Index

ADMISSION TO MEMBERSHIP Generally, 1:18, 7:120, 8:1 to 8:15, 9:23 to 9:32 Coercion, 8:5 Common law principles, 8:1, 8:2 Discrimination, 8:7, 8:9, 8:11, 8:12, 11:8 Duty of fair representation and referral. 8:8 Exhaustion of internal appeals, 8:13 Insufficient work for members. 8:11 Labour board enforcement, 8:10 Procedural fairness. 8:12 Procedures, 8:13 Protecting employment opportunities. 8:6 Oualifications, 8:9, 8:12 Readmission, 8:1, 8:2, 8:5, 8:11 to 8:13 Regulation of decisions on, 8:9 Remedies. 8:14 Retaliation, 8:7 Right to be a union member, 8:4 Statutory regulation, 8:3 to 8:14 Strike breaking, 8:12 Transfers, 8:1, 8:2, 8:11, 8:14 Undue influence, 8:5 Union solidarity, 8:12 Valid purpose of rule, 8:11

AGENCY SHOP See SECURITY CLAUSES, Rand Formula

AMALGAMATIONS See MERGERS

ARBITRATION See DUTY OF FAIR REPRESEN-TATION, collective **AUTONOMY OF UNIONS** Generally, 4:1, 4:4, 6:2, 6:38, 8:5, 8:12 to 8:14, 9:1, 9:3, 9:11 to 9:14, 9:24, 9:38, 9:40 **BREATH OF LIFE DOCTRINE** See PARENT-LOCAL RELA-TIONS **BUSINESS UNIONISM** Generally, 3:2 CANADIAN CONGRESS OF LABOUR Generally, **5:29 CANADIAN LABOUR** CONGRESS Generally, 3:2, 3:12, 5:1, 5:29 CHANGE OF NAME See MERGERS CHARTER OF RIGHTS Generally, 1:10, 3:1, 10:1, 11:1 to 11:3, 11:13 Equality, **11:1 to 11:3** Political strikes, and, 3:7, 3:8, 3:10 Religious exemption, 10:1, 10:3, 10:8 Union mergers, 5:41 Union political activity, and, **3:1**, 3:3 to 3:17 Union security clauses, 2:4

CIVIL RIGHTS ACT OF 1964 (U.S.) Generally, 11:8

COMPETITION POLICY See RESTRAINT OF TRADE

CONSCIENTIOUS OBJECTORS See RELIGIOUS EXEMPTION CONSTITUTIONAL JURISDICTION Generally, 1:3 to 1:5, 3:12, 4:2 Union staff. 6:5 CONSTITUTIONS Generally, 1:4, 1:6 to 1:11, 1:15 to 1:26, 4:1 to 4:24, 5:1 to 5:46 Amendment. 5:4 Collective agreements, and, 4:2, 4:13 Contractual nature, 5:2, 5:10, 9:2 to 9:9 Custom and practice, **4:10** Discipline and expulsion, 9:1 to 9:9 Dismissal of officers, 6:33 Duty of fair referral. 7:118 to 7:121 Duty of fair representation, 7:48 Elections, and, **6:3**, **6:5**, **6:6** to **6:9**, 6:11, 6:12 Employer, **4:2** Enforcement by labour board, 4:23 Filing requirements, **4:1**, **4:16**, **4:17** Human rights violations. 11:11 Implied terms, 4:9, 5:6, 5:35, 6:6, 6:7, 6:12, 6:14, 9:3, 9:4, 9:6 Internal procedures, 4:5, 4:13, 4:23, 5:5. 5:17 Interpretation by courts, **4:1 to** 4:15, 6:5, 9:8, 9:9 Intra vires acts. 4:5 Mergers, and, 5:33 to 5:36 Objects clause, 4:5 Regulation of substance. 1:17. 4:1. 4:2, 5:11, 8:9, 9:1 Trusteeships, 5:14 to 5:23 Ultra vires doctrine, 4:5, 5:21 Union officers, 6:13 to 6:17 Violation of, 2:6, 2:8, 4:1, 5:19 to 5:23 CORPORATISM

