

Index

ABATEMENT

See COMPENSATION, SPECIFIC
PERFORMANCE WITH

ABORIGINAL RIGHTS

See INDIGENOUS RIGHTS

ABORTION

Generally, 1:32, 2:2, 3:3, 3:8, 3:16,
3:29, 5:3, 5:8, 6:3, 6:9

ABUSE OF PROCESS

Generally, 2:13, 2:37, 3:10, 3:21,
5:9, 5:10

ACQUIESCENCE

See DELAY

ADJUSTMENTS, FOLLOWING SPECIFIC PERFORMANCE

Generally, 11:8

ADMINISTRATIVE BOARDS

Matters within jurisdiction of, 2:15,
2:19, 3:17, 3:18, 3:22, 5:10,
7:15

ANNUITY CONTRACTS

Generally, 7:10, 7:11, 7:20, 8:8

ANTICIPATORY BREACH

Generally, 10:14

ANTISUIT INJUNCTION

See LITIGATION, RESTRAINING

ANTON PILLER ORDER

Generally, 1:32, 2:36 to 2:40
Abuse, potential for, 2:39, 2:40
Disclosure required, 2:37
Ex parte, 2:2
Foreign defendant, 2:39
Implied undertaking, 2:37

ANTON PILLER ORDER—Cont'd

Improper use, 2:39.50
Limiting, 2:39.30
Privilege, 2:37
Procedural safeguards, 2:39
Rolling orders, 2:39
Search warrant, relation to, 2:39
Strength of case, 2:6, 2:36, 2:39

APPEALS

Generally, 2:41

ARBITRATION

Consensual, 5:11
Injunction to restrain, 1:32, 3:22,
5:12
Labour, 7:15
Statutory, 5:11
Stay of action, 5:11

ATTACHMENT

See CONTEMPT

ATTORNEY GENERAL

See also CRIMINAL LAW;
CROWN
Access to courts, 3:13
Competitor suit, 3:18
Contempt application, 6:14, 6:15
Criminal offences, suit to restrain,
3:8
Delay, 3:4
Discretion to initiate proceedings,
3:2 to 3:4, 3:16
Discretion to refuse injunction at
suit of, 3:4, 3:10
Federal law, breach of, 3:2 to 3:4
Injunction at suit of, 3:2 to 3:5,
3:11
Labour injunction at suit of, 3:11

INJUNCTIONS AND SPECIFIC PERFORMANCE

ATTORNEY GENERAL—Cont'd

Public nuisance, **3:3**
Relator proceedings, **3:2 to 3:4, 3:16**
Statute, breach of, **3:4**
Sub judice, restraining comment, **5:12**

