

INDEX

All references are to headings.

- Act of state, 7.3(d)(ii), 8.1, 8.2(b)
- Administrative courts, 1.2, 6.6(d)
- Agency, *see* Contract
- Anns/Cooper* test, *see* Negligence
- Anns/Kamloops* test, *see* Negligence
- Application for judicial review, 2.9
- Appropriation of funds, *see* Parliamentary appropriation
- Armed forces, *see also* Crown servant
 - dismissal at pleasure, 9.8(a)
 - loss of services, action for, 9.8(b)
 - pay, right to recover, 9.8(a)
 - prerogative powers over, 9.8(a)
 - statute law applicable to, 15.15(c)
 - superior orders, 15.15(c)
 - tortious liability, *see* Tort
 - war, operations of, 7.3(d)(ii), 8.2
- Aronson, M.
 - statutes binding the Crown, on, 15.11(e)
- Attachment, *see* Contempt of court; Garnishment
- Attorney-General
 - injunction, application for, 2.4(b)
 - proceedings against, 2.3(b), 2.3(d)
 - tortious liability, 8.6
- Australia
 - Commonwealth, 1.4(c)
 - states, 1.4(c)
 - territories, 1.4(c)
 - tort, liability in, 6.1(d)
 - unconstitutional taxes, recovery, 10.6(b)
- Bad faith
 - Crown liability for, 12.5(d)
- Bill of Rights, 1689 (Eng.), 10.6(a), 15.2
- British overseas territories, *see* Colonies
- Cabinet confidences, *see* Public Interest Immunity

INDEX

- Canada
 - proceedings against, 2.1, 6.1(e), 16.4(f), 17.3(b), 17.3(c)
 - proceedings by, 17.3(d), 17.3(e)
 - provinces, *see* Provinces
 - territories, *see* Territories
- Certiorari, *see* Prohibition and certiorari
 - Application for judicial review, 2.9
- Charter of Rights
 - Crown privileges and, 1.3(f)
 - damages for breach, 2.2(c), 6.5(d), 8.5(a)
 - injunction for breach, 2.4(g), 2.6(e)
 - mandamus for breach, 2.6(e), 2.6(d)-(e)
 - property, protection of, 3.1(e), 9.6(d), 11.1, 11.3
 - retroactive laws, *see* Retroactive statute
- Choice of law, *see* Federal jurisdiction
- Civil law
 - Crown, application to, 6.1(e), 15.1, 15.11(a), 15.12(c), 15.13
- Cohen, David
 - entitlements, on, 6.6(c)
- Collateral attack, 2.10, 7.4, 18
- Colonies
 - legal status, 1.4(c)
 - prerogative power over, 1.5(b)
- Commercial activity, 9.4(a), 9.4(c), 14.2, 15.7(d), 15.8, 15.9, 16.2
- Common law
 - Crown, application to, 15.1, 15.12(b), 15.12(c), 15.13
 - federal, 15.3(c), 17.5
 - uniformity of, 17.5
- Compensation, *see* Damages; Set-off; Tort
- Conflict of Laws, *see* Federal jurisdiction
- Consolidated Revenue Fund, 3.1(c), 3.1(f), 10.1(c), 10.6(a), 12.4, 13.3
- Constitutional questions
 - limitation of actions, 4.5(f)
 - notice of, 4.6(d)
- Constitutional tort, *see* Damages
- Constitutionalism, 1.2
- Contempt of court

INDEX

Contempt of court — *continued*

- Crown, against, 2.4(i), 2.6(b), 2.7(b), 3.3
- Crown servant, against, 3.3(b), 3.3(c)

Contract

- administrative, 9.2
- choice of law, 17.4
- constitutional authority to make, 9.4(d)
- Crown agent's liability, 9.7(c), 16.4(c), 16.4(e)
- Crown servant, with, *see* Crown servant
- Crown servant's liability, 3.3(c), 9.7, 16.4(e), 16.4(f)
- Crown servant's power to make, 9.4(a), 9.4(e), 9.5(a), 9.5(b)
- Crown's liability, 1.3, 9.1
- Crown's power to make, 9.4
- discretion, fettering, 9.6, 9.8(a), 18
- election promises, 9.3(c)
- executive necessity, 9.6(a)
- extinguishment of right, 9.4(d), 9.4(e), 9.6(b), 9.6(c), 9.8(a), 11.6
- injunction for breach, 9.2
- intention to create contractual relations, 9.3
- legislative appropriation, necessity for, 9.4(c)
- legislative nullification, 9.6(b), 9.6(d), 9.6(e)
- parliamentary appropriation, 9.4(c)
- petition of right, 1.3(c)
- policy promises, 9.3(d)
- quasi-contract, *see* Restitution
- special rules, need for, 9.2
- specific performance for breach, 9.2
- statute applicable to Crown through, 15.8, 15.12(c), 15.17(a)
- statutory authority to make, 9.4(c), 9.4(d), 9.4(e), 9.5
- tendering contracts, 9.3(e)
- termination clause, 9.2, 9.6(d)
- warranty of authority, 9.7

Cornford, T.