Generally, 3:2

CORRUPTION Generally, 5:13, 6:2 **CRIMINAL LIABILITY** Generally, 1:4 DEFAMATION Generally, 6:42 to 6:48 DEMOCRACY Generally, 1:6 to 1:11, 1:16, 1:25, 2:1, 2:4, 5:2, 5:8, 5:13, 5:26, 6:1 to 6:3, 8:1, 9:1, 9:11 to 9:14, 9:16, 9:28, 9:36 DISCIPLINE AND EXPULSION See also FINES Generally, 2:2, 2:5, 4:1, 4:7, 4:9, 9:1 to 9:46 Activity against the union, 2:8, 2:10, 9:26, 9:30 As a form of coercion, 9:33 to 9:37 Common law regulation, 9:2 to 9:9 Conspiracy with the employer, 2:8 Constitution not followed, 9:1, 9:3 Crossing picket lines, 2:1, 2:8, 9:5, 9:25 Discrimination, 9:13 to 9:15, 9:17 to 9:22, 11:10 Dual membership, 2:3, 9:30 Duty of fair referral, 2:3, 7:119, 7:120, 9:14, 9:24 Empirical evidence, 9:1 Exercising statutory rights, 9:30, 9:31, 9:34, 9:35 Exhaustion of internal review, 1:9, 9:41 Failure to pay dues, 2:3 Internal dissent, 9:31 Membership in Communist Party, 9:6 Procedural fairness, 4:2, 9:6, 9:8, 9:19, 9:27, 9:42 Proportionality of penalty, 9:30, 9:32 Reasonableness, 9:1, 9:11 to 9:14, 9:17 to 9:32

DISCIPLINE AND EXPULSION —Cont'd

Refusal to engage in illegal activity, 9:34 Remedies, 9:8, 9:9, 9:38

Statutory regulation, **9:11 to 9:14** Strike breaking, **9:25**

Strike pay, 9:35

Working for non-union employers, 9:31

DISCRIMINATION

See also DUTY OF FAIR REPRE-SENTATION; ADMISSION TO MEMBERSHIP Generally, 1:25, 2:10, 4:9 to 4:15, 6:18 to 6:31, 7:1 to 7:122,

9:11 to 9:37, 11:1 to 11:30

DUES

See SECURITY CLAUSES, dues assessment

DUTY OF FAIR REFERRAL

Generally, 2:2, 2:10, 7:118 to 7:121 Admission to membership, 8:8 to 8:10

DUTY OF FAIR REPRESENTATION Generally, 2:1, 4:9, 7:1 to 7:122 Admission to membership, 8:8 Affirmative action, 7:41 Apprentice status, 7:56 Arbitrariness, 7:1 to 7:122 Civil actions against employer, 7:58 to 7:60 Collective agreement administration, 7:1 to 7:122 Common law basis, 7:4 to 7:9 Communicating with grievor, 7:66 Coroner's inquest, 7:58 to 7:60 Criminal proceedings, 7:19, 7:58 to 7:60 Delay in filing complaint, 7:18 to 7:25 Disciplinary meetings, 7:55

DUTY OF FAIR REPRESENTATION—Cont'd Discipline and expulsion, 7:59, 9:33 Discrimination, 7:1 to 7:122, 11:10 Dismissal of union officers, 6:17 Duty to investigate, 7:63 to 7:66 Employer as party to complaint, 7:27 to 7:30 Employer-union collusion, 7:103 to 7:106 Employment insurance, 7:58 to 7:60 General principles, 7:1 to 7:9 Good faith, 7:1 to 7:9, 7:47 to 7:51, 7:61 to 7:78 Harassment. 7:100 Internal union procedures, 7:59, 7:85 Job competitions, 7:93 Judicial review proceedings, in, 7:37 Legal opinion, obtaining a, 7:72 Majority wishes, 7:51 Merits of grievance, 7:60, 7:73. 7:78, 7:86, 7:109, 7:113 Mistaken advice. 7:67 to 7:70 Negligence, 7:4 to 7:9, 7:65, 7:67 to 7:70, 7:76 Negotiations, 7:2, 7:4 to 7:9, 7:38 to 7:51 Probationary employees, 7:12, 7:43, 7:65 Quality of representation at arbitration. 7:109 Ratification votes, 7:48 Remedies, 7:16, 7:52, 7:60, 7:107 to 7:117 Request for reconsideration, 7:31 to 7:36 Security clauses, 7:89 Seniority, 7:50, 7:65, 7:66, 7:93, 7:95, 7:122 Settling grievances, 7:78 Statutory regulation, 5:8

