premises, 3:103
information based on quashed warrant, 3:188	dispensing with proper announcement, 3:100
difference between s. 487 and Form	DNA bodily substances warrant (s.
1, 3:28	487.05), 3:99
DNA bodily substances warrant (s.	duty of persons executing, 3:97.50
487.05), 3:27, 3:54	entitlement to execute, 3:96
drugs warrant, 3:25	exigent circumstances, 3:112
full and frank disclosure, duty of,	manner of, 3:98
3:21	postponing, 10:40
general warrant (s. 487.01), 3:26	reasonable force, use of, 3:107
particulars required, 3:32	searches
requirement (s. 487), 3:20	of persons on premises, 3:105
satisfaction of justice, 3:29	of vehicle on property named in war-
tips from various sources, 3:22	rant, 3:106
intangibles and financial records,	security check of near buildings, 3:104
seizure of, 3:16	seizures
journalistic communications, 3:28.50 , 3:40	of items by categories, 3:109
material to be searched for. 3:15	of things in lawful execution of duties. 3:111

SEARCH WARRANT—Cont'd	SEARCH WARRANT—Cont'd
Execution of—Cont'd	Issuance of—Cont'd
seizures—Cont'd	proceeds of crime warrant, 3:60
of things not specified in warrant,	production order
3:110	computer data, re, 3:46
view of items, 3:108	general production order, 3:44
timing and, 3:102	non-disclosure order, 3:49
Exigent circumstances, 3:66 General search warrant, 3:42	specified communication, tracing, 3:45
Interprovincial, 1:118	provincial limitations, effect of, 3:84
Invalid, examples of, 3:192	provincial offences, re, 3:83
Issuance of	rebut defence, warrant not available,
access to information prohibition, 3:66	3:65
after charges laid, 3:187	residual, 3:53
amendment of warrant under oath, 3:75 assistance order (487.02), 3:59	severance of parts of defective warrant 3:76
blood samples warrant (s. 256), 3:64	specification
bodly impression warrant, 3:61	of date of issuance and execution,
cell phone location, 3:57	3:73
child pornography/voyeuristic record-	of items, 3:70
ing, re, 3:62	of offence, 3:50
connection between items and offence,	of premises, 3:72
3:69	telephone records order (s. 492.2(2)), 3:58
controlled drugs warrant, 3:41	tracking warrant (s. 492.1), 3:55
discretion to refuse, 3:64 DNA bodily substances warrant (s.	transmission data recorder warrant (s.492.2(1)), 3:56
487.05), 3:50	warrant wider than information, 3:71
admissibility of DNA testing, 3:51	Media premises, re, 31:305
national DNA data bank, 3:55	Nature of, 3:4
execution in other territorial division,	Presumption re validity, 3:114
3:68	Proceeds of crime, special search warrant
federal offences, for, 3:77	3:79
federal search powers, specific, 3:78	Publication or broadcast re, 3:67
federal warrants under various Acts,	Quashing
3:81	access to information, 3:116, 3:117
foreign offence, for, 3:82	certiorari, use of, 3:115
general warrant (s. 487.01), 3:53	Charter (s. 8) motion at trial
journalistic communications, 3:28.50 , 3:40	admissibility determined at trial, 3:134
jurisdiction of issuer, reference to, 3:74	excision of tainted information,
number recorder warrant (s. 492.2(1)), 3:56	3:136 hearsay evidence, 3:137
ordinary warrant, 3:39	reasonableness of issuance, 3:135
preservation demand	voir dire on, 3:138
computer data, re, 3:47	collateral attack, 3:127
non-disclosure order, 3:49	cross-examination of informant, 3:129
preservation order	no appeal from refusal of, 3:130
computer data, re, 3:48	falsehood in information, 3:132
non-disclosure order, 3:49	filing of report of execution, 3:113
procedure, 3:38	judge of co-ordinate jurisdiction, 3:126
p. 1000 a a 10, 0 10 0	. jaage of to oralliate jurisdiction, 5.120

SEARCH WARRANT—Cont'd	SELF-DEFENCE, DEFENCE OF
Quashing—Cont'd	—Cont'd
material non-disclosure, 3:133	Arrest, excessively forceful, 21:191
no appeal from superior court warrant, 3:131	British draft Criminal Code defence of use of private or public force, 21:196
presumption of validity, 3:114	Defence of others, 21:144.50
redaction of confidential information	Described, 21:137
from ITO, 3:123	Different forms of, 21:140
standing re emails/text messages in	Excessive force, 21:149
mobile phones, 3:121	Functional approach, 21:144
standing re personal computer, 3:122 standing to attack seizure, 3:120	Imminent attack requirement, 21:156
third party search, 3:125	Justifiable self-defence, meaning of, 21:142
validity/reasonableness of warrant,	Mistake of fact, 21:175
attacking, 3:115 warrant to be read in its entirety, 3:128	Onus of proof, 21:141
Rebut defence, warrant not available,	Peace officer acting lawfully, 21:157.50
3:65	Rationale of, 21:144
Subpoena duces tecum vs., 1:187, 3:43	Reasonable belief, expert evidence re
Successive, 3:179	psychological disorder, 21:179
Telewarrants	Reasonable in the circumstances, 21:142,
availability of, 3:85	21:157
contents of information, 3:87	Related defences, 21:137
legal effect of, 3:89	Repelling force/threatened force, 21:150
presumption of issuance, 3:95	Unlicenced firearm, right to bear in self-
procedure	defence, 21:145
on execution of, 3:91	Unprovoked assault
on issuance of, 3:90	death or serious bodily harm (s. 34(2))
to obtain, 3:86	anticipation of attack, 21:182
return of documents to justice, 3:94	burden of proof, 21:186
satisfaction of justice, 3:88	calculated retaliation, 21:183
written report from informant	death of victim, 21:192 excessive force, 21:190
contents of, 3:93	· · · · · · · · · · · · · · · · · · ·
requirement, 3:92	express direction re reasonable doubt, 21:188
Weapons, etc., 31:732	imminent danger, 21:177
SECURITY OF THE PERSON	mistake re being attacked, 21:176
See CHARTER OF RIGHTS — Life,	no air of reality, 21:173
liberty and security of the person	opportunity to avoid attack, 21:178
SELF-DEFENCE, DEFENCE OF	proportionality rule, 21:174
Generally, 21:139	question of fact, 21:187
Accused's motive in using force, 21:152	reasonable apprehension
Accused's response to victim's conduct,	drunkenness and, 21:180
21:153	reasonable in the circumstances,
Accused's role in incident, 21:160	meaning of, 21:169
Accused's subjective state of mind,	unlawful homicide direction, 21:189
21:151	victim
Aggressor, self-defence by (s. 35)	disposition for violence of, 21:184
definitional elements, 21:193	peaceful disposition of, 21:185
A.L.I. use of force, 21:195	previous attacks/threats by, 21:181

SELF-DEFENCE, DEFENCE OF SENTENCE BARGAINING —Cont'd See SENTENCING Unprovoked assault—Cont'd SENTENCING no death or serious bodily harm (s. Aboriginal peoples, denial of conditional 34(1)) sentence, 31:1348 accident vs. self-defence, 21:148 Abuse of trust accused committing crime, 21:157 breach of public trust, 18:148 alternative course of action assessposition of trust, 18:147 ment, 21:168 Alternative measures assault not in progress, 21:156 availability of, 18:1 consensual fight, 21:160 disclosure of record of, 18:3 definitional elements, 21:146 meaning of, 18:1 first blow, **21:165** no disclosure after two years, 18:3 hockey violence, 21:161 not bar to subsequent proceedings, 18:2 illegal search and assault, 21:158 warnings and referrals under CSDA, justifiable conduct, 21:149 18:3.50 necessary force Amendments reducing penalty, **18:443** measure of, **21:167, 21:171** Antedating sentence, 18:434 non-excessive (s. 34(1)), 21:166 Appellate courts and sentencing courts, proportionality, 21:166 25:13 relief re, 21:172 Appellate review principles, starting points and ranges, 18:104 provocation Charter contravention by prosecutor, from more than one person, 18:260 21:163 Civil suit outstanding, effect of, 18:194 provoking attack, 21:164 Collateral purpose, 18:135 retreat, no duty re, 21:170 Commencement of sentence, 18:432 single ongoing transaction, 21:159 Concurrent sentences unlawful assault requirement, 21:150 escape, re, 18:121 warding off blows, 21:162 grouped offences, 18:126 Use of force in self-defence, definition of, life imprisonment/indeterminate 21:194 sentence, restrictions re, 18:431 multiple offences, 18:110 **SELF-INCRIMINATION** one transaction, 18:124 Fundamental justice and proportionality principle, 18:128 see CHARTER OF RIGHTS — Conditional release Principles of fundamental justice see also Parole Testimonial conditions of release, 18:464 see CHARTER OF RIGHTS day parole, 18:468 Testimonial self-incrimination early release near expiry of sentence, SELF-SERVING EVIDENCE 18:477 Generally, 16:677 full parole, 18:470 Exceptions to exclusion, 16:677 long time supervision, 18:474 Rationale for excluding, 16:677 purpose and principles of, 18:458, 18:459 Recent complaint (s. 275), 16:678 recognizance for fear of serious bodily Res gestae of crime, 16:679 harm, 18:479 Spontaneous utterance, 16:679 sentence continues during, 18:467.50 SENTENCE, APPEALS AGAINST statutory release See APPEALS date (STR), 18:473