AUCTION

Generally, **10:2**

BINDING-OVER

Generally, **3:10, 5:8**

BREACH OF CONFIDENCE

See CONFIDENCE, BREACH OF

BREACH OF STATUTE

See STATUTE, BREACH OF

BUILDING CONTRACTS

Generally, **7:12, 7:14, 9:1**

BURDEN AND BENEFIT

See HARSHIP

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

See CONSTITUTIONAL LAW

CAVEAT EMPTOR

Generally, **10:3**

CERTIORARI

See JUDICIAL REVIEW

CHARITIES

Generally, **3:2 to 3:4**

CHATTELS

See GOODS, CONTRACTS FOR SALE OF

CLASS ACTIONS

Generally, **4:7**

CLEAN HANDS

Generally, **1:29, 1:30**
Industrial property, **1:30**

CLUBS

See UNINCORPORATED ASSOCIATIONS

COMMITTAL

See CONTEMPT

COMMON INJUNCTION

Generally, **1:6, 3:21, 5:9**

COMMON LAW

See also COMMON INJUNCTION; DAMAGES, BREACH OF CONTRACT

Fusion with equity, **1:6, 1:32, 3:21, 5:9, 7:6, 7:20, 10:1, 10:9, 10:10**

Injunction, power of courts to award, **3:5**

Mandamus, action for, **3:20**

Nuisance, **4:1**

Predominance of remedies, **1:6, 7:1**

Specific performance, power to award, **7:1**

Trespass, **4:9**

COMPANIES

See also SHARES, CONTRACTS FOR SALE OF

Amalgamations, **5:5**

Directors, **5:5**

Inspectors, **3:21**

Proxy solicitations, **5:5**

Sequestration, **6:5**

Shareholders' rights, **5:5**

Take-over bids, **3:22, 5:5**

Ultra vires acts, **3:2 to 3:4, 3:6, 5:5**

COMPARATIVE LAW

Generally, **7:1**

COMPENSATED INJUNCTION

Generally, **4:4, 4:6, 4:8**

COMPENSATION, SPECIFIC PERFORMANCE WITH

Generally, **11:2 to 11:5**

After completion, **11:3**

**COMPENSATION, SPECIFIC
PERFORMANCE WITH**

—Cont’d

Annulment clause, **11:5**
 Contractual terms, **11:3, 11:5**
 Deficiency, **11:3, 11:4**
 Hardship, **11:3**
 Measurement, **11:3**
 Misrepresentation, **11:3**
 Purchaser, at suit of, **11:3**
 Purchaser’s knowledge of defect,
11:3
 Title defect, **11:3, 11:4**
 Vendor, at suit of, **11:3, 11:4**

COMPETITION LAW

See CRIMINAL LAW

COMPETITOR SUITS

Generally, **3:18**

CONDITIONAL PERFORMANCE

Generally, **1:31, 11:7**
 Cy pres, **11:7**
 Misrepresentation, **11:7**
 Mistake, **10:2, 11:7**
 Planning and regulatory approval,
7:14
 Security for contingent claim, **11:7**

CONFIDENCE, BREACH OF

Generally, **1:29, 5:3**
 Anton Piller order, **2:36**
 Defamation distinguished, **5:3**
 Freedom of speech, **5:3**
 Government secrecy, **5:3.50**
 Immorality, **1:29**
 Interlocutory injunction, **5:3**
 Privacy, protection of, **5:3, 5:3.70**
 Public interest defence, **5:3, 5:3.30**

CONSENT ORDERS

Generally, **2:4**

CONSIDERATION

Inadequacy, **10:7**
 Nominal, **10:8**

CONSTITUTIONAL LAW

Canadian Charter of Rights and
 Freedoms, **3:1, 3:28 to 3:40**

s. 1, **3:31**
 s. 2, **2:19, 3:13, 5:2**
 s. 3, **2:15**
 s. 8, **2:39, 3:32**
 s. 11, **3:10, 6:12 to 6:15**
 s. 13, **2:37**
 s. 15, **3:40**
 s. 23, **3:32, 3:39, 3:40**
 s. 24, **3:39**