- on damages for invalidity, 6.6(a)

Costs

- advance costs, 4.3(d)
- Crown liability, 4.3, 15.6(c)

Courts

- contempt, *see* Contempt of court
- defamation in, 8.7(a), 8.7(c)
- Federal Court of Canada, *see* Federal Court of Canada
- judgment, *see* Judgment

INDEX

Courts — *continued*

- jurisdiction over Crown, 17.3
- order, *see* Judgment

Crime

- Crown agent's liability, 15.14, 15.15(a), 15.15(b), 16.4(a), 16.4(b)
- Crown contractor's liability, 15.16(a)
- Crown's liability, 3.3(c), 6.2(d)(iii), 15.14
- Crown servant's liability, 15.15

Crown

- agent, *see also* Public corporation
- contempt of court against, *see* Contempt of court
- corporation, analogy with, 1.4(d), 3.3(c), 9.4(a)
- creditor, as, *see* Crown debt
- "Crown", meaning of, 1.4, 15.16(a), 15.16(b)
- debt, *see* Crown debt
- directing mind, 1.4(d), 6.3(e), 15.14(b)
- divisible, 1.4(c), 9.4(a), 15.16(a), 15.16(b), 17.2
- fault of, 1.4(d), 15.14(b)
- federation, in, 1.4(c), 15.16(a), 17.3
- government, and, 1.4(a)-(b)
- legal person, as, 1.4(a), 1.4(d), 9.4(a)
- natural person, as, 1.4(a), 9.4(a)
- order against, 2.3(d), 2.4(b), 2.4(i), 2.6(b), 2.7(b), 2.8(b), 3.1(b), 3.2(c), 3.3
- "person", as, 15.7(b), 15.14(a)
- plaintiff, as, *see* Proceedings by Crown
- prerogative, *see* Prerogative
- proceedings against, *see* Crown proceedings
- proceedings by, *see* Proceedings by Crown
- public corporation, and, *see* Public corporation

Crown agent, *see also* Public corporation

- contract, 16.2(b), 16.4(e)
- control test, 16.2(b)
- Crown immunity inapplicable, 16.4(f)
- functions test, 16.2(a)
- liability to be sued, 16.4
- statute, by, 15.15(b), 16.3(a)
- ultra vires activity, 16.3(b)

Crown corporation, *see* Public corporation

Crown debt

- common law priority, 14.2
- competing Crown debts, 14.4
- enforcement, 14.1-14.2

INDEX

- Crown debt** — *continued*
garnishment, 3.2, 14.5
priority, 14.2-14.5, 15.9
- Crown privilege, *see* Public interest immunity
- Crown proceedings
application for judicial review, *see* Application for judicial review
Attorney-General, *see* Attorney-General
costs, *see* Costs
Crown, by, *see* Proceedings by Crown
Crown servant, against, *see* Crown servant
damages, *see* Damages
declaration, *see* Declaration
discovery, *see* Discovery
enforcement of judgment, *see* Judgment
equitable relief, 1.3(b)
federal jurisdiction over, 2.4(f), 17.3(c)
habeas corpus, *see* Habeas corpus
history, 1.3
injunction, *see* Injunction
intergovernmental litigation, 1.4(c), 17.3(e)
interlocutory relief, *see* Interlocutory relief
interrogatories, *see* Discovery
limitation of actions, *see* Limitation of actions
mandamus, *see* Mandamus
notice requirements, 4.6
petition of right, *see* Petition of right
prohibition, *see* Prohibition and certiorari
proper court, 4.1
proper defendant, 4.1
rights of parties, 15.10, 15.13, 15.17(a)
set-off, *see* Set-off
specific performance, *see* Specific performance
- Crown property, *see* Execution
immunity from actions *in rem*, 2.12(b)
- Crown representative, *see* Governor
- Crown servant
armed forces, *see* Armed forces
Attorney General, *see* Attorney-General
certiorari against, *see* Prohibition and certiorari
compellable witness, *see* Subpoena
contempt of court by, 3.3
contract, power to make, *see* Contract