SENTENCING—Cont'd	SENTENCING—Cont'd
Conditional release—Cont'd	Consecutive sentences—Cont'd
statutory release—Cont'd	totality principle, 18:127
described, 18:473	trafficking in a person, 18:120
revocation of, 18:476	Corporations
suspension of parole or release, 18:475	general deterrence as purpose, 18:88
temporary absence	liability for predecessor, 18:89
escorted (ETA), 18:465	Criminal record, 18:143
unescorted (UTA), 18:467	Dangerous and long-term offenders
terminology and concepts, 18:463	appeal
warrant expiry date (WED), 18:478	against finding/designation, 18:407
work release, 18:466	application for declaration
Conditional sentencing order	conditions precedent to, 18:388
availability, 18:335	duty to advise court of intention to
bail pending breach hearing, 18:343	apply, 18:384.50
breach of order	procedure on, 18:384
hearing re, 18:344	assessment remand, 18:387
powers of court at hearing, 18:345	character evidence, 18:406
combined with imprisonment, 18:337	dangerous offender designations,
compulsory conditions, 18:338	examples of, 18:395.50
earned remission during, 18:346	failure to co-operated with psychiatrist,
effect of further offence during, 18:347	18:406.50
hearing re changes in order, 18:341	hearing re
informational obligations of court, 18:340	adjournment to appeal conviction, 18:383
intermittent sentence and, 18:354	hearsay evidence, 18:403
optional conditions, 18:339	indeterminate sentence, discretion re,
principled approach, 18:336	18:380
reversal of, credit where, 18:349	later conviction of dangerous offender,
transfer of order, 18:342	18:401
Consecutive sentences	later conviction of long-term offender,
generally, 18:112	18:402
assault of law enforcement officer,	legislation re
18:115	Charter validity, 18:379
availability of (s. 718.3), 18:109	current (Part XXIV), 18:378
crime sprees, 18:113	history of, 18:377
criminal organizations offences, re,	purpose of, 18:380
18:118	long-term offender, 18:396
escape, re, 18:121	long-term offender designations,
failure to designate as, 18:111	examples, 18:397.50
global sentencing principle, 18:128	presumption, 18:386
grouped offences, 18:126	release of, 18:408
on parole at time of offence, 18:122	sentence for dangerous offender, 18:394
participation in criminal organization,	sentence for long-term offender, 18:397
18:118	sentence where offender not found to
possession of explosive substance,	be dangerous, 18:382
18:116	serious personal injury offence, 18:385
sexual offences against child, 18:117	sexual offender
terrorism offence, 18:119	discretion not to declare offender
totality of offending behaviour, 18:114	dangerous, removal of, 18:393

SENTENCING—Cont'd	SENTENCING—Cont'd
Dangerous and long-term offenders	Disparity of sentence—Cont'd
—Cont'd	offences and offenders, re, 18:129
sexual offender—Cont'd	post-sentence action re co-accused,
failure to control sexual impulses,	18:133
18:391	rich and poor offenders, 18:134
likelihood of causing future injury,	similar offences, re, 18:129
18:392	Drug offences
underlying offence re, 18:390	drug trafficking (examples), 18:158
statements by accused, 18:404	hard drugs, 18:160
substitute finding, 16:308 , 18:395	levels of trafficking, 18:159
supervision, 18:398 to 18:400	Environmental offences, 18:215
victim's evidence, 18:405	Evidence, counsel's submissions as,
violent offender, 18:389	16:515
Delay following offence	Extended sentence, 18:135
due to flight, 18:142	Factors
lengthy delay before trial, 18:140	aggravating factors, 18:17
Delay for treatment, 18:141	improper considerations (list), 18:15
Discharge	nature of offence, 18:17
availability (s. 730(1)), 18:327	non-violent offences, 18:16
avoidance of disproportionate conse-	post-sentencing, 18:76
quences, 18:329 conditions for, 18:328	proper considerations (list), 18:14
effect of, 18:330	Fines
·	
fine/imprisonment prohibition, 18:331	availability of, 18:197
guilt not charge determining, 18:332	civil enforcement of, 18:218
previous, 18:333 probation requirement, 18:331	concurrent, 18:208
-	conditional sentences and, 18:204
young person, 18:334 Discretion	corporations, on, 18:214
	default, imprisonment in, 18:200
categorization of offences, 18:97	defined, 18:196
common law discretion re punishment, 18:92.50	forfeiture order (s. 462.37), in lieu of, 18:210
exceptional circumstances, principle of, 18:102	imprisonment in default of payment, 18:203
guidelines, 18:100	licences/permits, refusal to renew for
individualized sentencing, 18:96	default, 18:217
non-communication order, 18:93	means of accused, 18:201
parole eligibility, re, 18:94	option program, 18:211
range, 18:95	procedure on making order, 18:199
range guidelines, 18:100	stripping profits, re, 18:212
second trial, sentence at, 18:103	suspension of by court of appeal,
sentencing tariff, 18:95	18:209
starting point, 18:101	terms of order, 18:198
statutory discretion re punishment,	time to pay, 18:206
18:92	victim fine surcharge, 18:216
Disparity of sentence	warrant of committal re default, 18:205
co-accused, among, 18:130	wealth of accused, 18:202
equality of treatment, 18:134	Firearms, possession of
multiple accused 19.122	prohibition order 18.425

SENTENCING—Cont'd	SENTENCING—Cont'd
Firearms, use of	Intermittent sentence—Cont'd
Charter validity, 18:417	pre-sentence custody and, 18:352
during indictable offence, 18:409	probation and, 18:353
"firearm" defined, 18:422	purpose of, 18:350
firing not required, 18:411	unavailability of facilities, 18:356
Kienapple, rule in	Juvenile antecedents, 18:137
application of, 18:420	Life sentence
statutory displacement of, 18:419	sentence need not be consecutive to,
life imprisonment, concurrent to,	18:431
18:423	Long-term offender
mere possession, 18:412	see Dangerous and long-term offenders
minimum sentence re, 18:105, 18:107,	Mandatory minimum sentences,
31:1218	constitutional vulnerability of,
multiple convictions for, 18:424	31:1215
parties to offence, 18:421	Mandatory sentences, 18:104 , 18:105
prohibition order, 18:425	Manslaughter
retrospective application, 18:418	use of weapon, 18:146
substantive offence requirement,	varying sentences for, 18:144
18:414	Maximum sentence
totality of sentences, 18:410	artificial inflation of, 18:154
underlying offence	determination of, 18:149
conviction required re, 18:413	hybrid/mixed offence, 18:151
specification by court, 18:416	intimate partner context, 18:157
First offender, 18:60 , 18:138	pre-sentence detention, consideration
Fit and appropriate sentence, 18:13.50	of, 18:153
Fit sentence, 18:13	preventive detention, 18:155
Guidelines, 18:98	summary conviction offence, 18:152
Hybrid/mixed offence, for, 7:40, 18:151	use of, 18:150
Impaired driving offences, mandatory	worst offence but not worst offender,
prohibition order, 18:426	18:156
Imprisonment, conditional	Mental disorder/retardation, 18:136
see Conditional sentencing order	Minimum sentences, 18:104, 18:108
Inchoate offence, minimum sentence, re,	Models, 18:19
18:108	Multiple sentences
Indictable offence	as single merged sentence, 18:125 ,
where no punishment provided, 18:441	18:433
Indigenous offenders, 18:460	Murder for
Information re offender, duty re accuracy,	information provided to
18:461	accused, re, 18:167
Injunction	pre-trial custody, 18:168
civil, 18:91	Offence and offender, 18:13
disposition of assets, re, 18:90	Other charges, effect of
Mareva, 18:91	acquittals, pardons, etc., 18:195
Intermittent sentence	evidence of other crimes, 18:192
availability, 18:351	same victim, re, 18:193
conditional sentence and, 18:354	taking into consideration, 18:191
consecutive sentences not authorized,	Parole
18:357	see also Conditional release
ninety-day limitation, 18:355	day, 18:468
minery day minumon, 10.333	auy, 10.700

SENTENCING—Cont'd	SENTENCING—Cont'd
Parole—Cont'd	Plea bargaining—Cont'd
effects on sentencing, 18:161	Crown counsel recommendation,
full, 18:470	18:453, 18:453.50
ineligibility	definition of, 18:444
addressing jury re, 18:174	judge's participation, 18:454
appeal court consideration of, 18:184	normal practice, 18:445
criminal organization offence, re,	Plea resolution agreement vs. undertak-
18:166	ing, 18:455
discretionary nature of, 18:172	Policy and theory, trends in, 18:18
increased	Pre-sentence custody
jury recommendation, 18:181	as mitigating factor, 18:436
notification of accused re, 18:179	credit for young persons, 18:437
opportunity to present background	intermittent sentence and, 18:352
information, 18:180	maximum sentence, re, 18:153
reasons required for, 18:179	minimum sentence, re, 18:106
jury hearing to reduce, 18:188	"time served," sentence to, 18:435
murder, re	Pre-sentence reports
generally, 18:169	challenge of, 18:430
accused under 18/16 at time of	contents of, 18:429
offence, 18:171	need for, 18:428
challenged for cause at review,	Pre-trial custody
18:189	as mitigating factor, 18:436
"faith hope" clause, retrospective	"global" sentence and, 18:438
amendment to, 18:189.50	Previous convictions, greater punishment
furtherance of another crime, in,	because of, 18:251
18:177	burden of proving previous conviction,
multiple murders, 18:170, 18:176,	18:255
18:186	Charter and, 31:521
previous murder conviction,	impaired driving causing bodily harm,
18:175	18:253
principles and factors re, 18:173	insanity verdict, 18:257
reformatory sentence, 18:163	invocation of, 18:261
review, written application for,	liability to, 18:252
18:185	murder, previous conviction for, 18:258
review hearing	notice of intention to seek
challenge for cause at, 18:189	lack of not bar, 18:278
jury challenge, 18:189	proof of service of notice, 18:277
scheduled offences, re, 18:164	requirement for, 18:254
terrorism offence, 18:165	service of notice, 18:275
time in custody prior to life sentence,	sufficiency of notice, 18:274
18:183	time of service, 18:276
judicial order re date of eligibility re	previous convictions
"adult offender," 18:469	_
judicial screening, 18:187	meaning of, 18:261
revocation of, 18:476	proving
Place of imprisonment, 18:439	adjournment re, 18:265
Plea bargaining	admission during trial, 18:270
see also Sentence bargaining	burden of, 18:255
after retention of counsel, 31:870	different methods of, 18:266
agreed statement of facts 18.446	interrogation by court 18.271