Costs, **2:42**

Injunctions limiting constitutional
 rights, **3:33**

Interlocutory injunctions, **2:6, 2:13,**
3:28 to 3:34

Mandatory orders, **3:35 to 3:40**

Minority language rights, **1:15,**
3:32, 3:39, 3:40

Permanent injunctions, **3:35 to 3:40**

Segregation, **3:37**

Standing, **3:16**

Stay of proceedings, **3:28, 3:32**

Structural injunctions, **3:35, 3:40**

CONSUMER SURPLUS

See DAMAGES, INADEQUACY;
 ECONOMIC ANALYSIS

CONTEMPT

Generally, **6:1 to 6:15**

Adequacy of compliance, **1:13,**
1:14

Apology, **6:3, 6:9**

Appeal, standard of review, **2:41**

Attachment, **6:5**

Attorney General, at suit of, **3:13,**
6:14, 6:15

Bifurcated hearing, **6:12 to 6:15**

Bona fide acts, **6:9, 6:11**

Civil, **6:1 to 6:5.90, 6:9, 6:10, 6:12**
to 6:15

Civil disobedience, **6:5**

Committal, **6:4, 6:5, 6:12 to 6:15**

Corporate officers, **6:11**

INJUNCTIONS AND SPECIFIC PERFORMANCE

CONTEMPT—Cont'd

Costs, **6:3 to 6:5**
Court initiated proceedings, **6:15**
Criminal, **6:1 to 6:4, 6:10, 6:12 to 6:15**
Criminal prosecution for, **6:14**
Diligence required, **6:7**
Double jeopardy, **6:12 to 6:15**
Effective date of judgment, **6:7**
Entrapment defence, **6:9**
Ex parte committal, **6:12 to 6:15**
Family law, **6:3, 6:5, 6:12 to 6:15**
Fine, **6:3 to 6:7, 6:9, 6:10**
Foreign defendant, **1:33**
Fresh evidence on appeal, **6:12 to 6:15**
Imprisonment, indefinite, **6:3 to 6:5, 6:5.30**
Injunction erroneously awarded, **6:9**
Insanity, **6:1**
Intention, **6:3, 6:9, 6:10**
Necessity, defence of, **6:9**
Non-parties, **6:9, 6:11**
Notice, **6:12 to 6:15**
Penalty, **6:5**
Personal service, **6:9, 6:12 to 6:15**
Persons unknown, **6:8, 6:11**
Police, role of, **6:13, 6:15**
Procedure, **6:12 to 6:15**
Proof of, **6:12 to 6:15**
Purging, **6:3 to 6:5, 6:13**
Right to be heard, party in contempt, **6:13**
Sequestration, **6:5, 6:5.70, 6:7, 6:10**
Silence, right to, **6:12 to 6:15**
Statute, breach of, **3:10**
Stay, **6:7**
Sub judge, **5:2, 5:13**
Successors in title, **6:11, 6:11.50**
Suspension, **1:13, 1:14**
Undertaking enforced by, **6:1**
Vicarious liability, **6:10**

CONTINUING WRONG

See MULTIPLICITY OF SUITS, avoidance of

CONVERSION, EQUITABLE

Generally, **1:26, 8:3**

COPYRIGHT

See also ANTON PILLER ORDER; INTELLECTUAL PROPERTY
Injunction to protect, **3:27**
Live performance, **3:17**

CORPORATIONS

See COMPANIES

COSTS

Contempt, sanction for, **6:3, 6:5, 6:9**
Delay, **1:24**
Ex parte order, **2:2**
Interlocutory injunctions, **2:42**
Premature action for injunction, **1:20**
Relator proceedings, **3:2 to 3:4**
Restraining disposition of assets, **2:22**
Undertaking in damages, **2:13**

COURTS

See COMMON LAW; CONTEMPT; EQUITY; JURISDICTION
Access to, **3:13**

COVENANT, WRIT OF

Generally, **7:1**

CRIMINAL LAW

Competition laws, **3:8**
Double jeopardy, **3:10**
Flouting, **3:4, 3:6, 3:10**
Hardship to defendant, **3:4, 3:9**
Injunctions to enforce, **3:8 to 3:10**
Jurisdiction to award injunction, **3:5, 3:10**
Licensing requirements, **3:18**

CRIMINAL LAW—Cont'd

- Obscenity, **3:10**
- Pending appeal, **3:10**
- Police investigations, **3:12**
- Private prosecution, **3:16**
- Procedural safeguards, **3:10, 3:10.50**
- Proof of damage not required, **3:4, 3:6**
- Public safety, danger to, **3:7, 3:10**
- Standing, **3:16, 3:16.50**
- Statutory authorization for injunction, **3:8**
- Unconvicted accused, **3:10**

CROWN

- See also ATTORNEY GENERAL
- Agent of Legislature, **3:25**
- Agents, **3:25 to 3:27**
- Clean hands doctrine, **1:29**
- Crown agent acting in commercial capacity, **3:27.50**
- Emergency powers, **3:27**
- Illegal commercial activities by Crown agents, **3:27**
- Immunity, **3:23 to 3:27**
- Independent contractor, **3:27**
- Injunction against, **3:20, 3:23 to 3:27**
- Interlocutory relief against, **3:27**
- Legislative reform, **3:23 to 3:27**
- Public interest considered, **3:27**
- Restraining illegal conduct by Crown servants, **3:27.30**
- Servants, **3:25 to 3:27**
- Specific performance, **3:27**
- Ultra vires legislation, **3:26, 3:27**
- Ultra vires principle, **3:25 to 3:27**
- Undertaking on interlocutory injunction, **2:13**

DAMAGES, BREACH OF CONTRACT

- Contract, **7:3 to 7:7, 10:1**
- Expectation measure, **7:3, 7:5 to 7:7**

DAMAGES, BREACH OF CONTRACT—Cont'd

- Punitive, **7:5**
- Restitution, **7:3, 10:14**
- Unjust enrichment, **7:5**

DAMAGES, EQUITABLE

- Delay, **1:27**
- Injunction, in lieu of, **1:10, 1:12, 4:1, 4:2**
- Lost opportunity to bargain, **1:10**