INDEX

Crown servant — *continued*

- contractual liability, *see* Contract
- course of employment, 6.2(e)
- criminal liability, *see* Crime
- de facto authority, 6.2(e)(i), 6.2(e)(ii), 6.4(e)
- definition of, 6.2(c)(ii)
- directing mind, as, 1.4(d), 15.14(b)
- discovery against, 4.2(d)
- dismissal-at-pleasure rule, 9.7(b), 9.8(a)
- estoppel, 13.1-13.2
- executive necessity, *see* Executive necessity
- garnishment of, 3.2(c)
- good faith, 6.2(d)(ii), 8.3
- governor, *see* Governor
- habeas corpus against, 2.8
- identification of, 6.2(c)(iii)
- immunity from suit, 16.2(a)
- independent discretion rule, *see* Tort
- injunction against, *see* Injunction
- judges, *see* Judicial immunity
- legal authority, 8.3, 9.5
- loss of services, action for, 9.8(b)
- mandamus against, 2.6(c), 3.1(e), 3.3(c)
- minister, *see* Minister of the Crown
- pay, action to recover, 3.2(c), 9.8(a)
- persona designata, as, 2.6(c), 3.2(c), 3.3(c)
- personal liability, 8.1
- police, *see* Police
- power to make contracts, *see* Contract
- prohibition and certiorari against, *see* Prohibition and certiorari
- public corporation, *see* Public corporation
- public service statutes, 9.8
- statutes, application to, *see* Statutes
- statutory immunity clauses, 6.2(d)(ii), 8.4, 8.6
- subpoena against, 5.3(c)
- tortious liability of Crown, *see* Tort
- tortious liability, *see* Tort
- wrongful dismissal, action for, 9.8

Damages

- compensation compared, 6.4(a)-(d)
- constitution, for breach of, 6.5(d), 8.5(a)
- contract, breach of, 1.3(c), 9.1, 9.6(d)
- Crown, against, 1.3(c), 2.2
- interest on, 2.2(e)

INDEX

Damages — *continued*

- judgment, *see* Judgment
- prerogative compensation, 6.4(a)-(d)
- punitive, 2.2(d)
- statutory compensation, 6.4(a), 6.4(b), 6.6(b)
- undertaking to pay, 2.4(f)

De facto officer, 6.2(e)(i), 6.2(e)(ii), 6.4(e)

Debt, *see* Crown debt

Declaration

- Attorney-General, against, 1.3(b), 2.3(d)
- coercive relief, absence of, 2.3(b)
- constitutional, 2.3(a), 2.3(f), 2.3(g)
- Crown, against, 1.3(b), 2.3, 9.1
- governor, against, 2.7(b)
- injunction, in lieu, 2.3(e), 2.4(a)-(c), 2.4(i)
- interlocutory, 2.3(e), 2.4(f), 2.4(i)
- procedure, 2.3(d)
- specific performance, in lieu, 2.5(b)
- suspended, 2.3(f), 2.3(g)
- trust, breach of, 12.1-12.2
- ultra vires act, 2.3(a)
- unconstitutional statute, 2.3(a), 2.3(g)

Declaratory judgment, *see* Declaration

Defamation

- communications within executive, 8.7(b)
- statements in judicial proceedings, 8.7(a)

Delict, *see* Tort

Dicey, A.V.

- idea of equality, on, 1.1, 1.2, 1.3(a), 3.3(b), 6.6(d), 8.1, 18
- prerogative, on, 1.5(b)
- rule of law, on, 1.2, 6.6(d), 7.5

Direct liability, *see* Tort

Directory requirement, 9.4(e), 9.5(b)

Discovery

- Crown, against, 3.3(a), 15.13, 17.3(b)
- Crown brief, of, 5.4(f)
- Crown, by, 4.2(b)
- Crown privilege, 3.3(c), 5.3(c), 5.3(d)

Discretion, *see* Statutory authority

INDEX

- Dispensing power, 1.5(b), 15.2
- Distress, 3.3(b)
- Documents, *see* Discovery; Subpoena; Public interest immunity
- Duty of care, *see* Negligence
- Economic loss, *see* Negligence
- Edwards, J. Ll. J.
 - on prosecutorial immunity, 8.6
- Emergency, *see also* Executive necessity
 - prerogative power over, 1.5(b)
- Equality between Crown and subject, 1.1-1.2, 1.3(a), 1.5, 3.3(c), 6.6(d), 15.17(a), 15.17(b), 16.2(b), 16.4(f), 18
- Equitable execution, 3.2(c)
- Estoppel
 - Crown's liability, 13.2
 - discretion, fettering, 10.4
 - ostensible authority, 9.5(a)
 - parliamentary appropriation, absence of, 13.3
- European Community
 - damages for breach of, 6.5(a)
 - supremacy over U.K. law, 2.4(g)
- Evidence, *see* Public interest immunity
- Ex gratia payment, 6.6(b)
- Examination for discovery, *see* Discovery
- Execution, *see* Judgment
- Executive necessity
 - act of state, 8.2(b)
 - constitutional crisis, 8.2(b)
 - contract law, 8.2(b), 9.6, 9.8(a)
 - discretion, fettering, 8.2(b), 9.6, 13.4
 - injunction, defence to, 2.4(d), 2.4(i)
 - tort law, 6.4(c), 8.2(a)
- Executive privilege, *see* Public interest immunity
- Expropriation, *see* Property
- Federal Court of Canada
 - federal common law, *see* Common law
 - Federal Crown, suits against, 7.4, 16.4(f), 17.3(c)