SENTENCING—Cont'd	SENTENCING—Cont'd
Previous convictions, greater punishment	Principles of sentencing, 18:1 —Cont'd
because of, 18:251—Cont'd	delay in imposing sentence, 18:79
previous convictions—Cont'd	denunciation of crime, 18:35, 18:41
proving—Cont'd	deterrence
judicial notice of court records,	general, 18:25, 18:26
18:267	individual, 18:28
oral evidence re, 18:268	qualified, 18:27
similarity of names, 18:272	to others, 18:27
sufficiency of, 18:269	disadvantaged offenders, 18:34
strict construction re, 18:262	exceptional circumstances, 18:32
two convictions from same transac-	exemplary sentence, 18:25
tion, 18:263	false testimony, 18:84
prosecutor's discretion, review of, 18:260	gap principle, 18:65
Principles of sentencing, 18:1	goals, 18:12
aboriginal (indigenous) offenders,	gravity of offence, 18:29
18:33, 31:615	guilty plea, 18:83
accused	harmful effects of crime (driving
attitude of, 18:67	offences, etc.), 18:56
character of, 18:60	imprisonment, restraint against use of,
deportation, facing, 18:81	18:63
disadvantaged recidivist, 18:78	imprisonment threshold guidelines, 18:62
first offender, 18:60 , 18:139	
impact on accused's family, 18:61.50	individualizing sentences
loss of employment, 18:61	principle re, 18:51 repeat offender, 18:71
mentally/physically impaired, 18:77	_
multiple offences, 18:72	intended consequences of crime, 18:57 judicial, 18:9
multiple offenders (group or gang),	"jump principle," 18:64
18:73	moral culpability, 18:53
on bail, probation, etc., 18:75	motive, 18:53
repeat offender, 18:69	organizational offender, 18:87
alcohol/drugs, use of, 18:66	parity of sentences, 18:30
appropriateness, judge's discretion in	passage of time between offence and
finding, 18:23	sentence, 18:80
basic principles, 18:11	police misconduct, 18:54
black offenders, 18:36	post-sentencing factors, 18:76
blending imperative, 18:24	potential harm in penitentiary, 18:84
categories of punishment, consideration	prior or subsequent offences, 18:70
of all, 18:74	proportionality, 18:7, 18:13
charge, sentence only on, 18:55	protection of society, 18:11 , 18:42
collateral consequences, examination	· · · · · · · · · · · · · · · · · · ·
of, 18:59	provincial disqualification as part of sentence, 18:46
community	provocation by victim, 18:66.50
abhorrence of particular crime, 18:37	punishment vs. sentence, 18:5.50
prevalence of crime in, 18:48	purposes of sentencing, 18:4 , 18:11
compassion, measure of, 18:68	purposes vs. objectives, 18:6.50
constitutional status, no, 18:5	rehabilitation, 18:31
co-operation with authorities, 18:52	·
corporate offender, 18:88	reincarceration on Crown appeal, 18:86
cultural differences, 18:82	reparation, 18:38

SENTENCING—Cont'd	SENTENCING—Cont'd
Principles of sentencing, 18:1—Cont'd	Probation—Cont'd
responsibility, 18:39	failure to comply, offence of, 18:313.50
retribution, 18:40	house confinement, 18:292
sentence, frustrating intent of Parlia-	judge unable to act, 18:318
ment re, 18:50	length of order
statutory	duration, 18:303
objectives of sentencing, 18:6	specification, 18:302
principles, 18:8	minimum penalty offence, 18:285
"step-up," theory of, 18:64	pre-sentence custody, where
unintended consequences of crime,	considered, 18:283
18:58	probation officer
Prior curative discharge for driving offence, 18:253	supervision order, 18:295
Prior practice, 18:256	probation order, collateral attack on,
Prison, type of, 18:439	18:322
Probation	rehabilitation, as, 18:280
additional punishments	revocation of
fine and imprisonment, 18:306	double jeopardy, 18:312
plus imprisonment, 18:307	failure to comply offence, 18:313.50
administrative duties re order, 18:301	judge required to hear application,
aggregate sentence exceeding two	18:317
years, 18:284	punishment on, 18:311
as punishment, 18:280	time re, 18:313
breach of	subsequent sentence of imprisonment,
means to comply with terms of order,	18:308
18:329	suspension of passing of sentence,
mens rea for breach of probation,	18:282, 18:304, 18:309
18:323	territorial jurisdiction of court, 18:298
outside Canada, 18:299	types of orders re, 18:281
pending appeal, 18:326	variation of terms
situations re, 18:321	Crown application requirement,
coming into force of order, 18:288	18:316
community service order, 18:297	ex parte application re, 18:315
conditional discharge and, 18:310 conditions of	procedure, 18:314
banishment from place of crime,	Procedure
18:296	absence of accused, 18:245
bodily sample, provision on demand,	community impact statement, 18:234
18:294	facts
compulsory and optional, 18:286	Crown's view of, 18:232
electronic monitoring, 18:292	determination by judge, 18:226
keeping peace and being of good	opportunity to deny on guilty plea,
behaviour, 18:290	18:230
reasonableness of, 18:291	guilty plea
residence at training facility, 18:293	disputed facts, 18:231
consecutive terms, 18:320	mitigating factor, as, 18:235
court of appeal order, variation of,	opportunity to deny facts, 18:230
18:319	multiple jury verdicts, 18:227
delegation of conditions to prohibition	outstanding charges, where plea/
officer, 18:289	consent, 18:225