DAMAGES, INADEQUACY

- See also INSOLVENCY; INTERLOCUTORY INJUNCTIONS, irreparable harm; MULTIPLICITY OF SUITS, avoidance of
- Advantage of specific performance, **7:2**
- Burden of specific performance, **7:3, 7:4**
- Constitutional cases, **3:38**
- Consumer surplus, **7:7, 8:2, 8:6**
- Defendant not entitled to expropriate, **1:9**
- Difficulty in assessing, **7:2**
- Failing to protect expectation, **7:7**
- Historical, **1:6**
- Injunction, advantages, **1:7, 1:8**
- Injunctions, for purpose of, **1:6 to 1:12**
- Land, **7:7, 8:2, 8:3**
- Limiting principles, **7:3, 7:5**
- Long-term supply contracts, **8:8**
- Modern view, **1:6**
- Moral argument, **7:2**
- Negative covenant, **1:6, 7:8, 9:1**
- Objection and subjective valuations, **1:9**
- Property rights, **1:6, 1:7, 1:9**
- Shares, sale of, **8:9**
- Specific performance, for purpose of, **7:1, 7:2 to 7:10**
- Stipulated remedy, **7:18, 7:19**

INJUNCTIONS AND SPECIFIC PERFORMANCE

DAMAGES, INADEQUACY

—Cont'd

Uniqueness, 7:6, 7:7, 8:2, 8:5 to 8:7

DECLARATION

Against Crown, 3:27
Compared to injunction, 3:16, 5:1
Constitutional cases, 3:26, 3:39
Interim, 3:16, 3:27
Judicial review, 3:21
Nuisance, 4:4
Shareholder actions, 5:5
Standing, 3:16, 3:16.50, 3:18
Trespass, 4:9
Wrongful expulsion, 5:4

DEFAMATION

Breach of confidence, relation to, 5:2, 5:3
Canadian Charter of Rights and Freedoms, 3:33, 5:2
Contempt compared, 5:2
Contempt of court and gagging orders, 5:2.50
Defence, 5:2
Ex parte injunction, 5:2
Foreign defendant, 1:33, 1:33.30, 1:33.50
Form of order, 5:2
Hate speech, 5:2.90
Injunction after trial, 5:2
Interlocutory injunction, 2:6, 5:2
Jurisdiction to award injunction, 1:32, 1:32.10, 3:5, 5:2
Jury trial requirements, 5:2
Proof of damage, 5:2
Public interest, 5:2
Trade libel, 5:2, 5:270

DEFICIENCY

See COMPENSATION, SPECIFIC PERFORMANCE WITH

DELAY

Generally, 1:21 to 1:28
Acquiescence, 1:21

DELAY—Cont'd

Attorney General, 3:4
Equitable damage, 1:27
Evidentiary significance, 1:21, 1:25, 1:28
Expenditure by defendant, 1:22, 1:24
Instalment contracts, 1:26
Interlocutory injunctions, 1:21
Knowledge of rights, 1:23
Laches, 1:21
Length, 1:22, 1:23
Limitation periods, relation to, 1:22 to 1:25
Misrepresentation, 10:3
Possession, 1:26
Prejudice required, 1:21, 1:22, 1:24
Resale, 1:24
Speculative dealings, 1:22, 1:24
Suppression of fact, 1:23
Trial, 1:28
Waiver, 1:21

DEPOSIT

Generally, 10:14

DETINUE

Generally, 7:1

DETRIMENTAL RELIANCE

Generally, 10:14, 10:15

DISCLOSURE, DUTY OF

See also EX PARTE INJUNCTION
Generally, 2:2

DOUBLE JEOPARDY

See CRIMINAL LAW

ECONOMIC ANALYSIS

Generally, 4:8
Coase theorem, 4:8
Consumer surplus, 7:7, 8:2, 8:6
Efficient breach, theory of, 7:5
Freeriders, 4:8
Holdouts, 4:8
Interlocutory injunctions, 2:5
Least cost avoider, 4:8

ECONOMIC ANALYSIS—Cont'd

Nuisance, **4:8**
 Stipulated remedies, **7:16**
 Transaction costs, **4:8, 7:5**
 Uniqueness, **7:7**
 Wealth maximization, **4:8**