DUTY OF FAIR REPRESENTATION—Cont'd Time limits, 7:18 to 7:25, 7:67, 7:72 to 7:76 Unfair labour practice proceedings, 7:56 Union delay, 7:75 Union entitled to consider costs. 7:71 to 7:75, 7:79 to 7:83 Union trust funds, 7:58 to 7:60 Vexatious litigants, 7:116 Violation of union constitution, 7:49 Voluntary recognition, 7:11 Workers' compensation, 7:19 ELECTIONS See OFFICERS **EMPLOYMENT ACT, 1988 (U.K.)** Generally, 6:59 **EXCLUSIVE REPRESENTATION** Generally, 7:1 to 7:3 EXHAUSTION OF INTERNAL APPEALS Generally, 4:4, 4:5, 4:11, 4:23, 5:5, 5:14 to 5:18, 5:21, 6:11, 7:85, 7:119, 8:13 Arbitration, and, 2:8 Discipline and expulsion, 9:7, 9:41 Procedural fairness, 5:5 Union officers, 6:11 FICTION/CONCESSION THEORY

See LEGAL STATUS, theories FIDUCIARY DUTY See OFFICERS

FINANCIAL STATEMENTS Generally, 4:10, 4:18 to 4:24 Auditing of, 4:22 Disclosure to members, 4:19 Submission to government, 4:17 FINES

Generally, 1:4, 2:3, 2:6, 2:9, 2:10, 9:12, 9:17 to 9:22, 9:25, 9:27, 9:30, 9:32

FIRST AMENDMENT (U.S.) Generally, 10:3

FOSS V. HARBOTTLE, RULE IN Generally, 4:5 to 4:8

FREE RIDERS Generally, 2:1, 2:2, 2:4, 2:11

FREE TRADE AGREEMENT Generally, 3:1, 3:16, 3:17

- GOOD FAITH Generally, 5:5, 5:7, 6:5, 6:9, 6:15, 6:25, 6:46, 6:54, 6:55, 7:1 to 7:9, 7:48, 7:50
- HIRING HALL See also DUTY OF FAIR REFER-RAL Generally, 2:1, 2:4, 2:9, 2:10, 8:1
- HUMAN RIGHTS See also CHARTER OF RIGHTS: DISCRIMINATION Generally, 11:1 to 11:30 Absenteeism, 11:22 Adverse effect discrimination, 11:6, 11:7, 11:12, 11:21 to 11:23 Arbitration, 11:15 B.f.o.r. and b.f.o.q., 11:7, 11:23, 11:25 Collective agreements, 11:1 to 11:3, 11:8, 11:9, 11:11 to 11:13, 11:15, 11:21 to 11:26 Concurrent jurisdiction, 11:15, 11:16 Covert discrimination, 11:28 Direct discrimination, 11:6, 11:7 Duty of fair representation and, 11:1 to 11:3, 11:10, 11:14, 11:18, 11:22, 11:25, 11:28 Enforcement, 11:2

HUMAN RIGHTS—Cont'd Equal partnership theory of liability, 11:8, 11:9 History, **11:2** Liability of union officers, **11:19** Mandatory retirement, 11:23 IMeiorin/i test, 11:6, 11:7, 11:23 Pay equity, 11:18 Prohibited grounds of discrimination, 11:2, 11:5 Protection in labour relations statutes, 11:10, 11:11 Reasonable accommodation, **11:1** to 11:30 Seniority rights, 11:9, 11:25, 11:26 Undue hardship, **11:7 to 11:9, 11:25** Union liability for discriminatory employment provisions, **11:1** to 11:3, 11:8, 11:9, 11:21 to 11:23 Union liability for internal decisionmaking, 11:28 Union security clauses, 11:12 Union support for, 11:1 to 11:3 INTERNATIONAL LABOUR **CONVENTION NO. 87** Generally, 6:1 LANDRUM-GRIFFIN ACT (U.S.) Generally, 5:13 LEGAL STATUS Generally, 1:1 to 1:28, 5:45, 9:9 IBerry v. Pulley/i, 1:6 to 1:11 Breach of contract, 1:5 Breach of statutes. 1:5 Charter claims, 1:10