Procedure—Cont'd postponement aid police, to, 18:249 lengthy, 18:248 pending appeal, 18:250 treatment program, for, 18:247 until all charges disposed of, 18:246 post-sentence court being functus officio, 18:251, 18:442 pre-sentence report, 18:222 private inquiries by judge, 18:236 reasons for sentence, 18:244 restitution as mitigating factor, 3:138 sentencing circle, 18:221 sentencing circle, 18:222 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:233 questioning of accused, 18:233 prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:266 Prohibition order for impaired driving offences, 18:266 Prohibition orders minument of the fact of th	SENTENCING—Cont'd	SENTENCING—Cont'd
aid police, to, 18:249 lengthy, 18:248 pending appeal, 18:250 treatment program, for, 18:247 until all charges disposed of, 18:246 post-sentence court being functus officio, 18:251, 18:442 pre-sentence report, 18:222 private inquiries by judge, 18:236 reasons for sentence, 18:244 restitution as mitigating factor, 3:138 sentencing icrie, 18:221 sentencing hearing allocutus, 18:229 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weigh attached to, 18:241 nature of, 18:219 onus on Crown at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for impaired driving offences, 18:426 Prohibition orders miscellaneous, 18:427 Prosecutor's decision re Charter validity, 18:375 enforcement of, 18:372 full payment under, 18:336 individual vs. global orders, 18:361 injunction after appeal, 18:337 means of accused, 18:367 mitigating factor, not considered, 18:369 principles applied to, 18:360 rationale for, 18:369 principles applied to, 18:360 rationale for, 18:364 Restorative justice, 18:43 Sentence bargaining see also Plea bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:447 Treatment/training, 18:452 joint submission, 18:454 rejection of joint submission, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:221 Victim child victim, 18:46, 18:47 prostitute as, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of sen INDICTMENTS AND INFORMA-	Procedure—Cont'd	Restitution orders—Cont'd
lengthy, 18:248 pending appeal, 18:250 treatment program, for, 18:247 until all charges disposed of, 18:246 post-sentence court being functus officio, 18:251, 18:442 pre-sentence report, 18:222 private inquiries by judge, 18:236 reasons for sentence, 18:244 restitution as mitigating factor, 3:138 sentencing circle, 18:221 sentencing hearing allocutus, 18:229 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:241 nature of, 18:242 procedure at, 18:223 questioning of accused, 18:223 rocedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:250 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365	postponement	availability of, 18:363
pending appeal, 18:250 treatment program, for, 18:247 until all charges disposed of, 18:246 post-sentence court being functus officio, 18:251,		
treatment program, for, 18:247 until all charges disposed of, 18:246 post-sentence court being functus officio, 18:251,		
until all charges disposed of, 18:246 post-sentence court being functus officio, 18:251, 18:442 pre-sentence report, 18:222 private inquiries by judge, 18:236 reasons for sentence, 18:244 restitution as mitigating factor, 3:138 sentencing circle, 18:221 sentencing hearing allocutus, 18:229 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution after appeal, 18:374 funds not in court, 18:373 means of accused, 18:367 mitigating factor, not considered, 18:362 payment to more than one person, 18:369 principles applied to, 18:360 rationale for, 18:366 Crown breach of agreement, 18:455 failure to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission, 18:455 specific submission, 18:455 specific submission, 18:450 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 vuntful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile anterecedents, 18:137	pending appeal, 18:250	enforcement of, 18:372
post-sentence court being functus officio, 18:251,		full payment under, 18:370
after appeal, 18:374 funds not in court, 18:373 means of accused, 18:367 mitigating factor, not considered, 18:362 payment to more than one person, 18:371 person without notice of offence, 18:362 payment to more than one person, 18:371 person without notice of offence, 18:362 payment to more than one person, 18:371 person without notice of offence, 18:369 principles applied to, 18:360 rationale for, 18:364 Restorative justice, 18:43 Sentence bargaining see also Plea	until all charges disposed of, 18:246	_
pre-sentence report, 18:222 private inquiries by judge, 18:236 reasons for sentence, 18:244 restitution as mitigating factor, 3:138 sentencing circle, 18:221 sentencing hearing allocutus, 18:229 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution or derson in dispute, where, 18:366 application for, 18:365		
pre-sentence report, 18:222 private inquiries by judge, 18:236 reasons for sentence, 18:244 restitution as mitigating factor, 3:138 sentencing circle, 18:221 sentencing hearing allocutus, 18:229 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365		
private inquiries by judge, 18:236 reasons for sentence, 18:244 restitution as mitigating factor, 3:138 sentencing circle, 18:221 sentencing hearing allocutus, 18:229 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:220 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:460 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders mitigating factor, not considered, 18:362 payment to more than one person, 18:371 person without notice of offence, 18:369 principles applied to, 18:360 rationale for, 18:364 Restorative justice, 18:43 Sentence bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:455 joint submission, 18:448 judge's participation, 18:454 rejection of joint submission, 18:448 judge's participation, 18:435 U.K. guidelines, 18:22 U.S. Federal, 18:35 U.K. guidelines, 18:22 U.S. Federal, 18:35 Victim child victim, 18:46, 18:47 prostitute as, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137	101112	·
reasons for sentence, 18:244 restitution as mitigating factor, 3:138 sentencing circle, 18:221 sentencing hearing allocutus, 18:229 Crown's view of facts, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for fraud, 18:259 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution as mitigating factor, 3:138 sentencing hearing person without notice of offence, 18:369 principles applied to, 18:360 rationale for, 18:366 Crown breach of agreement, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:448 judge's participation, 18:454 rejection of joint submission, guidelines, 18:451 specific submissions, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:366 application for, 18:365 Setterace bargaining Crown breach of agreement, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission, 18:454 rejection of joint submission, guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:366		· · · · · · · · · · · · · · · · · · ·
payment to more than one person, 18:371 sentencing circle, 18:221 sentencing hearing allocutus, 18:229 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orde ton interference at the sent of agreement, 18:457 failure to arrive at joint submission, 18:448 judge's participation, 18:452 joint submission in absence of negotiations, 18:448 judge's participation, 18:454 rejection of joint submission, guidelines, 18:451 specific submissions, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:366 application for, 18:365		
sentencing circle, 18:221 sentencing hearing allocutus, 18:229 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:220 victim impact statement, 18:233 Prohibition order for impaired driving offences, 18:426 Prohibition order for impaired driving offences, 18:426 Prohibition order for impaired driving offences, 18:426 Prohibition orders miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 18:369 principles applied to, 18:360 rationale for, 18:364 Restorative justice, 18:43 Sentence bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission in absence of negotiations, 18:448 judge's participation, 18:454 rejection of joint submission, guidelines, 18:25 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:366 Arationale for, 18:366 Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:449 joint submission, 18:452 joint submission, 18:452 joint submission, 18:452 ville to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission, 18:449 rejection of joint submission, guidelines, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:366 are also Plea bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:452 joint submission, 18:454 ville t		
sentencing hearing allocutus, 18:229 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:223 questioning of accused, 18:233 repeaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for fraud, 18:213 Prohibition order for fraud, 18:213 Prohibition orders of charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders alto 18:243 Sentence bargaining see also Plea bargaining crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission, 18:450 joint submis		
allocutus, 18:229 Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365	•	person without notice of offence.
Crown's submissions, 18:228, 18:239 Crown's view of facts, 18:232 joint submissions admissibility of rejected, 18:243 rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders or impaired driving offences, 18:426 Prohibition orders order with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution (18:343 Sentence bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission in absence of negotiations, 18:448 judge's participation, 18:454 rejection of joint submission, guidelines, 18:451 specific submissions, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 Severance bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:452 joint submission, 18:452 U.K. guidelines, 18:451 vulnerability of joint submission, 18:454 rejection of joint submission, 18:450 joint recommendation, 18:452 vul		
Tationale for, 18:364 Restorative justice, 18:43 Sentence bargaining see also Plea bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:449 ponus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365		principles applied to, 18:360
specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for fraud, 18:213 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 Sentence bargaining See also Plea bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission in absence of negotiations, 18:448 judge's participation, 18:454 rejection of joint submission, 18:452 joint submission, 18:452 joint submission, 18:452 rejection of joint submission, 18:452 joint submission, 18:452 vidge's participation, 18:454 rejection of joint submission, 18:454 rejection of joint submission, 18:452 vidge's participation, 18:454 rejection of joint submission, 18:450 joint submission, 18:452 vidge's participation, 18:454 rejection of joint submission, 18:454 rejection of joint submission, 18:452 vidge's participation, 18:454 rejection of joint submission, 18:450 joint submission, 18:452 vidge's participation, 18:454 rejection of joint submission, 18:450 joint submission, 18:450 vidge's participation, 18:454 rejection of joint submission, 18:450 vidge's participation, 18:450 vidge's participation, 18:450 vidge's participation, 18:		
see also Plea bargaining Crown bound on appeal, 18:456 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:49 ponus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for fraud, 18:213 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365	Crown's view of facts, 18:232	Restorative justice, 18:43
rejection of, 18:242 specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 Crown bound on appeal, 18:457 failure to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission in absence of negotiations, 18:448 judge's participation, 18:454 rejection of joint submission, guidelines, 18:451 specific submissions, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	joint submissions	
specific sentence, re, 18:240 weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 Crown breach of agreement, 18:457 failure to arrive at joint submission, 18:449 joint recommendation, 18:452 joint submission in absence of negotiations, 18:448 judge's participation, 18:454 rejection of joint submission, guidelines, 18:451 specific submissions, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	admissibility of rejected, 18:243	
weight attached to, 18:241 nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365	rejection of, 18:242	
nature of, 18:219 onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365	specific sentence, re, 18:240	
onus on Crown at, 18:224 procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365		
procedure at, 18:223 questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365		
questioning of accused, 18:237 speaking to sentence by accused, 18:229 treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365		
treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 tions, 18:448 judge's participation, 18:454 rejection of joint submission, guidelines, 18:451 specific submissions, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	*	
treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 judge's participation, 18:454 rejection of joint submission, guidelines, 18:451 specific submissions, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-		
treatment program, attendance at, 18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 rejection of joint submission, guidelines, 18:447 Treatment/training, 18:145 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-		· · · · · · · · · · · · · · · · · · ·
18:220 victim impact statement, 18:233 Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 guidelines, 18:447 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-		
Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-		guidelines, 18:451
Prohibition order for fraud, 18:213 Prohibition order for impaired driving offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 Treatment/training, 18:135 U.K. guidelines, 18:22 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	victim impact statement, 18:233	_
offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	÷	
offences, 18:426 Prohibition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 U.S. Federal, 18:21 Victim child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	Prohibition order for impaired driving	
Pronolition orders, miscellaneous, 18:427 Prosecutor's decision re Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 child victim, 18:46, 18:47 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-		·
Charter contravention by prosecutor, 18:260 non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 prostitute as, 18:45 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	Prohibition orders, miscellaneous, 18:427	
non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 vulnerability of, 18:44 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	Prosecutor's decision re	
non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 Youthful offenders credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	Charter contravention by prosecutor,	
non-interference with, 18:259 non-reviewability, 18:264 Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 credit for pre-sentence custody, 18:437 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	18:260	
Remission effects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 first offender, 18:138 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	non-interference with, 18:259	
reffects of on sentencing, 18:162 Restitution orders amount not in dispute, where, 18:366 application for, 18:365 juvenile antecedents, 18:137 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	non-reviewability, 18:264	
Restitution orders amount not in dispute, where, 18:366 application for, 18:365 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	Remission	·
Restitution orders amount not in dispute, where, 18:366 application for, 18:365 SEVERANCE Accused, of see INDICTMENTS AND INFORMA-	effects of on sentencing, 18:162	juvenile antecedents, 18:13 7
amount not in dispute, where, 18:366 application for, 18:365 Accused, of see INDICTMENTS AND INFORMA-		SEVERANCE
application for, 18:365 see INDICTMENTS AND INFORMA-	amount not in dispute, where, 18:366	

SEVERANCE—Cont'd

Application for

see INDICTMENTS AND INFORMA-TIONS

Conspiracy charge and, **9:284**, **19:107**

Constitutional doctrine re, 31:93

Counts, of

see INDICTMENTS AND INFORMA-TIONS

Defective search warrant, 3:76

Override of severance order, 11:44

Preliminary inquiry, at, **9:255**, **9:258**

SEXUAL ABUSE SYNDROME

Generally, 16:138

SEXUAL ASSAULT

See also ASSAULT

Consent defence

see CONSENT, Defence, as

Drunkenness and, 21:75

Mistake of fact and

see MISTAKE OF FACT

SEXUAL COMPLAINANT

Character evidence

see CHARACTER EVIDENCE — Victim

Charter application, **31:336, 31:1338, 31:1358**

SEXUAL OFFENDER

See SENTENCING — Dangerous offenders

SEXUAL OFFENDER INFORMATION REGISTER (SOIRA)

Order re, 16:654

SEXUAL ORIENTATION

Generally, 31:1319

SILENCE, RIGHT TO

See also SELF-INCRIMINATION

Charter right, 31:518

On arrest, 16:87

Voluntariness of accused's statement vs., 16:601

SOVEREIGN

Compellability, 16:542

Demise of, 33:110

Name of

see INDICTMENTS AND INFORMA-TIONS — Information

SPECIAL PLEAS

See PLEADING

SPEEDY TRIAL

See ELECTION

SPOUSES

Compellability of

privileged communications, 16:537

Equality rights and, 31:1319, 31:1323

Failure to testify, 17:135

Hearsay utterances of, 16:589

STANDING

Charter remedy

see CHARTER OF RIGHTS — Remedy, Charter

Constitutional law, in, 34:2

Court martial, at, 31:1102

Judicial interim release hearing, 6:52

Search and seizure, to attack, **3:120**, **31:673**

STATUTES

See STATUTORY INTERPRETATION

STATUTORY INTERPRETATION

Amendments, 33:96, 33:100

"And," meaning of, 33:57

"Any," meaning of, 33:58

Common names, 33:94

Corporations, words deemed to include, 33:87

Crown, demise of, 33:110

Declaratory legislation, retrospective application, **33:107**

Documentary evidence, provision for, 33:80

Errors, correction of obvious, 33:114

Estoppel by interpretation, 33:54

Evidence, creation of new rules of,

33:108

Extrinsic aids to, 33:113

Forms, 33:86

Gender. 33:87

General rules, 33:1

ambiguity rule, 33:7

common law context of statutory interpretation, **33:8**

contextual method, 33:2

exception to, 33:48

"exhaustive statutory code," meaning of, **33:9**

STATUTORY INTERPRETATION	STATUTORY INTERPRETATION
—Cont'd	—Cont'd
General rules, 33:1—Cont'd	Powers, statutory—Cont'd
golden rule, 33:4	temporal powers of functionary, 33:85
grammatical method, 33:2	Power to enter dwelling house to carry
literal meaning, departure from, 33:4	out arrest, 33:91
literal method, 33:2	Primary legislation, 33:115
meaning and effect of provision, 33:1 mischief rule, 33:5	Procedural vs. substantive amendments, 33:103
ordinary meaning rule, 33:3	Prospectivity, 33:100, 33:101, 33:105
purposive rule, 33:6	Public officers and representatives, pow-
teleological method, 33:6	ers of, 33:79
Governor in Council, orders-in-council	Re-enactments, 33:95
and regulations, 33:118.50	Regulations, challenging, 33:117
Grammatical meanings, corresponding,	Repeal
33:86	generally, 33:96
Guidelines, 33:119	implication of, 33:99
"Includes," meaning of, 33:60	prior to charge, conviction or sentenc-
Incorporation by reference, 33:111 Indictable offences, 33:90	ing, 33:97
"Individual," meaning of, 33:55	substitution, and, 33:98
Judicial change in law, 33:102	Retroactivity, 3:98, 33:30, 33:101
Language rules, 33:46	Retrospectivity
acting legally, 33:52	declaratory legislation, 33:107
"and" or "or," 33:57	described, 33:100, 33:101
associated words, 33:47	presumption against, 33:104, 33:106
class words, 33:46	Revised statutes, interpretation of, 33:112
deeming provision, purpose of, 33:62	Rights and remedies, creation of new,
dictionaries, use of, 33:64	33:109
ejusdem generis, 33:46	Singular and plural, 33:88
expressio unius est exclusio alterius,	"So," meaning of, 33:59
33:48	Sovereign, demise of, 33:110
failure to mention, 33:48	Special rules, 33:10
in bonam partem, 33:52	aboriginals, treaties and statutes re,
"includes," 33:60	33:21
"in respect of," 33:61	absurd results, presumption against,
mutatis mutandis, 33:54	33:27
noscitur a sociis, 33:47	administrative agencies, 33:23
punctuation, 33:63	administrative law principles, presump-
relates to, 33:61.50	tion of adherence to, 33:36
rule of last antecedent, 33:49	bilingual versions both official, 33:43
"Means," meaning of, 33:60	canons of legislative interpretation, 33:10
Minister's representatives, words directing, 33:79	Charter values in statutory interpretation, 33:19
Number, 33:88	1
"Or," meaning of, 33:57	commercial documents (contracts), 33:24
"Person," meaning of, 33:93	consistency in meaning of same words,
Powers, statutory	33:14
ancillary powers of functionary, 33:84	constitutional documents read gener-
requirement of. 33:83	ously, presumption, 33:42