EFFICIENT BREACH, THEORY OF

See ECONOMIC ANALYSIS

ELECTION OF REMEDIES

Generally, **1:12, 3:18, 5:4, 10:14**
 Accepting the breach, **10:14.15**
 Damage, **10:14**
 Detrimental reliance, **10:14**
 Estoppel, **10:14**
 Judgment, **10:14**
 Rescission, **10:14**
 Restitution, **10:14**

ELECTIONS

Generally, **2:7, 3:18, 3:29, 3:31, 3:33, 5:4, 6:9**

EMPLOYMENT CONTRACTS

See PERSONAL SERVICE CONTRACTS; LABOUR LAW

ENCROACHMENTS

See TRESPASS

ENFORCEMENT

See CONTEMPT

ENVIRONMENT

See NUISANCE; POLLUTION

EQUITY

Acts in personam, **1:32, 1:33, 2:6, 2:26, 2:30, 3:21, 5:9, 6:11**
 Fusion with law, **1:6, 1:32, 5:9, 7:6, 7:20, 10:1, 10:9, 10:10**

ESTOPPEL

Generally, **1:21, 3:4, 10:14**

EXCLUSIVE AGENCY CONTRACT

Generally, **8:8, 9:6**

EX PARTE INJUNCTION

See also Anton Piller Order and Mareva Order
 Generally, **1:3, 2:1, 2:2**
 Contempt, **6:9**
 Defamation, **5:2**
 Full and frank disclosure, **2:2.10**
 Labour, **2:19**

EXPRESSION, FREEDOM OF

See FREEDOM OF SPEECH

EXPROPRIATION PROCEEDINGS, DEFECTIVE

Generally, **4:9**

FAMILY LAW

Generally, **5:7**
 Contempt, **6:3, 6:5, 6:12 to 6:15**

FIRST NATIONS

See INDIGENOUS RIGHTS

FIRST REFUSAL, RIGHT OF

Generally, **9:2**

FOREIGN JUDGMENTS

Generally, **1:34, 2:22, 2:35**

FOREIGN SUITS

See LITIGATION, RESTRAINING

FORFEITURE, RELIEF FROM

See STIPULATED REMEDY

FRANCHISE AGREEMENT

Generally, **8:8, 9:6**

FRAUD

Clean hands, **1:29**
 Costs, **2:42**
 Defence to specific performance, **10:1**
 Fraudulent conveyance, **2:21**

INJUNCTIONS AND SPECIFIC PERFORMANCE

FRAUD—Cont'd

Mareva orders, **2:24 to 2:26, 2:32, 2:37**
Mortgages, **4:11**
Shareholders, **5:5**

FREEDOM OF SPEECH

Generally, **2:19, 3:33, 5:2, 5:3**

GOODS, CONTRACTS FOR SALE OF

Generally, **8:4 to 8:8**
Ascertained goods, **8:5, 8:6, 8:8**
Bankruptcy, **8:5**
Commercial items, **8:5 to 8:7**
Future goods, **8:5**
Injunction restraining breach, **8:5**
Legislation affecting remedies, **8:5, 8:6**
Replevin, **8:5**
Ships, **8:6**
Specific goods, **8:5, 8:6, 8:8**
Uniqueness, **8:5 to 8:7**

GOVERNMENT

See CROWN

HARDSHIP

See also CONSIDERATION, inadequacy; MUTUALITY
Charter remedies, **3:39**
Date for assessment of, **10:6**
Defence to injunction, **1:8, 1:14, 1:17**
Defence to specific performance, **10:1, 10:4 to 10:6**
Mistake, **10:2, 10:5**
Nuisance, **4:2 to 4:4, 4:6, 4:7**
Rescission, **10:4**
Statute, breach of, **3:4, 3:9**
Trespass, **4:9**