INDEX

Federal Court of Canada — *continued*

- Federal Crown, suits by, 17.3(d), 17.3(e)
- intergovernmental suits, 17.3(e)
- jurisdictional limits, 17.3(c), 17.3(d)
- Provincial Crown, suits against, 2.1, 17.3(b)

Federal jurisdiction

- choice of law, 6.1(e), 15.10, 17.4
- contractual liability in, 15.12
- federal common law, 17.3(c), 17.5
- Federal Court of Canada, *see* Federal Court of Canada
- restitution liability in, 10.2
- tortious liability in, 6.1(e), 6.2(c)(i), 6.3(a)
- trust liability in, 12.2

Federalism

- Crown and, 1.4(c)
- implications for application of statute, 15.2, 15.3(e), 15.16, 15.17(b)
- intergovernmental litigation, 1.4(c), 17.3(e)
- suits against provinces in other provinces' courts, 17.3(b)

Fiat, *see* Royal fiat

Fiduciary duty

- Crown liability, 12.5

Fine, *see* Crime

Foreign affairs

- act of state, 8.2(b)
- prerogative power over, 1.5(b)

Freedom of information law, 5.2, 5.12

Garnishment, 3.2

Government, *see* Crown

Governor

- certiorari against, 2.7(b)
- declaration against, 2.7(b)
- mandamus against, 2.6(c), 2.7(b)
- prohibition against, 2.7(b)
- royal fiat, grant of, 2.6(d)

Governor General, *see* Governor

Habeas corpus

- constitutional guarantee, 2.8(c)
- Crown liability, 2.8(b)
- prisoner to release, 2.8(a)

INDEX

- Honours
 - prerogative power over, 1.5(b)-(c)
- Immunity clause, *see* Privative clause
- Independent contractor
 - Crown liability in tort for, 6.2(c)(iv)
 - immunity from statute, 15.15(d)
- Indian reserves
 - prerogative power over, 1.5(b)
- Injunction
 - Attorney-General as plaintiff, 1.3(b), 2.4, 3.3(c), 15.11(b)
 - Crown, against, 1.3(b), 2.4, 3.3(c), 9.2, 9.6(a), 9.6(d), 15.11(b)
 - Crown agent, against, 2.4(c), 3.3(b), 16.4(d), 16.4(f)
 - Crown servant, against, 2.4(c), 2.4(e), 3.3
 - declaration in lieu, 2.3(e), 2.4(b), 2.4(i)
 - interim, 2.4(f)
 - interlocutory, 2.3(e), 2.4(f), 2.4(i)
 - mandamus, in lieu, 2.4(e)
 - mandatory, 2.4(b), 2.4(e)
 - necessity, defence to, 2.4(c), 2.4(i)
 - prerogative, defence of, 2.4(c)
 - prohibitory, 2.4(a)
 - statutory authority, defence of, 2.4(d)
 - statutory duty, to enforce, 2.4(b), 2.4(e)
 - supervisory, 2.4(g)
 - ultra vires act, 2.4(c), 2.4(d), 2.4(g), 2.6(d)
 - undertaking to pay damages, 2.4(f)
- Interest
 - Crown liability, 4.4
 - postjudgment, 3.1(d), 4.4(b), 15.11(c)
 - prejudgment, 2.2(d), 4.4(a)
- Interlocutory relief, 2.3(e), 2.4(f)
- International law, *see* State immunity
- Interrogatories, *see* Discovery
- Invalidity, *see* Legal authority
- Judge
 - liability, 6.2(d)(iv), 8.5, 8.7(a), 8.7(c)
- Judgment
 - contempt of court, *see* Contempt of court
 - Crown, enforcement against, 3.1-3.3

INDEX

Judgment — *continued*

- Crown's duty to pay, 3.1(c), 9.4(c)
- equitable execution, 3.2(c)
- execution, 1.3(f), 3.1, 3.2(c), 3.3(a)-(b), 13.5
- garnishment, 3.2
- interest on, 3.1(d), 4.4(b), 15.11(c)
- parliamentary appropriation, 3.1(c)

Judicial immunity

- classes of judges, distinctions between, 8.5
- scope of, 6.2(d)(iv), 8.5, 8.7(a), 8.7(c)
- statutory protection, 8.5(d)

King, *see* Crown; Governor

Laches, 4.5(b)

Legal authority, absence of, *see also* Statutory authority

- Crown servant, relevance to liability, 8.3
- negligence, relevance to liability, 7.4
- tort, relevance to liability, 6.4

Lieutenant Governor, *see* Governor

Limitation of actions

- constitutional claims, and, 4.5(f)
- Crown, application to, 4.5, 8.4, 15.7(c), 15.7(d), 15.13
- Crown servant, application to, 8.4
- notice requirement, 4.6

Loss of services, action for, 9.8(b)