STATUTORY INTERPRETATION —Cont'd Special rules, 33:10—Cont'd constitutional validity, presumption of, correct application of legal principles, presumption re, 33:43.50 court jurisdiction, presumption against ousting, **33:40** cross-referencing criminal statutory provisions, 33:16 electoral legislation, presumption of enfranchising, 33:39 extraterritoriality, presumption against, 33:39 generalia specialibus non derogant, 33:51 harmonization, principle of, 33:25 human rights legislation, 33:22 inconsistent statutes, presumption against, 33:26 international custom, presumption against ousting, 33:41 judicial remedies, presumption of retroactivity, 33:30 mens rea, presumption re, 33:30 non-interference with rights, presumption of, 33:28 penal laws, strict construction of, 33:17 principle of effectiveness, 33:36 redundancy, presumption against statutory, **33:33** statutory consistency and coherence, 33:32 statutory exception to common law principle, 33:13 statutory terms have same meaning as legal terms, presumption, 33:31 substantial alteration of law, presumption against, 33:37 surplusage, presumption against, 33:36 tautology, presumption against, 33:35 taxing statutes, construction of, 33:18 technical meaning, 33:11 treaties, interpretation of, 33:20 violation of international treaty, etc., presumption against, 33:41

```
STATUTORY INTERPRETATION
     -Cont'd
  Statutory rules of interpretation, 33:65
       -Cont'd
    common law and civil law as "equally
         authoritative," 33:69
    Crown not generally bound by enact-
         ments, 33:77
    federal Act/Regulation, territorial
         operation of, 33:68
    fraud on Act, 33:76
    headings of Act, 33:74
    imperative construction ("shall" and
         "may"), 33:56, 33:72
    Interpretation Act
       application of, 33:65
       general definitions in, 33:92
    judicial notice of proclamation/
         regulation, 33:78
    marginal notes of Act, 33:74
    permissive construction, 33:72
    preamble of Act, 33:74
    present tense of law, 33:71
    private Acts, applicability of, 33:70
    regulations, meaning of words in,
         33:75, 33:116
    remedial enactments. 33:73
    repeal of enactments, 33:67
    title of Act, 33:74
  Subordinate legislation, 33:116
  Subordinate legislation vs. administrative
       decisions, 33:117.50
  Summary conviction offences, 33:90
  Time
     attainment of age, re, 33:82
    computation of, 33:81
STATUTORY POWERS
  Person discharging, 31:136
  Prerogative vs., 12:20
  Search and seizure and, 3:2
STAY OF PROCEEDINGS
  Abuse of process
     see ABUSE OF PROCESS
  Appeal
    acquittal, stay of, 23:106
    court power, 23:103, 23:104, 23:247
     stay as circumventing, 12:120
  Availability, 12:93
  Charter remedy, as, 31:1441, 31:1477,
```

31:1479, 31:1495

Statutory instruments, 33:118

Statutory rules of interpretation, 33:65

commencement or repeal of Act, 33:66

STAY OF PROCEEDINGS—Cont'd	SUMMARY CONVICTION APPEALS
Constitutional basis of, 12:99	—Cont'd
Crown prerogative, 12:100	Appeal on transcript/agreed statement of
Delay caused by Crown's, 31:998	facts, 24:40 —Cont'd
Double jeopardy and, 31:1157	final order, 24:43
Effect of, 12:96	forms of appeal, 24:44
Exceptional remedy, as, 31:1447	grounds of appeal, 24:42
Fundamental justice, 31:559	interlocutory order, from, 24:48
General authority re, 12:95	mandamus, availability of, 24:50
No jeopardy on, 12:108	parties, 24:53
Nolle prosequi, 12:98	power of court
Non-disclosure, for, 31:565	generally, 24:56
Preliminary inquiry, 31:1441	curative provision, application of,
Prior to judgment, 12:103	24:55
Private prosecution	questions of law, 24:54
not contrary to Charter, 12:95	remission to trial court re amendment,
Recognizance, terminates, 12:97	24:58
Recommencement, notice of	rules of court, 24:51
form of, 12:104	sentence, against, 24:49
notice to accused, 12:105	time to appeal, 24:46
Restitution/forfeiture order, 23:105	transcript, 24:45
Review of, 12:101	Combined indictable and summary
Supreme Court of Canada, in, 23:248	conviction appeals, 23:25 , 24:60 Costs, 24:30
Timing of, 12:107	Costs, 24:30 Costs against Crown, 24:31, 24:35
Trial within reasonable time, 31:1012	De novo proceeding, 24:4
Withdrawal of charges and, 12:106	Dismissal for non-compliance, 24:22
STRICT LIABILITY	Extension of time
Absolute and strict liability offences,	ex parte, 24:19
19:33	notice of appeal, re filing of, 24:18
Due diligence, and, 31:1056	Final judgment prerequisite, 24:8
Mistake of fact and, 21:214	Form of, 24:4
,	Fresh evidence, 24:29
SUBORDINATE LEGISLATION	Grounds of appeal
Generally, 21:257, 31:109, 33:116	generally, 24:12
SUBPOENA	factual error, 24:26
See JURISDICTION — Compelling	late objection, 24:15
attendance of witness	Included offence
SUICIDE	conviction on, 24:37
Generally, 16:421 , 27:41 , 27:56 , 31:467	substituted verdict on, 24:38
	Inferior court bound by order, 24:39
SUMMARY CONVICTION APPEALS	
1969-76 (de novo proceeding), 24:2	Interlocutory appeals not available, 24:9
Acquittal/conviction, appeal re, 24:5	Notice of abandonment, rescinding, 24:10
Appeal on transcript/agreed statement of	One appeal only, 24:11
facts, 24:40	Powers of court, 24:25 , 24:36
agreed statement of facts, 24:45	Pre-1969, 24:1
Attorney General, rights of, 24:52	Private informant, by, 24:16
Code provision re, 24:40	Probation breach during appeal, 24:24
costs, order re, 24:57	Provincial court of appeal, appeal to
court hearing, 24:41	conditions for, 24:59

SUMMARY CONVICTION OFFENCES SUMMARY CONVICTION APPEALS —Cont'd -Cont'd Provincial court of appeal, appeal to Summary conviction court, 7:15 -Cont'd Territorial jurisdiction of court, 1:86 grant of leave, no review of, 24:62 Time limitation on jurisdiction, 1:35, 1:45 important question of law, 24:65 Verdicts re included offences. 16:309 informant's appeal, 24:70 see also VERDICTS powers of court, 24:68 Waiver of arraignment, 14:8 review of refusal, 24:61 **SUMMARY JUDGMENT** route of appeal, 24:66 Generally, 31:541 sentence appeal, 24:67 summary conviction appeal court, **SUMMONS** from, 24:64, 24:66 Affect of on jurisdiction Supreme Court of Canada, subsequent see JURISDICTION appeal to, 24:71 Information re specific offence, 31:965 unreasonable verdict finding, 24:64 Irregularity of, 1:192 Reasons for judgment Service of, 31:886 facts not mentioned in, 24:14 SUPREME COURT OF CANADA respondent not bound by, 24:13 APPEALS Release before appeal, 24:20 By accused, as of right, 23:250 Representation by agents, 24:17 By Crown, as of right, 23:251 Sentence Case on appeal, 23:263 appeal against, 24:6, 24:27 Consent judgments, 23:284 appeal before, 24:7 Constitutional questions, 23:258 appeal re, 24:5 Counsel, power to appoint, 23:266 imposed by appeal court, 24:28 Court of appeal findings of fact, 23:278 Summary Conviction Appeal Court, con-Discharges, appeals of, 23:157 stitution of. 24:3 Discretionary order, appeal from, 23:265 Suspension of order, 24:23 Dismissal for want of prosecution, 23:286 Undertaking/recognizance of prosecutor, Dissent 24:21 "all aspects of question," consideration SUMMARY CONVICTION OFFENCES of, 23:277 Appearance by agents, 1:161 appeal based on, 23:276 Autrefois acquit and convict In camera hearings, 23:275 see AUTREFOIS ACQUIT AND Indictable appeals, restrictions re, 23:249 **CONVICT** Interlocutory orders, 23:268 Committal for trial, 13:67 Interventions Described, 7:53 application for leave by intervenor, Included offence, as, 1:45 23:255 Insufficient charge, 9:228 justification for, 23:256 Intervention, 12:56 Leave appeals Joinder at common law, 9:289 application for, 23:254 Jurisdiction over person, 1:29 provincial appellate court, leave by, Maximum sentence, 18:152 23:267 No re-election, 8:51 types of, 23:253 Private prosecution, 12:52, 12:61 written and oral, 23:271 Proceeding in absence of defendant, Leave applications 1:163 extending time for, 23:273 Statutory interpretation, 33:90 leave granted on restricted grounds,