HATE SPEECH

Generally, **5:2**

HE WHO SEEKS EQUITY

See also PLAINTIFF'S BREACH
Generally, **1:29, 1:31**

HIGHWAYS

Generally, **1:9, 1:13, 2:2, 3:3, 3:17, 3:18**

HUMAN RIGHTS LEGISLATION

Generally, **3:15, 5:2, 7:15**

HUSBAND AND WIFE

See FAMILY LAW

ILLEGALITY, AS DEFENCE TO SPECIFIC PERFORMANCE

Generally, **10:12**

IMPOSSIBILITY, AS DEFENCE TO SPECIFIC PERFORMANCE

Generally, **10:12**

IMPRISONMENT

See CONTEMPT

INDIGENOUS RIGHTS

Generally, **2:7, 2:13, 3:30 to 3:32, 5:3, 6:5, 6:11**

INDUCING BREACH OF CONTRACT

Generally, **5:6, 9:2**

IN PERSONAM

See EQUITY

IN REM

Mareva, **2:30**
Shipping, **2:29**

INSOLVENCY

Injunction, grounds for, **1:11**
Interlocutory injunctions, **2:8**
Mareva orders, **2:30, 2:31**
Specific performance, grounds for, **7:9**
Undertaking in damages, **2:13**

INSTALMENT CONTRACTS

See DELAY; LONG TERM SUPPLY CONTRACTS

INTELLECTUAL PROPERTY

See also ANTON PILLER ORDER;
CONFIDENCE, BREACH
OF; COPYRIGHT

Clean hands, **1:30**

Foreign defendant, **1:11, 1:33,**
1:33.30, 1:33.50

Injunction available, **4:10**

Interlocutory injunction, **2:6, 2:7,**
2:10, 2:11, 2:13

INTERIM INJUNCTIONS

See also INTERLOCUTORY
INJUNCTIONS

Generally, **1:19, 2:1 to 2:3**

INTERLOCUTORY INJUNCTIONS

See also ANTON PILLER ORDER;
EX PARTE INJUNCTION;
MAREVA INJUNCTION;
RESTRAINING DISPOSI-
TION OF ASSETS

Generally, **1:3, 2:1 to 2:41**

Affidavits, **2:1 to 2:3, 2:5, 2:6,**
2:19, 2:34

Appeal pending, **2:2**

Appeals, **2:41**

Balance of risks, **2:5 to 2:7, 2:17**

Checklist approach, **2:5, 2:17**

Conflicting evidence, **2:3, 2:6, 2:7**

Constitutional cases, **3:28 to 3:34**

Crown, at suit of, **2:13**

Delay, **1:28**

Final injunction, no prospect of,
2:15

Granting whole relief, **2:15**

Indigenous rights, **2:7.50**

Insolvency, **2:8**

Irreparable harm, **2:2, 2:7 to 2:12,**
2:17

Irreparable harm to defendant, **2:13**

Labour matters, **2:2, 2:19**

Mandatory, **1:17, 1:18, 2:6 to 2:18**

Multi-requisite test, **2:17**

Negative covenant, **2:9, 9:1**

INTERLOCUTORY

INJUNCTIONS—Cont'd

Picketing, **2:6, 2:19, 3:6**

Police investigations, **3:12**

Public authorities, **2:6, 2:13**

Public interest, **2:7, 2:13, 2:14**

Restrictive covenant, **2:6, 2:9**

Status quo, **2:14, 2:15, 2:17**

Undertaking in damages, **1:19,**
1:20, 1:28, 2:6, 2:13 to
2:13.50, 2:25

Undertaking to account, **2:11, 5:3**

Viva voce evidence, **2:5, 2:19**

Whether prerequisite for final
injunction, **1:19, 1:20, 1:28**

INTERNET

Breach of confidence and privacy,
5:3, 5:3.30

Domain names, **1:32**

Fraud, **1:33**

Hate speech, **5:2**

Jurisdiction, **1:10, 1:33, 1:33.30,**
1:33.50, 6:11

Libel, **1:33**

Social media, **2:36**

IRREPARABLE HARM

See DAMAGES, INADEQUACY;
INTERLOCUTORY INJUNC-
TIONS

“JOHN DOE” ORDERS

See also CONTEMPT, persons
unknown

Generally, **2:39, 3:10, 6:11**

JUDICATURE ACTS, EFFECT OF

See COMMON LAW, fusion with
equity

JUDICIAL REVIEW

Generally, **3:19 to 3:21**

Administrative acts, **3:21**

Certiorari, **3:21**

Collateral attack, **3:19, 3:21**

Domestic tribunals, **3:21**

Investigatory proceedings, **3:21**

INJUNCTIONS AND SPECIFIC PERFORMANCE

JUDICIAL REVIEW—Cont'd

Mandamus, **3:20, 7:1**
Prohibition, **3:21**
Restrain unauthorized acts, **3:19, 3:21**
Standing, **3:20**