LEGAL STATUS—Cont'd Dissolution, 1:26 History, 1:3 to 1:5 Introduction. 1:1 Labour board determination of. 1:15 to 1:25 Legislation, 11:10, 11:11 to 11:13 Liability of national or parent union. 1:8 Mergers, and, 5:45 Modern labour legislation, 1:5 Modern law of union status, **1:6 to** 1:11 Presumption of, 1:17 Purposes of union, 1:2, 1:4 Ouasi-public bodies, 8:1 Relation with members, 1:2, 1:5, 1:6 to 1:11 Representative actions, 1:13 Rights of Labour Act (Ontario), 1:12, 6:16 Role of internal procedures, 1:9 Theories. 1:2 Torts, 1:5, 1:6 to 1:11 Trade union not a corporation, 1:5 Union as plaintiff, 1:11 Union locals, 1:8, 5:4 Vicarious liability, 1:7 Voluntarily recognized union, 1:5 LIBEL Generally, 6:49 to 6:59 LIBERAL VALUES Generally, 1:1, 3:1, 3:11 to 3:17 LOCALS See PARENT-LOCAL RELA-TIONS MEMBERSHIP STATISTICS Generally, 3:1 **MEMBERS' RIGHT TO**

MEMBERS' RIGHT TO PARTICIPATE IN UNION ACTIVITIES Generally, 6:1

Contempt of court, 1:5

5:27

Contractual basis, **1:1**, **1:2**, **1:4** to **1:11**, **5:1**, **5:32**, **6:2**, **8:1**, **8:2**

Council of trade unions, 1:20, 5:25,

Criteria for status, 1:15 to 1:22

Definition of trade union, **1:15 to**

Defamation, 1:5, 1:6 to 1:11

1:25, 5:5, 5:45

MERGERS See also LEGAL STATUS, mergers Generally, 1:8, 1:24, 4:7, 4:9, 5:1 to 5:46 Amalgamation, 5:29 to 5:45 Bargaining rights, and, 5:1, 5:29 to 5:31, 5:41 Change of name, 5:46 Compliance with constitution, **5:33** to 5:36 Constitution silent, 5:32, 5:35 Definition of, 5:31 Employee opposition, **5:43** Employer opposition, 5:43 Fundamental objects unchanged. 5:32 Influence of Ontario law, 5:38 Judicial regulation, 5:32 Majority approval of, 5:32, 5:34, 5:37 to 5:41 Representation votes, 5:29 to 5:31, 5:37 to 5:41 Statutory regulation, 5:29 to 5:31 Substantial completion rule, **5:42** Timeliness of application for successorship status, 5:44 Transfer of jurisdiction, 5:29 to 5:45 NATIONAL CITIZENS' COALITION Generally, 3:12, 3:14

NATIONAL DAY OF PROTEST Generally, 3:4, 3:5, 3:7

NATURAL JUSTICE See PROCEDURAL FAIRNESS

NEW DEMOCRATIC PARTY Generally, **3:2**, **3:13 to 3:17**, **6:2**

NORTH AMERICA FREE TRADE AGREEMENT Generally, 3:1 **OFFICERS** Acting without authority, **4:4**, **6:14**, 6:48 Authority to dismiss staff, 6:14 Authority to initiate legal proceedings, **6:14** Conduct of, 6:1 Discipline of, 4:7, 6:1 Dismissal of, **4:2**, **5:20**, **6:20** Election of, 1:18, 4:1, 4:2, 4:4, 4:7, 5:11, 6:1 to 6:59 employer interference, 6:1, 6:4 nominations, 6:5 procedural fairness. 6:10 procedural irregularities, 4:10, 6:6, 6:7, 6:11 remedies. 6:12 statutory regulation, 6:2 Employer discipline of, **6:18 to** 6:31 Fiduciary duty, 5:4, 5:10, 5:12, 6:15, 6:46 Freedom of expression, 6:24 to 6:29 Liability for human rights violations. 11:19 Liability for ultra vires acts, 4:5, 9:9 Obligations, 6:1, 6:15, 6:30, 6:37, 6:46 Prosecution of. 6:17 Vicarious liability, and, 6:15, 6:17 Workplace rights, **6:19**, **6:30 ONTARIO FEDERATION OF** LABOUR Generally, 10:5