23:274

Sufficiency of pleadings, 9:125

SUPREME COURT OF CANADA	TORTS
APPEALS—Cont'd	Constitutional, 31:1490
Leave applications—Cont'd	TREATMENT
reconsideration of, 23:287	Compulsory, 31:642
time for, 23:270	Pending insanity disposition, 22:122
Materials to be referred to by counsel, 23:246	Sentencing and, 18:135
Notice of appeal	TRIALS
service and filing, 23:269	Accused
Powers of court	absconding, 16:168
generally, 23:281	as non-compellable witness
new trial order, re-election where, 23:284	see CHARTER OF RIGHTS — Offence, person charged with
no substantial miscarriage proviso, re,	character evidence
23:282	see also CHARACTER EVIDENCE
remand matter to court below, 23:283	accused's background, 16:136
References, 23:297	bad, 16:134
References, discretion on, 23:289	good, 16:135 , 16:141
Rehearing of appeal, 23:288	denial of opportunity to call defence,
Restrictions on availability, 23:264	16:492 order of testimony
Section 40 appeals	as defence witness, 16:166
generally, 23:259	multiple accused, 16:167
considerations re, 23:261	presence in court (indictable offence),
no leave at provincial level, 23:260	16:51.20
Stay of order/judgment pending appeal, 23:247	right to be present and have Crown disclosure, 16:74
Stay of proceeding pending appeal,	right to make submissions, 16:480
23:252	unrepresented at trial, 16:29
Stay pending application/appeal, 23:248	Admissions
Time to appeal	by Crown, 16:164
non-indictable appeals, 23:272	error of law, re, 16:165
Whole record, consideration of	formal, 16:161
for appellant, 23:280	mixed fact and law, of, 16:163
for respondent, 23:279	Agreed statement of facts, 16:162
SURVEILLANCE	Burden of proof on Crown, 16:77
Electronic	Certificates
see CHARTER OF RIGHTS — Search	defects in, 16:503
and seizure, unreasonable	Commencement
ТНЕГТ	generally, 16:80
	rulings re evidence, 18:81
Admission of, 16:445	Conduct of, 16:75
Duplicity/multiplicity and, 9:96	Control of proceedings, power re, 16:82
Possession and, 16:307	Convictions
THREATS See COMPULSION, DEFENCE OF;	denial of argument by accused, on, 16:490
DURESS, DEFENCE OF	denial of opportunity to call defence, on, 16:492
TIME	Corroboration requirements, 16:684,
See LIMITATIONS	16:685

TRIALS—Cont'd	TRIALS—Cont'd
Courtroom security, 16:36	Cross-examination—Cont'd
Cross-examination	unprovable allegations, 16:119
accused, of	veracity, re, 16:115
alibi witnesses, re, 16:396	Crown
bad character, on, 16:134	denial of argument by, 16:491
co-accused, by, 16:124	Dismissal for want of prosecution,
criminal record, on, 16:122.50	16:81.50
generally, 16:123	Dismissal of application summarily,
good character, 16:135	16:84.50
improper, 16:121	Evidence
previous testimony on voir dire,	see also EVIDENCE
16:131	accused's silence on arrest, re, 16:87
proper, 16:122	admissibility
refusal, 16:125	see criminal evidentiary rules; exclusionary rules
related matters, on, 16:123	amendments re admissibility, 16:195
accused's failure to make statement, 16:129	character, of
accused's statement, re, 16:130	accused
adverse finding in prior trials, on,	see Accused
16:128	victim, 16:139
co-accused, by, 16:110, 16:116	witnesses, 16:137
collateral matter rule, 16:152	collateral matter rule
complainant/witness under 18, of,	contradiction on, 16:152
16:110	exceptions, 16:153
demeanour and, 16:118	continuation of trial until completion
described, 16:109	of, 16:493
failure, re, 16:113	criminal evidentiary rules
favourable witness, of, 16:116	admissibility, 16:510
full answer and defence, re, 16:117	discretion to exclude, 16:510
harassing/prolix, 16:191	first-hand knowledge requirement,
material evidence, failure re, 16:127	16:514
outstanding charges, 16:119	legal and factual relevance, 16:510
own witness, of	multiple admissibility, doctrine of,
consultation after start of cross-ex-	16:522
amination, 16:102	ownership and value of property,
prior inconsistent statement, on	16:516
adverse witness, 16:97, 16:103	purpose of, 16:513
hostile witness, 16:96	search for truth, 16:513
s. 9(2) C.E.A. application, 16:99	death of witness during cross-examina-
without proof that witness is	tion, 16:235
adverse, 16:98, 16:101	documents
three types of, 16:100	common law/statutory proof of,
prior convictions, on, 16:120	16:505
prior inconsistent statements, on	electronic, 16:525
procedure, 16:132	name similarity, 16:502
recalling witness by trial judge,	proof of facts referred to in, 16:496
16:133	service of
proper limits of, 16:114	proof of, 16:499
purpose of, 16:108	reasonable notice, 16:497 , 16:498

TRIALS—Cont'd	TRIALS—Cont'd
Evidence—Cont'd	Examination-in-chief
exclusionary rules	generally, 16:95
bad character evidence, 16:517,	Exhibits
16:523	audiotapes as, 16:178
Charter rule, nature of, 31:1521.50	authentication of, 16:170
discretion re relevant evidence,	continuity of, 16:173
16:519	experiment/re-enactment, evidence of,
hearsay evidence, 16:517	16:186
opinions by non-experts, 16:517	in-court demonstrations, 16:187
self-serving evidence, 16:517	inherent jurisdiction over, 16:175
trial judge as evidentiary gatekeeper, 16:518	photographs as, 16:177 release of for testing, 16:176
exhibits	secondary evidence of, 16:174
see Exhibits	statements of witnesses, 16:171
facts vs., 16:520	transcripts, 16:171
failure to call, adverse inference from,	videotaped confession/demonstration,
16:534.50 false and fabricated evidence,	16:184
16:521.50	videotapes as, 16:179
findings at prior criminal/civil trial,	Expert witness
admissibility, 16:88	in-court demonstration by, 16:187
foreign jurisdiction, arising in, 16:524	Factual findings, 16:79
inferences from, reasonable, 16:190	Formal admissions, 16:161
lately discovered, 16:156	Forms
lex fori, 16:517	both languages, 16:509
notice re admissibility, 16:500	variations of, 16:508
objection to admissibility, timing of,	Issues
16:521	curative admissibility, doctrine of,
opening door to issue, 16:154	16:690
out-of-court evidence, adoption of,	leading evidence on, 16:680
16:180	Judge
power to elicit, 16:86	see also JUDGES
preliminary inquiry "information,"	functus officio, as
16:228	clerical amendments, 16:484
principles underlying rules, re, 16:511	described, 16:482
prior verdict, admissibility, 16:88	prior to sentence, 16:483
privilege	preliminary inquiry transcript, reading,
see PRIVILEGE	16:486
proposed evidence, admissibility hear-	pre-trial judge as trial judge, 16:14
ing, 16:512	unable to act, 16:481.50
provincial laws of, 16:506	Judgment, 16:481
provisional rulings re admissibility,	Judicial notice
16:523	see also JUDICIAL NOTICE
rebuttal	of facts, 16:681
see Rebuttal	of laws, 16:682
relevance requirement, 16:508	Judicial orders, 16:480
sexual abuse syndrome, re, 16:138	Jury trial
videotaped confession/demonstration,	see JURY TRIAL
16:184	Management of trial, 16:83

FRIALS—Cont'd	TRIALS—Cont'd
Means to commit offence, proof of,	Preliminary matters, 16:21—Cont'd
16:689	amicus curia, court's discretion to
Mixed, 16:1	appoint, 16:25
application of evidence to another trial, 16:3	audioconference/videoconference participation
disposal of charges	accused, 16:51.50, 16:57
former rule, 16:6	judge, 16:59
present practice, 16:7	participant, 16:53.50, 16:58
multiple accused, 16:5	counsel
multiple informations fitness hearing on, 16:4	designation of counsel of record, 16:21
rule re, 16:1	discharge and withdrawal of, 16:30
separate informations, 16:1	right to, 16:22
Motive, 16:687	trial without defence counsel, 16:28
Names, similarity in, 16:502	witness, as, 16:31
New trial, commencement of, 16:495	evidence
Notice	Canadian witnesses in foreign
see also NOTICE	jurisdictions, 16:54
evidence for preliminary inquiry, re,	transcript of, 16:59
16:500	videotaped (s. 715.1), 16:52, 16:53
proof of service of, 16:499	exclusion of public
reasonableness requirement, 16:498	generally, 16:46, 16:61
validity for new proceedings, 16:501	young person, 16:62
Objection at trial, failure re, 16:194	in camera hearings, 16:61
Onus of proof, 16:680 Opportunity, necessity to prove exclusive,	language of trial, 16:69
16:688	pre-trial motions, 16:69
Party presentation principle, 16:71	testimony, behind screen/outside
Personal attendance of court participant,	courtroom, 16:55
16:51	victim's rights, 16:32
Preliminary matters, 16:21 accused	video and audio evidence given during trial, 16:52
attendance of, 16:36 , 16:47 , 16:49	viewing by jury
audience before court, right of, 16:23	direction for, 16:66
exclusion of	purpose of, 16:67
generally, 16:47	witnesses
vital interests of accused, 16:48	communication with counsel, 16:60
full answer and defence, right to,	cross-examination of witness/
16:42	complainant under 18, 16:110
remanded to jail, 16:50	duty to testify, 16:35
right to represent self, 16:24	exclusion of, 16:50
seating in prisoner's dock, 16:38	forms of evidence, 16:92
adjournments	John Doe, 16:64
at jail, 16:47	non-disclosure of identity, 16:45
retaining counsel, re, 16:22	security of, order, 16:43
trial judge's discretion re, 16:33	support person, 16:63
unavailable witness, re, 16:34	testimony behind screen/outside
agents in summary conviction trials,	courtroom, 16:55
16:26	Witness Protection Program, 16:65