Malicious prosecution, *see* Tort

Mandamus

- Charter of Rights, to enforce, 2.6(d)
- Crown, against, 2.4(e), 2.6, 3.3
- Crown servant, against, 2.6(c), 3.3
- governor, against, 2.6(c), 2.7(b)
- injunction in lieu, 2.4(e)
- persona designata, 2.6(c), 2.7(b), 3.3
- ultra vires act, 2.4(g), 2.6(d)

Mandatory requirement, 9.4(e), 9.5(b)

Mercy

- prerogative power to grant, 1.5(b)

Military activity, *see* Armed forces

Milton, John

INDEX

Milton, John — *continued*

on necessity, 8.2(a)

Minister of the Crown, *see also* Crown servant

compellable witness, *see* Subpoena

vicarious liability for, 6.2(c)(ii)

Misfeasance in a public office, *see* Tort

Monstrans de droit, 1.3(a)

National security, 5.1, 5.3(a), 5.7

Necessity, *see* Executive necessity

Negligence

Anns/Cooper test, 7.2(c)

Anns/Kamloops test, 7.2(b)

duty of care, 7.2

economic loss, 7.3(b)

elements of tort, 7.1

immunity for policy decisions, 6.6(a), 6.6(c), 7.2(b)(i)-(iii), 7.2(c)(iii)

indeterminate liability, concern to avoid, 7.1, 7.3(b), 7.3(c)

invalidity, 7.4

legal authority, absence of, 7.4

liability at operational level, 7.2(b)(i)-(iii), 7.2(c)(iii)

military activity, 7.3(d)(ii)

misfeasance/nonfeasance distinction, 7.3(c)

misrepresentation, 7.3(b)(iii)

nonfeasance, 7.3(c)

omissions, 7.3(c)

peculiarly governmental activity, 7.3(d)

policy considerations, 7.1, 7.2(c)(iii)

policy-operational distinction, 7.2(b)(i)-(iii), 7.2(c)(iii)

proximity, 7.2(c)(ii)

statute, relevance to duty of care, 7.2(c)(ii)

statutory duty, breach of, *see* Statutory duty

Non-delegable duties, *see* Tort

North American Free Trade Agreement

compensation for expropriation, under, 11.3(a)

Official, *see* Crown servant

Omissions, *see* Negligence

Parliamentary appropriation

contract, effect on, 9.4(c)

judgment, effect on, *see* Judgment

INDEX

- Parliamentary appropriation** — *continued*
 recovery of unappropriated payment, 10.6(a), 10.6(c)
- Penal statute, *see* Crime; Statutory duty
- Per quod servitium amisit, 9.8(b)
- Persona designata, 2.6(c), 2.7(b), 3.1(e), 3.3
- Petition of right
 contract, 9.1
 declaration, 2.3
 equitable relief, 1.3(b)
 history, 1.3, 2.1
 restitution, 10.2
 scope, 1.3(c)
 tort, 1.3(c)-(f), 6.1(a), 6.1(b), 6.1(e)
 trust, breach of, 12.2
- Police informer privilege, *see* Public interest immunity
- Police, *see also* Crown servant
 independent discretion rule, *see* Tort
 informer privilege, *see* Public interest immunity
 liability of Crown for, 16.2(b), 16.3(b)
 loss of services, action for, 9.8(b)
 tortious liability, *see* Tort
- Prerogative
 armed forces, 9.8(a)
 compensation under, 6.4(b), 6.4(c), 11.1
 defined, 1.5(b)
 emergency, *see* Executive necessity
 foreign affairs, 1.5(b)
 honours, 1.5(b), 1.5(c)
 judicial review, and, 1.5(c)
 no power to legislate, 1.5(b)
 priority of Crown debts, 14.2, 15.6(d)
 property, power to take, 11.1
 statutes affecting, *see* Statutes
 statutes, to override, 1.5(b), 15.3(a)
 tort action, defence to, 6.4(a), 6.4(c), 6.4(d), 8.3
 war, 1.5(b), 6.4(c), 7.3(d)(ii), 8.2
- Prisoner, *see* Habeas corpus; Tort
- Privative clause, 6.2(d)(ii), 6.2(f), 8.4, 8.5(c), 8.5(d)
- Proceedings against Crown, *see* Crown proceedings