PARENT-LOCAL RELATIONS Generally, 1:8, 4:13, 5:1 to 5:46, 8:10 Assets, control of, 5:1, 5:4 to 5:6, 5:10 to 5:12, 5:20, 6:15 Breath of life doctrine, 5:2 Chartering locals, 5:4 Collective bargaining, and, 5:2

PARENT-LOCAL RELATIONS ---Cont'd

Construction industry, Ontario, 5:24 to 5:28 Distribution of authority, 5:2, 5:4, 5:5 Duty of fair representation, 7:91 to 7:102 Fundamental breach. 5:10 International unions, 5:11 Jurisdictional disputes among locals, 5:4 Membership rebate, 5:4 Parent's supervisory role, 5:1 to 5:18 Remedies, 5:12 Residual rights, 5:2 Resulting trust, **5:10** Termination of, 5:2, 5:6, 5:26 Trusteeship see TRUSTEESHIPS

PICKETING Generally, 3:8 to 3:10, 4:3 to 4:15, 8:12, 9:5, 9:25

POLITICAL ACTIVITY Generally, 2:4, 3:1 to 3:18, 5:1, 6:2 Effectiveness, 3:2, 3:8 Election laws, 3:2, 3:11 to 3:17 Employer property rights, and, 3:2, 3:11 to 3:17 Public service employees, 3:12, 3:17

POLITICAL PARTIES, UNION SUPPORT OF Generally, 3:2, 3:11 to 3:17, 4:9

POLITICAL STRIKES See STRIKES, political

PRIVATIZATION Generally, 3:1

PROBATIONARY EMPLOYEES Generally, **7:12**, **7:43**, **7:65**, **7:78** PROCEDURAL FAIRNESS Generally, 4:2, 4:4, 5:5, 6:10, 6:33 Admission to membership, 8:13 Bias, 5:5, 6:33, 6:48, 9:6, 9:21, 9:27, 9:41 Discipline and expulsion, 4:2, 6:32 to 6:34, 9:3, 9:6, 9:28, 9:32 Parent-local relations, 5:5 Right to counsel, 9:6, 9:12, 9:17 to 9:22 Union constitutions, and, 4:2, 4:7 Union elections, 6:2, 6:3, 6:10 Union officers, 6:10 Union staff, discipline of, 6:48 PUBLIC POLICY Generally, 4:2, 4:5, 4:11, 9:5 **RAND FORMULA** See SECURITY CLAUSES REALIST THEORY See LEGAL STATUS, theories **RELIGIOUS EXEMPTION** Generally, 2:2, 2:3, 10:1 to 10:9 Abortion policy as basis for, **10:5** Applicant's rights and obligations, 10:2.10:3 Application premature, **10:5**, **10:7** Canadian Reformed Church of Carman. 10:5 Christian Reform Church. 10:5 Conscientious objectors, 10:2, 10:3, 10:5, 10:6 Duration of exemption, 10:7 Effective date of exemption, **10:7** Employee status of applicant, 10:8 History, 10:2, 10:3 Human rights basis for, **10:3** Judaism, 10:5 Mennonite Church, 10:5 Mixed motivation, 10:5, 10:9 Objection to a particular union, 10:2, 10:3, 10:5, 10:6, 10:9 Obligations of union, 10:2, 10:3,

10:5

RELIGIOUS EXEMPTION -Cont'd Palestine Liberation Organization support as basis for, 10:5 Payment to charity, 10:2, 10:3 Religious defined, 10:2, 10:3, 10:5 Roman Catholic Church, 10:5 Seventh Day Adventist Church. 10:3, 10:5 Statutory interpretation, 10:1, 10:4 to 10:8 Statutory provisions, **10:2**, **10:3** Time limits for application, 10:2, 10:3.10:7 Union policies as basis for, 10:5, 10:6