TRIALS—Cont'd	TRIALS—Cont'd
Presumptions	Reopening case—Cont'd
discussed, 16:691	acquittal, 16:159
"evidence to the contrary," meaning of,	judge's discretion re, 16:157
16:692	Reply evidence, 16:145
mandatory, 16:691	Reservation on applications, 16:84
permissive, 16:691	Right to fair trial, 16:73
rebuttable, 16:691	inherently prejudicial practices and,
statutory, 16:692	16:40
Pre-trial conference, 16:8	Rules of court, 16:505
accused later unrepresented, 16:29	Rulings
case management vs., 16:15	prior, 16:89, 16:90
effect of, 16:12	prospective, 16:91
judge's notes, immunity for, 16:13	Speedy trial
jury trial, 16:8	see ELECTION
non-jury trial, 16:9	Standards of proof, 16:680
pre-trial judge as trial judge, 16:14	Submissions, interference with, 16:489
purpose of, 16:11	Termination of trial, 16:494
types of conferences, 16:10	Time, within reasonable
Prior conviction	
cross-examination re, 16:120	see CHARTER OF RIGHTS —
direction to jury re, 16:126	Offence, person charged with
examination-in-chief re, 16:126	Victim
subsequent civil proceedings, use in,	evidence of bad character, 16:139
12:139	sexual abuse syndrome evidence,
Procedure, summary of, 16:70	16:138
Purpose of, 16:72	Waiver
Reasons for judgment	statutory requirements, of, 16:504
changes in transcript to, 16:488	Within reasonable time
use of to interpret formal order, 16:485	see CHARTER OF RIGHTS —
Rebuttal	Offence, person charged with
contradiction on collateral matter rule,	Witnesses
16:152	see also Preliminary matters
defence, of, 16:146	accused as
evidence, 16:145	competence, 16:532
good character evidence, of, 16:147	failure to testify, 16:534
laying new basis of liability, 16:148	non-compellability
recent fabrication allegation, 16:149	see CHARTER OF RIGHTS —
splitting case, 16:151	Offence, person charged with
surrebuttal by accused, 16:155	unsworn dock statement, 16:533
Recent fabrication, doctrine of	adverse, 16:97
discussed, 16:150	· ·
rebutting, 16:149	calling by judge, 16:193
Re-examination	calling prior, 16:93
explanation of inconsistent statements, 16:143	character evidence, 16:137 , 16:140 , 16:645
questions permitted on, 16:142	compellability
reply evidence, vs., 16:144	judge, 16:539
Reopening case	parliamentary immunity, 16:541
accused's defence, 16:158	sovereign, 16:542
	-

TRIALS—Cont'd	TRIALS—Cont'd
Witnesses—Cont'd	Witnesses—Cont'd
compellability—Cont'd	prior inconsistent statement of—Cont'd
spouse	judge's satisfaction, 16:103
privileged communications,	own witness
16:537	see Cross-examination
statutory tribunals and commissioners, 16:540	problematic, reliability caution from judge, 16:686
competency	protection of from harassment/prolixity,
accused, of, 16:532, 16:533	16:191
admissibility and weight of testimony, 16:526	questioning/interventions by judge, 16:192
by taking oath or affirmation, 16:528	spouse as
child witness, 16:531	see compellability; competency
compellability, vs., 16:527	vouching for reliability of, 16:95
judge, 16:539	· ·
mentally incompetent, 16:529	UNLAWFULACT
spousal witness	See MANSLAUGHTER — Unlawful act
competence and compellability,	VAGUENESS
16:535	Administrative bodies, re, 31:182
Crown witness, as, 16:536	Doctrine of, 31:42
to testify or take oath, 16:528	Fundamental justice and, 31:508
credibility	Tolerable certainty, 31:184
assessment by trier of fact, 16:188	Understandable and ascertainable stan-
pre-determination of, 16:486	dards, 31:183
stereotypical reasoning, 16:189	
cross-examination of	VENUE
see Cross-examination	Change of, 2:8
Crown recall of own witness, 16:107	appeal of refusal, 2:31
diplomatic immunity, 16:542	application for
expert	chambers hearing on interlocutory
see Expert witness	basis, 2:27
forms of evidence, 16:92	during trial, 2:26
hostile, 16:96	ethnic/racial group, avoidance of exclusion, 2:11
order of	mechanics of, 2:3
multiple accused, 16:167	order not appealable, 2:28
trial judge direction re, 16:166	renewal of, 2:24
out-of-court evidence, adoption of, 16:180	successive, 2:25 community survey, 2:10
past memory recorded, 16:183	examples where venue changed, 2:16
present memory revival, 16:181	factors for or against, 2:15
*	impossibility of full and impartial trial,
memory aid, 16:181	2:8
production of documents used, 16:182	inconvenience, 2:14
prior consistent statements, 16:106	language of trial, 2:20
prior inconsistent statement of	partiality or prejudice, 2:9
accused, of, 16:105	payment of costs to accused, 2:22
cross-examination on	potential for prejudice, 2:19
see Cross-examination	prejudice, mere possibility of, 2:17
explanation for. 16:104	probability of bias, 2:18

VENUE—Cont'd	VERDICTS—Cont'd
Change of, 2:8 —Cont'd	Included offences—Cont'd
public costs, 2:13	Crown option offence deemed indict-
publicity, extensive, 2:12	able conviction, 16:311
return to original venue, 2:23	described in charge, 16:321
systemic delay, 2:21	described in enactment, 16:286 , 16:320
traversal to next sittings, 2:30 within province only, 2:29	different modes of greater offence, 16:294
Jurisdiction vs., 2:1	disclosure by evidence requirement, 16:299
Place of trial, 2:4	distinguishing features of, 16:279
Power to order change of, 2:6	divisibility of count, 16:277
Publication ban on application for change, 2:7	driving offences
Venue of trial, 2:2	actual driving, 16:313
venue of that, 2:2	care and control, 16:312
VERDICTS	criminal negligence, 16:306
Alternative verdicts on separate counts	duty to consider, 16:297
(Kienapple), 16:271	duty to put lesser offence to jury,
Appeal of directed verdict, 16:267	16:281
Attempt charged, full offence proved,	equal offence, as, 16:292
16:273	examples
Completion of importing drugs, 16:274 Conspiracy conviction, re	offences including lesser offences, 16:323
see CONSPIRACY	offences not including lesser
Dangerous offender, 16:308	offences, 16:324
Deliberation delay, 31:999	failure to put, 16:298
Denial of right to make submissions	fairness in relying on, 16:280
before verdict, 16:269	in offence as charged, 16:285
Different trials, at, 16:276	instruction of jury re, 16:300
Differing verdicts between offenders,	ladder effect of, 16:288
12:135	lesser offence
Directed, 16:267, 19:60, 23:195	described, 16:290
Evidence supporting, 23:179 Full offence charged, attempt proved,	revealed on reading indictment or Code, 16:291
16:272	modes of inclusion, 16:283
Included offences amendment to enlarge count re, 16:301	murder and manslaughter, 16:303, 16:304
amount of money, etc.	no duty to consider if not viable issue,
greater, 16:316	16:296
lesser, 16:315	no foreign elements, 16:287
attempt charge, 16:318	not duplicitous, 16:322
attempted murder and second degree	partial verdict, 16:293
murder, 16:305	same time period, 16:302
bodily harm, unlawfully causing,	same transaction, 16:289 , 16:302
16:314	summary conviction offences
broad approach, 16:286	availability re, 16:309
common law, at, 16:278	Crown option offence, 16:311
conspiracies, 16:319	prescription of, 16:310
criminal negligence and dangerous	theft and possession, 16:307
driving, 16:306	"words of description," 16:284

VERDICTS—Cont'd VICTIMS—Cont'd Inconsistent Self-defence, defence of application, 16:327 disposition of victim, 21:184 at same trial, **16:325** previous attacks by victim, 21:181 conspiracy Sentencing considerations and substantive verdicts, 16:329 see SENTENCING need for two convictions re, 16:334 Unlawful conduct by, 28:23 definition, 16:327 Victim fine surcharge, 18:216 inconsistency between accused, 16:333 Victim impact statement, 18:233 inseverability of evidence between VIDEOCONFERENCE/AUDIOCONFERENCE courts, 16:332 onus on appellant, 16:328 Accused's appearance by, 16:51.50 quashing not compulsory, 16:331 Trial participant's appearance by, Insanity, 14:96, 16:270, 17:102, 18:257, 16:53.50 22:30, 23:31, 23:229 VIDEOTAPE see also INSANITY — Disposition Generally, 16:52, 16:53, 16:179, 16:382, hearing 31:588 Jury verdicts see JURY TRIAL — Jury verdicts VOIR DIRE Long-term offenders, 16:308, 18:395, Automatism, re. 21:32 18:396 Cross-examination of accused on voir dire Not criminally responsible, consent to, testimony, 16:131 14:29 Exclusion of evidence, re, 31:1529 Partial, 16:297 Need for, 17:127 Possible, **16:268** Testimonial self-incrimination, re, Principal and secondary offenders, 16:275 31:1243 Provocation finding, on, 27:180 Voluntariness of statements, re, 16:606 Quashing of, effect of, 23:175 Substituted verdict on appeal **VOLUNTARINESS** see APPEALS Confession and, 31:519 Unreasonable, 23:177, 24:64 Judge's charge re, 17:137 Manslaughter and VICARIOUS LIABILITY Contempt of court, for see MANSLAUGHTER see CONTEMPT OF COURT Statements Fundamental justice and, 31:541 see HEARSAY EVIDENCE — Volun-Primary liability, vs., **15:3** tary statements Voluntary act **VICTIMS** see AUTOMATISM See also TRIALS Character evidence VOTE, RIGHT TO see Character evidence See CHARTER OF RIGHTS Child, 18:46 WAIVER Compulsion to testify, 31:480 Appeal, of, 23:112 Contributory negligence by, 28:22 Arraignment, of, **14:7** Death of after guilty plea, **14:110** Charter right, of, 31:32 Homicide and Consent and, 31:751 see HOMICIDE, CULPABLE Election rights, 8:2, 8:25 Party, not capable of being, **15:10** Prior conduct against, 16:630 Guilty plea and Charter rights, 14:60 Prostitute as, 18:45 Immunity, of, 31:1248