INDEX

- Proceedings by Crown, *see also* Crown
 - proceedings
 - choice of law, 17.4
 - courts, jurisdiction over, 17.3(d)
 - discovery in, 15.13
 - limitation of actions in, 15.7(d), 15.13
 - prerogative remedies, 2.13
 - statutes, application to Crown, 15.7, 15.13, 15.17(a), 17.4(b), 17.4(c)
- Proceedings in rem
 - Crown against, 2.12
 - defined, 2.12(a)
- Prohibition and certiorari
 - application for judicial review, *see* Application for judicial review
 - Crown, against, 2.7(b)
 - Crown servant, against, 2.7(b)
 - governor, against, 2.7(b)
- Property
 - compensation for taking, 11.1, 11.3, 11.5
 - constitutional protection, 3.1(e), 11.1-11.6
 - expropriation, 11.1
 - NAFTA protection, 11.3(a)
 - prerogative power to take, 11.1
 - regulation, 11.4
 - statutory power to take, 11.1
 - zoning, 11.4
- Prosecutor
 - malicious prosecution, 6.2(d)(iv), 8.6
 - officially induced error, 13.1
 - tortious liability, 6.2(d)(iii)-(iv), 8.6
- Provinces
 - legal status, 1.4(c)
 - proceedings against, 2.1, 17.3(b)
- Proximity, *see* Negligence
- Public corporation
 - commercial activity, *see* Commercial activity
 - contractual liability of Crown for, 16.4(e)
 - contractual liability, *see* Contract
 - control by Crown, 16.2
 - Crown agent, as, 1.4(b), 16.1-16.5
 - Crown servant, as, 16.1, 16.4(c), 16.4(d)
 - discretion, fettering, *see* Executive necessity

INDEX

Public corporation — *continued*

- federal jurisdiction over, 16.4(f), 17.3(c)
- governmental functions, 16.2(a)
- in consimili casu, 16.2(a)
- injunction against, *see* Injunction
- reform of law, 16.5
- servant, status of, 6.2(d), 6.2(d)(i), 16.4(d), 16.4(e)
- statute, application of, 15.9
- sue and be sued, power to, 16.1, 16.4
- tortious liability of Crown for, 16.4(d)
- tortious liability, *see* Tort
- ultra vires act by, 16.2(b), 16.3
- unincorporated public body, 16.1, 16.4(b), 16.4(e)

Public interest immunity

- balancing of interests, need for 5.4(b), 5.4(c)
- cabinet confidences, 5.3(b), 5.4(b), 5.5(b), 5.6
- class claims, 5.3(e), 5.5
- confidentiality laws, 5.11
- criminal cases, 5.4(c)
- Crown brief, disclosure, 5.4(c), 5.4(f)
- Crown privilege, objection to term, 5.2
- defamation proceedings, 8.7(c)
- defined, 5.1-5.2
- discovery, 3.3(c), 5.3(c)
- fraud, 5.2
- freedom of information laws, 5.2, 5.12
- income tax returns, 5.2, 5.4(a), 5.11
- judicial review of claim, 5.4
- national security, 5.1-5.2, 5.3(b), 5.6, 5.7
- oral evidence, 5.8
- police informer privilege, 5.2, 5.3(c), 5.10, 17.5(b)
- previous publication, 5.2
- private documents, 5.1, 5.3(b)
- procedure for claim, 5.3
- public interest, 3.3(c), 5.1
- real evidence, 5.9
- subpoena, 5.3(c)-(e), 5.4-5.6
- U.S.A., executive privilege in, 5.4(a)
- waiver, 5.2

Public law

- contract, 9.2
- European systems, 1.2, 6.6(d), 18
- tort, 6.5(a), 6.5(d), 6.6(d), 7.5

INDEX

- Queen, *see* Crown; Governor
- Reference procedure, 17.3(e)
- Rem, *see* Proceedings in rem
- Remedies, *see* Crown proceedings
- Representations
 - contractual, *see* Contract
 - estoppel, raising, *see* Estoppel
 - negligent, *see* Negligence; Tort
- Res judicata, 13.5
- Responsible government
 - conventions of, 1.5(b)
 - development of, 1.5(b)
- Restitution
 - Crown, action by, 13.3
 - Crown's liability, 10.2
 - illegal tax, recovery, 10.6, 18
 - payment made without appropriation, 10.6(a), 10.6(c), 13.3
- Retroactive statute, 3.1(d), 3.3(c), 6.1(e), 6.4(c), 9.6(d), 10.6(b)
- Royal fiat, 1.3(d), 1.3(e), 2.3(d), 2.6(d), 6.1(e), 10.6(b)
- Rule of law
 - Crown, application to, 3.3(c), 6.6(d), 10.6(c)
 - Dicey's idea of equality, *see* Dicey, A.V.
 - executive necessity, *see* Executive necessity
- Secrecy, *see* Public interest immunity
- Servants, *see* Crown servant
- Set-off, 2.11
- Shield of the Crown, *see* Public corporation
- Smith, J.C.
 - on entitlements, 6.6(c)
- Sovereign immunity, *see* State immunity
- Specific performance
 - Crown, against, 1.3(b), 2.5, 3.3, 9.2, 9.6(a), 9.6(d), 12.2
 - damages in lieu, 2.5(b)
 - declaration in lieu, 2.5(b)
- State immunity, 17.2