REMEDIES

See also DUTY OF FAIR REPRE-SENTATION Admission to membership, 8:14 Discipline and expulsion, 9:3, 9:8, 9:9, 9:38 Employer discipline of union officers, 6:31 Parent-local relations, 5:12 Union elections, 6:12

REORGANIZATIONS See MERGERS

REPRESENTATIVE ACTIONS Generally, 1:1, 1:13, 9:9

RESTRAINT OF TRADE Generally, **1:2**, **1:4**, **1:27**, **9:1**, **9:27** Immunity from liability, **1:27**

RIGHTS OF LABOUR ACT (ONTARIO) See LEGAL STATUS

RIGHT TO WORK Generally, **2:7, 9:1, 9:34**

ROYAL COMMISSION ON ELECTORAL REFORM AND PARTY FINANCING Generally, 3:15 SECURITY CLAUSES See also RELIGIOUS EXEMP-TION Generally, 2:1, 8:1, 9:11 to 9:37 Check-off clauses, 2:2, 2:6 Closed shop, 2:1, 2:2, 2:4, 2:9 Dues assessment, 4:4, 4:7 Enforcement, 2:3, 2:5, 2:8, 2:10 Failure to pay dues, 2:8, 2:10 Freedom of association, and, 2:2, 2:4 Limits on enforceability, 2:3, 2:5, 2:8, 9:27 Maintenance of membership, 2:2 Modified union shop, 2:2, 2:4, 2:8 Political financing, 3:13 to 3:15 Rand Formula, 2:2 to 2:4, 2:7, 2:8, 3:1, 3:11 to 3:17, 10:3, 10:5 Resignation from membership, **2:10** Statistics, 2:2 Statutory authorization, 2:3 Union shop, 2:2, 2:3, 2:8

SENIORITY Generally, 10:2, 10:3

STAFF Dismissal of, 6:48 Rights of, 6:44

STATE, THEORIES OF THE Generally, 3:1

STRIKE BREAKING Generally, 2:1, 8:12, 9:25, 9:33

STRIKE FUNDS Generally, 2:6, 2:7, 4:22, 9:33

STRIKES Political, **3:2**, **3:3 to 3:10** Regulation of, **3:1**, **3:9**, **3:10**

STRIKE VOTES Generally, 3:5, 6:17, 6:59, 9:29, 10:2, 10:3

STRUCTURES Generally, 5:1 to 5:46, 6:1, 6:14 STRUCTURES—Cont'd Organizational complexity, 5:1 Regulation of, 5:1

SUCCESSORSHIP See MERGERS

TORTS Generally, 9:2 to 9:9

TRADES AND LABOUR CONGRESS Generally, 5:29

TRADE UNION ACT, 1984 (U.K.) Generally, 6:1

TRADE UNIONS ACT, 1872 Generally, **1:4** Judicial interpretation, **1:4** Symbolic importance, **1:4**

TRANSFERS OF JURISDICTION See MERGERS

TRUSTEESHIPS Generally, 5:1, 5:3, 5:14 to 5:23, 5:27, 6:5 Construction industry, Ontario, 5:14 to 5:18 Continuation of, 5:14 to 5:18 TRUSTEESHIPS—Cont'd Interim orders, 5:8, 5:16, 5:20, 5:27 Judicial regulation, 5:19 to 5:23 Provincial status of unions, 5:23 Statutory regulation, 5:14 to 5:18

TRUST FUND Generally, 4:19

UNFAIR LABOUR PRACTICES Coercion, **2:3**, **6:1**, **8:5**, **9:34**, **11:11** Dismissal of union officers, **6:20** Retaliation, **5:16**, **8:7**, **9:36**

VOID DECISIONS, APPEALABILITY OF Generally, 4:12

WINNIPEG GENERAL STRIKE Generally, 3:4

WOODS TASK FORCE ON INDUSTRIAL RELATIONS Generally, 6:2, 8:1

WRONGFUL DISMISSAL See STAFF, dismissal of; OFFICERS, dismissal of