WAIVER—Cont'd WARRANTLESS SEARCH OR Intercepted communications SEIZURE—Cont'd waiver of notice of intention to adduce Search ordered by another officer, 3:239 evidence. 4:156 Security purposes, 3:250 Jurisdiction, re, 1:8, 1:133 Seizure without authorization/consent, 3:237 Jury trial, right to, 7:44, 8:3, 8:26, 31:1128 Suspension of search of person, 3:247 Re-election rights, 8:58, 8:61 Urgent situations, 3:256 Right to retain counsel Validity, **3:236** see CHARTER OF RIGHTS — Vehicle search. 3:252 Counsel, right to retain — duty to **WEAPONS** inform See also FIREARMS Solicitor and client privilege, 16:567 Charter of Rights Statutory compliance, of, 9:50 mandatory prohibitions, 31:558 Statutory requirements re trial, 16:504 registered weapon certificate, 31:1014 Time periods, of, **31:990** warrantless searches for, 31:737 WAR CRIMES Dangerous, 28:26 Generally, 31:526, 31:1143 Forfeiture of, 3:202 Manslaughter, use of in, 18:141 WARRANT Prohibited, 21:236 See ARREST: CHARTER OF RIGHTS Search and seizure, unreasonable: **WIRETAPS** SEARCH WARRANT Admissibility of evidence, principles re, WARRANTLESS SEARCH OR 4:84 SEIZURE Consent, 31:754 After arrest or on consent, 3:238 Consent re admissibility, 31:755 After or before arrest or on consent, 3:238 Emergency, 31:757 American exceptions to warrant require-Interprovincial authorization, 1:119 ment, 3:261 Third party, used on, 31:1423 Border searches, 3:258 WITNESSES Canadian Border Services Agency search, 3:254 See also JURISDICTION — Compelling Cannabis, 3:252.50 attendance of witness; PERPETU-ATED EVIDENCE; TRIALS Condominium search or seizure, 3:241 Accomplice as Crown witness, 31:586 Consensual search or seizure, 3:240 Accused as non-compellable Consent by co-resident (joint tenants/ owners), 3:242 see CHARTER OF RIGHTS — Offence, person charged with Discarded/abandoned items. 3:257 Character evidence re. 16:137, 16:140. Exigent circumstances, 3:112, 3:256 16:645 Frisk search, 3:248 Compelling attendance of, 1:177 Inmate's cell, of, 3:253 Concealing identity of, 31:302 Open fields doctrine, 3:260, 31:750 Contempt of court and Plain view doctrine, 3:259 defaulting, 1:198 Private search, 3:243 refusal to be sworn, 29:25 Protect public peace, 3:251 Crown's duty to call, 13:112 Release of accused but detention of item Detention of, 1:202 seized, 3:246 Duty to testify, 16:35 Return of items not required for trial, Expert, 16:666, 17:80 3:255 Search incidental to arrest, 3:244, 31:253 see also OPINION EVIDENCE

WITNESSES—Cont'd	YOUNG PERSON—Cont'd
Fundamental justice and	Age of
see CHARTER OF RIGHTS —	proof of, 1:5
Principles of fundamental justice	testimony re, 30:202
Interfering with, 16:427	Appeals, 30:47
Mentally disordered, 22:139	Appearance before judge or justice, 30:42
Preliminary inquiry and	Assessment
see PRELIMINARY INQUIRY — Procedure	assessment statement, admissibility, 30:201
Self-incrimination, right against, 31:523	child welfare agency, 30:45
WRITS	medical/psychological, 30:44
Error, of, 23:2	Attorney General, review of charges by,
Prerogative, 26:13 , 26:75 , 31:1502	30:34
	Child
WRITS OF ASSISTANCE	credibility of, 30:207
Charter and, 31:737	unsworn testimony, 30:206
Common law, at, 3:235	Compliance
YOUNG PERSON	failure re sentence/disposition, 30:191
See also YOUTH CRIMINAL JUSTICE	wilful non-compliance with various requirements, 30:192
ACT	Counsel, right to, 30:35, 31:886
Admissions	Criminal Code, application to, 30:8
see also Statements	Custody and supervision
by party to proceedings, 30:203	see also SENTENCING
Adult accused, no trial as/with, 30:3	age
Adult sentence	young person attaining 20, 30:144
Crown application for imposition of,	young person 20 or more, 30:140
30:119	conditional supervision
dangerous and long-term provisions,	conditions of, 30:158
30:127	recommendation for, 30:149
election	review re suspension, 30:161 ,
mode of trial election, 30:22 , 30:120 hearing re, 30:122	30:162
mandatory imposition of, 30:125	suspension of, 30:159
mandatory imposition of youth sentence, 30:126	warrant of apprehension issues, 30:160
mixed sentences, 30:132	conditions of order, 30:155
parole board, obligation to inform,	hearing, 30:152
30:130	levels of youth custody, 30:136
placement of young person serving,	procedural safeguards, 30:137
30:129	purpose of system, 30:134
presumption of diminished moral blameworthiness, 30:124	reasons for order of continued custody, 30:153
presumptive offences	reintegration leave, 30:142
included offences within, 30:121	report for hearing, 30:152
release entitlement, 30:131	review of breach of, 30:156
sentencing principles, application of,	review of level, 30:138, 30:139
30:128	review of order for continued custody,
test for imposition of, 30:123	30:154
Adult witness re childhood events, cred-	review of sentence
ibility, 30:207.50	annual, 30:145

YOUNG PERSON—Cont'd	YOUNG PERSON—Cont'd
Custody and supervision—Cont'd	Records—Cont'd
review of sentence—Cont'd	access restrictions, 30:172
grounds of, 30:146	archivists' custody, 30:180
orders deemed sentences, 30:148	authorized access, 30:173
review options, 30:147	court and board, 30:168
separate and apart from adults, 30:135	court ordered disclosure, 30:181
transfer to adult facility, 30:143	disclosure and copies, 30:176
youth worker, designation of, 30:141	disclosure of information in, 30:179
Default of recognizance, proceedings for, 30:189	disposition or destruction of, 30:182 government, 30:170
Definition of, 30:2	police, 30:169
Detention of	RCMP, 30:174
before sentencing, 30:39	statutory authorization requirement,
in custody, 30:43	30:183
social measures, not substitute for,	Release from custody, 30:43
30:38	Sentence appeals, 25:14
temporary, designated place of, 30:40	Sentences, 30:48
Direct indictment, 11:36	additional youth sentences, 30:93
Discrimination, 31:1357	custodial portion of, 30:57
Double jeopardy and, 31:1147	supervision re, 30:80
Fingerprints and photographs, 5:91 , 30:167	adult sentence
Forfeiture of recognizances, applications	see Adult sentence
for, 30:188	appeals, standard of review, 30:58.50
Judicial measures, 30:33	attendance at non-residential program, 30:77
Jurisdiction over, 1:10	coming into force of sentence, 30:89
Jury trial right, 31:1138, 31:1139	committal
Justice of the peace, jurisdiction of over,	place of, 30:103
30:30	warrant of, 30:102
Medical and psychological reports, 30:44	community service order, 30:73
Parents	compensation
attendance of, order requiring, 30:37	in kind or by personal services,
notice to, 30:36	30:72
Placement of responsible person, 30:41	order, 30:69
Plea by, 30:46	complete code of, 30:49
Pre-charge screening, 30:32	conditions
Private prosecutions re, 30:33	reasonable and ancillary, 30:87
Publication ban re evidence at trial,	conference recommendations re, 30:62
30:163	consecutive sentences, 30:90
Publication ban re name/identity	continuation of youth sentence as adult
Charter validity, 31:340	30:92
offender, 30:164	custodial youth sentences, 30:57
victim/witness, 30:165	custody, deduction of time served in,
when information may be published,	30:53
30:166	custody and placement order
Records	first degree murder, 30:84
access after time limit expiry, 30:177	second degree murder, 30:85
access by young person, 30:178	custody and supervision order
access re adult sentences, 30:171	attempted murder, etc., 30:81

YOUNG PERSON—Cont'd	YOUNG PERSON—Cont'd
Sentences, 30:48—Cont'd	Sentences, 30:48—Cont'd
custody and supervision order—Cont'd	reasons for sentence, 30:101
deferred, 30:82, 30:83	recommendations, reports, etc.,
general, 30:80	considerations of, 30:63
intensive, 30:86	remand of supervised offender, 30:97
commencement of, 30:112	reprimand, 30:65
communication of terms of,	restitution order, 30:70
30:111	termination of youth sentence, effect of
division with delayed custody, 30:113	re cross-examination, 30:118
limitations re, 30:88	transfer of youth sentence, 30:114
custody deemed continuous, 30:99	transitional provisions re, 30:214 victim fine surcharge, 30:107
denunciation, 30:58	violent offences, 30:78, 30:79
deterrence not sentencing principle,	work program, 30:109
30:54	Statements
discharge	assessment statement, admissibility,
absolute, 30:66	30:201
conditional, 30:67	preconditions to admissibility of,
fine	30:199
generally, 30:68	voluntariness requirement, 30:200
means of young person, 30:108	Transfer of charges, 30:187
victim fine surcharge, 30:107	
general deterrence not sentencing	YOUTH CRIMINAL JUSTICE ACT
principle, 30:54	See also Young person
intensive support and supervision order, 30:76	Agreements with provinces re costs, 30:212
intermittent sentence, 30:100	Charter validity, 30:1
interprovincial arrangements, 30:115	Classification of offences under, 30:9
maximum duration, 30:91	serious offences, 30:11
offence committed prior to youth	serious violent offences, 30:10
sentence, 30:98	violent offences, 30:12
open vs. closed custody, 30:59	Community-based programs, 30:213
payment to innocent purchaser, 30:71	Criminal Code and, 30:8
pre-sentence custody, 30:58	mental disorder provisions of CC,
pre-sentence report, 30:61	30:195
principles re, 30:50, 30:52, 30:75	specific application of CC, 30:194
probation order	Discrimination, 31:1300
generally, 30:76	Extrajudicial measures
communication of terms of, 30:111	adequacy of, 30:16
division with delayed custody,	Crown cautions, 30:19
30:113	objects of, 30:15
prohibition, seizure or forfeiture order,	police cautions, 30:18
30:74	principles of, 30:14
prohibition order	warnings, cautions and referrals, 30:17
generally, 30:74 , 30:105	Extrajudicial sanctions, 30:20
review of, 30:106	Federal offences, restriction to, 30:7
purpose and principles, 30:54	Forms, prescribed, 30:209
purpose of, 30:48	Hybrid offences, deemed election re,
range of sanctions 30.63	30:175

YOUTH CRIMINAL JUSTICE ACT —Cont'd

Joinder of offences in same charging document, **30:196**

Mode of trial election, 30:22, 30:120 Preliminary inquiry, right to request, 30:23

Principles, declaration of, 30:13
Provincial directors, powers of, 30:30
Regulations under, 30:211
Seal, requirements re, 30:209
Service of documents, proof of, 30:208
Temporal jurisdiction, 30:24
Time limitations, 30:24
Transitional provisions re sentence, 30:214

YOUTH JUSTICE COMMITTEES Generally, 30:27

YOUTH JUSTICE CONFERENCE Generally, 30:28

YOUTH JUSTICE COURT

Clerk of court, 30:30
Contempt of court powers, 30:25
Court of record, as, 30:6
Divisions of, 30:4
Jurisdiction of
absolute jurisdiction re specified
offences, 30:190
exclusive, 30:21
uncertain status of offender, where,
30:26
young person, over, 1:11
Records, no access to, 30:172
Superior Court vs., 30:5

YOUTH JUSTICE COURT JUDGE

Contempt, **29:21**Disqualification of, **1:130, 30:184**Exclusion from hearing, power re, **30:186**Subpoena, issuance of, **30:197**Substitution of, **30:185**