INDEX

- State necessity, *see* Executive necessity
- State, *see* Crown
- Statutes of limitation, *see* Limitation of actions
- Statutes, *see also* Statutory authority; Statutory duty
 - adoption, *see* incorporation by reference
 - benefit of, 14.4, 15.7, 15.13, 15.17(a)
 - commercial activity, 15.7(d), 15.8-15.9
 - compensation under, 6.4(b)
 - contract binding Crown, 15.8, 15.12(b), 15.17(a)
 - criminal statute, *see* Crime
 - Crown agent, application to, 15.9, 15.13-15.14, 15.15(a), 15.15(d), 15.17(a), 16.3
 - Crown contractor, application to, 15.13, 15.15(d), 15.17(a)
 - Crown in right of another government, effect on, 5.6, 14.4, 15.2, 15.4(b), 15.8, 15.10(c), 15.12(b), 15.12(c), 15.16, 17.4
 - “Crown”, meaning of, *see* Crown
 - Crown servant, application to, 15.14(b), 15.15, 15.17(a), 16.4(a), 16.4(b)
 - evaluation of law, 15.17
 - exempting clause, 15.17(a)
 - express words binding Crown, 15.3(a), 15.3(d), 15.3(e), 15.4-15.5, 15.16(b)
 - federal complications, 5.6, 14.3, 15.2, 15.4(b), 15.8, 15.10(c), 15.12, 15.16, 17.4
 - incorporation by reference, 15.10, 15.17(a)
 - interpretation statute, effect on common law, 15.4, 15.6(c), 15.16
 - limitation, statute of, *see* Limitation of actions
 - logical implication binding Crown, 15.6(c)
 - necessary implication binding Crown, 15.3(a), 15.3(d), 15.3(e), 15.4, 15.6, 15.17(a)
 - penal statute, *see* Crime; Statutory duty
 - prejudice to Crown, need for, 15.7, 15.15, 15.17(a), 16.5
 - prerogative, statute affecting, 14.4, 15.3(a), 15.3(b), 15.3(c), 15.6(b), 15.6(d), 15.17(a)
 - public corporation, application to, *see* Public corporation
 - public service statutes, *see* Crown servant
 - retroactive, *see* Retroactive statute
 - revival of immunity in B.C., 15.16(b)
 - rights peculiar to Crown, *see* Prerogative
 - role in establishing non-delegable duty, 6.2(c)(iv)
 - role in establishing proximity, 7.2(c)(ii)
 - role in satisfying standard of care in negligence, 6.3(d)
 - tax statute, *see* Taxation
 - trustee statute, 12.2
 - unconstitutional, remedy for, 2.3(f), 2.3(g), 6.5(d)

INDEX

Statutes, *see also* Statutory authority; Statutory duty — *continued*
waiver of immunity, 15.8

Statutory authority

- contract, to make, 9.4(b), 9.4(e), 9.5
- discretion, fettering, *see* Executive necessity
- due care in exercise of, *see* Tort
- expenditure of public funds, 3.1(c), 9.4(c), 10.2, 10.6(c)
- injunction, defence to, 2.4(c)-(f)
- lack of, effect of, 6.4
- mandamus, defence to, 2.6(e)
- strict interpretation, 6.4(e), 7.4
- tax, levy, 10.6(c)
- tort, defence to, *see* Tort
- unconstitutional statute, *see* Unconstitutional statute

Statutory duty

- Crown, imposed on, 6.2(b), 6.3(d)
- Crown servant, imposed on, 6.2(e)(ii), 6.3(d)
- injunction to enforce, 2.4(b), 2.4(e)
- liability for breach, 6.2(b), 6.3(d), 7.2(c)(ii)
- mandamus to enforce, *see* Mandamus
- penal statute, *see* Crime

Statutory interpretation, 15.3(a)

Street, H.

- on statutes binding Crown, 15.7(d), 15.17(a)

Subpoena

- Crown privilege, *see* Public interest immunity
- Crown servants, against, 5.3(c), 5.3(d), 5.6
- minister, against, 5.6
- quash, application to, 5.3(c), 5.6

Superior orders, 15.15(c)

Supply, *see* Parliamentary appropriation

Suspending power, 15.2

Taxation

- Crown priority, 14.2-14.5
- estoppel, 13.3
- illegal, recovery of by taxpayer, 4.5(e), 4.5(f), 10.6, 18
- statutory authority to levy, 10.6(a)