JURISDICTION

Generally, **1:32 to 1:34**
Criminal law, **3:5, 3:10**
Foreign claims, **1:33, 1:33.30, 1:33.50, 1:34**
Judicature Acts, **1:32, 1:32.10**
Mareva injunctions, **1:32, 3:8**
Ouster by statute, **1:32**
Substantive right, need for, **1:32 to 1:34**

JUST AND CONVENIENT

Generally, **1:32**

LABOUR LAW

See also TRADE UNIONS;
CONTEMPT; PERSONAL
SERVICE CONTRACTS
Generally, **2:19**
Arbitration, **7:15**
Clean hands doctrine, **1:29**
Illegal strike, **3:11, 3:16**
Injunction at suit of Attorney General, **3:11**
Interlocutory injunctions, **2:2, 2:19**
Labour board remedy, **2:19, 3:22**
Picketing, **2:6, 2:19, 3:3, 3:13, 3:31, 3:33**
Watching and besetting, **3:3, 3:8**

LACHES

See DELAY

LAND, CONTRACTS FOR SALE OF

See also COMPENSATION,
SPECIFIC PERFORMANCE
WITH
Generally, **7:6, 7:7, 8:1 to 8:3**
Adjustments, **11:8**
Commercial property, **8:2.50**

LAND, CONTRACTS FOR SALE OF—Cont'd

Equitable conversion, **8:3**
Inadequacy of damages, **8:2, 8:3**
Interest, **11:8**
Investment property, **8:2**
Mitigation, **7:20, 8:3**
Mutuality, **7:20, 8:3**
Resale, **8:2**
Residential property, **8:2.30**
Specific performance and certainty, **8:2.90**
Specific performance in favour of purchaser, **8:2**
Specific performance in favour of vendor, **7:20, 8:3**
Third party interest, **7:2.70**

LANDLORD AND TENANT

Generally, **1:18, 1:29, 2:7, 4:9, 8:2, 9:2, 9:7**

LEGISLATURE, INJUNCTION TO RESTRAIN

Generally, **3:26**

LEND, CONTRACT TO

Generally, **10:9**

LIBEL

See DEFAMATION

LIGHT, RIGHT TO

See NUISANCE

LIMITATION PERIODS

See DELAY

LIQUIDATED DAMAGES

See STIPULATED REMEDY

LIS PENDENS

Generally, **2:20, 6:11, 8:2**

LITIGATION, RESTRAINING

Generally, **5:9 to 5:12**
Abusive proceedings, **4:7, 5:9, 5:10**
Foreign suits, **5:12**
Inferior proceedings, **5:10**

LITIGATION, RESTRAINING

—Cont'd

Pending appeal, **3:28**
Stay, **5:9, 5:12**

LOCUS STANDI

See **STANDING**

**LONG-TERM SUPPLY
CONTRACTS**

Generally, **8:8**
Adequacy of damages, **8:8**
Guaranteed supply, **8:8**
Negative covenant, **9:2, 9:3**
Restraining breach, **8:8**
Supervision, **8:8**

MANDAMUS

See **JUDICIAL REVIEW**

MANDATORY INJUNCTIONS

Generally, **1:1, 1:16 to 1:19**
Build and repair, **1:13**
Burden, **1:8, 1:14, 1:17**
Compared to prohibitive, **1:2, 1:17, 4:2, 9:1**
Constitutional cases, **3:35 to 3:40**
Definition of obligation, **1:14**
Delay, **1:19**
Deliberateness of wrongdoing, **1:18**
Demolish unauthorized building, **3:4**
Double negative order, **1:13, 1:16 to 1:19**
Encroachment, **1:17**
Historic reluctance, **1:16 to 1:19**
Inadvertence, **1:18**
Interlocutory, **1:17, 1:18, 2:6 to 2:18**
Interlocutory injunctions, whether prerequisite, **1:19, 1:20, 1:28**
Judicial review of administrative acts, **3:20**
Mandamus, relation to, **3:20**
Negative covenants, **1:17, 9:1**
Nuisance, **4:2, 4:3**
Post-judgment bargaining, **1:9**