Territories

- legal status, 1.4(c)
- proceedings against, 2.1

INDEX

Tort

- abuse of office, 6.5(c), 6.6(a)
- act of state, 7.3(d)(ii), 8.2(b)
- airport administration, 7.3(d)(i)
- armed forces, 6.2(e)(i), 6.3(a), 7.3(d)(i)-(ii), 8.2(b)
- Attorney General's liability, 8.6
- choice of law, *see* Federal jurisdiction
- commercial activity, *see* Commercial activity
- compensation, 6.4(b), 6.4(c), 6.6
- constitutional tort, 6.5(d), 8.5(a)
- Crown agent's liability, 6.2(c)(iv), 8.1, 16.4(c)-(f)
- Crown servant's liability, 1.3(c), 3.3(b), 3.3(c), 6.1(b), 6.1(c), 6.2(c)(i)-(iii), 6.2(d)-(f), 6.5(a), 8.1, 16.4(d), 16.4(f)
- Crown's liability, 2.2, 6, 7
- customs, 7.3(d)(i)
- de facto officer, 6.2(c)(ii)
- defamation, 8.7
- direct liability, 6.2(b), 6.3
- economic loss, 7.3(b)
- employer's duties, 6.2(b), 6.3(b), 6.3(e)
- entitlement theory, 6.6(c), 7.5
- federal jurisdiction, *see* Federal jurisdiction
- governmental functions, 7.3(d)
- harbour administration, 7.3(d)(i)
- highway authority, 6.2(c)(iv), 7.2(b)(ii), 7.3(d)(i)
- history of Crown's liability, 1.3, 6.1, 6.6(d)
- independent discretion rule, 6.2(e)(iii), 6.3(d), 9.8(b)
- inevitable result rule, 6.4(e), 7.4
- invalidity, *see* legal authority, absence of
- judge, liability, *see* Judicial immunity
- legal authority, absence of, 6.2(e)(ii), 6.4(e), 6.5(a)-(c), 6.6(a), 7.4, 8.3
- loss of services, action for, 9.8(b)
- malicious prosecution, 6.2(d)(iv), 8.6
- misfeasance in a public office, 6.5(c), 6.6(a)
- misrepresentation, 7.3(b)(iii)
- motor vehicle accidents, 6.3(a), 7.2(b)(ii)
- navigation, 7.3(d)(i)
- negligence, *see* Negligence
- non-delegable duties, 6.2(c)(iv)
- nonfeasance, 7.3(c)
- occupier's duties, 6.2(b), 6.3(a), 6.3(c), 6.3(e)
- operational decision, 6.6(a), 6.6(c), 7.2(b)(i)-(iii), 7.2(c)(iii)
- petition of right, 1.3, 6.1(a), 6.1(b), 6.1(e)
- planning decision, *see* policy decision

INDEX

Tort — *continued*

- police, 6.2(d)(iii), 6.2(e)(i), 6.2(e)(iii)
- policy decision, 6.6(a), 6.6(c), 7.2(b)(i)-(iii), 7.2(c)(iii)
- prerogative authority, 6.4(a), 6.4(c), 6.4(d)
- prison administration, 6.3(e), 7.3(c), 7.3(d)(i)
- privative clause, 6.2(d)(ii), 6.2(f), 8.5(c), 8.5(d)
- prosecutor, liability of, 6.2(d)(iv), 6.2(e)(i), 8.6
- retroactivity of liability in tort, 6.1(e)
- risk principle, 6.6(b), 7.5
- school administration, 6.3(e), 7.3(d)(i)
- statutory authority, 6.2(e)(ii)-(iii), 7.4, 8.3
- statutory duty, *see* Statutory duty
- ultra vires act, *see* legal authority, absence of,
- unconstitutional statute, *see* Unconstitutional statute
- vicarious liability, 6.2, 8.1, 8.4, 16.4(d)
- war, operations of, 7.3(d)(ii), 8.2(a)

Traverse of office, 1.3(a)

Treaty, 8.2(a)

Trust

- Crown as beneficiary, 12.3, 14.5
- Crown as trustee, 12.1-12.4
- Fiduciary duty, *see* Fiduciary duty

Ultra vires, *see also* Prerogative; Statutory authority

- authority, Unconstitutional statute
- Crown agents, 16.3(b)
- declaration as remedy, 2.3(a)
- injunction as remedy, 2.4(c)-(e), 2.6(e)
- tort action, *see* Tort

Unconstitutional statute

- damages for, 6.5(d)
- declaration as remedy, 2.3(a)
- injunction as remedy, 2.4(g)
- mandamus as remedy, 2.4(g), 2.6(d)
- tortious liability for, 6.6(a)
- tortious liability under, 6.2(e)(ii), 6.4(e), 6.5(a), 6.6(a), 8.3, 10.6

Unincorporated public body

- legal status, 16.1, 16.4(b), 16.4(e)

United Kingdom

- European Community law in, 2.4(g)
- unconstitutional taxes, recovery, 10.6(b)

United States of America

INDEX

United States of America — *continued*

- Bill of Rights, damages for breach, 6.5(d)
- executive privilege, 5.4(a)
- unconstitutional taxes, recovery, 10.6(b)

Waiver of immunity, 15.7(d), 15.8

War, *see* Armed forces

Whitmore, H.

- statutes binding the Crown, on, 15.11(e)

Witness, *see* Public interest immunity; Subpoena

Writ of liberate, 1.3(a)