MANDATORY INJUNCTIONS

—Cont'd

Property rights, **1:9**
Supervision, **1:13**
Trespass, **4:9**
Vigilance of plaintiff, **1:19**
Vote shares, **1:13**

MAREVA INJUNCTION

Generally, **2:23 to 2:35**
Ambulatory order, **2:28**
Amount specified, **2:28**
Bank account, **2:25, 2:28, 2:33**
Banks, **2:26, 2:28, 2:30, 2:32, 2:33**
Chattels, **2:29**
Commercial paper, **2:32**
Contempt, **2:31, 2:33, 6:5, 6:7, 6:9, 6:11**
Cross-examination, **2:34**
Discovery in aid, **2:34**
Domestic defendants, **2:24**
Foreign claims, **2:35.50**
Foreign defendants, **2:35**
Form of order, **2:28, 2:31**
Full disclosure, **2:25**
In rem, **2:30**
Jurisdiction, **1:32, 1:32.10**
Modification of order, **2:27, 2:29, 2:31**
Need for substantive claim within jurisdiction, **1:33, 1:33.30, 1:33.50**
Ordinary expenses, **2:31, 2:33**
Preventing departure from jurisdiction, **2:26**
Priorities, **2:30, 2:31**
Receiver, **2:30**
Secured creditor, **2:30, 2:31**
Security, **2:29**
Strength of case, **2:25**
Third party interests, **2:33**
Undertaking in damages, **2:25**
Undertaking to compensate third parties, **2:33**
Worldwide orders, **2:26**

INJUNCTIONS AND SPECIFIC PERFORMANCE

MATRIMONIAL LAW

See FAMILY LAW

MEDICAL TREATMENT

Generally, 5:8

MINISTER

See CROWN; ATTORNEY GENERAL

**MISREPRESENTATION, AS
DEFENCE TO SPECIFIC
PERFORMANCE**

Generally, 7:1, 10:1 to 10:3

Compensation for deficiency, 11:3

Inadequate consideration, 10:7

Innocent, 11:3, 11:4

Rescission for, 10:3, 11:3

Unfairness, 10:6

Vendor's knowledge, effect of, 11:4

**MISTAKE, AS DEFENCE TO
SPECIFIC PERFORMANCE**

Generally, 7:1, 10:1, 10:2

Hardship, 10:5

Inadequate consideration, 10:7

Misrepresentation, 10:3

Unfairness, 10:6

MITIGATION

Generally, 7:4, 7:6

Contracts for sale of land, 7:20, 8:2,
8:3, 8:5

Specific performance, relation to,
7:4

MODIFIED PERFORMANCE

See CONDITIONAL PERFORMANCE

**MORTGAGES, RESTRAINING
ENFORCEMENT**

Generally, 4:11

MULTIPLICITY OF SUITS

Avoidance of, 1:12, 4:1, 7:10

Criminal cases, 3:10

Judicial review, 3:21

MULTIPLICITY OF SUITS

—Cont'd

Restraining inferior proceedings,
5:10

Successors in title, 6:11, 6:11.50

**MUNICIPAL BY-LAWS,
ENFORCEMENT BY
INJUNCTION**

Generally, 1:22, 1:29, 2:6, 2:12,
3:4, 3:5, 3:7, 3:9, 3:10, 3:15,
3:16, 3:29, 3:33

Mandatory injunction, 3:4

MUTUALITY

Affirmative, 7:20

Annuity contracts, 7:20

Conditional order, 11:7

Contracts for sale of land, 7:20, 8:3,
10:9

Historic rationale, 7:20

Infant contracts, 10:9, 19:9.30

Negative, 10:9

Negative covenants, 10:9

Personal service contracts, 10:9

Ready and willing, 10:10

Securing performance, 10:9

Time for assessment, 10:9

**NAME, INJUNCTION TO
RESTRAIN
UNAUTHORIZED USE**

Generally, 1:32

NEGATIVE COVENANTS

Generally, 1:17, 7:8, 7:9, 9:1 to 9:6

Burden and benefit, 9:1

Distinguished from positive, 9:2

Employment contracts, 9:2

Exclusive agency agreements, 8:8

Inadequacy of damages, 9:1

Interference with contract, 9:2

Interlocutory injunction, 2:9, 9:1

Liquidated damages, 7:17, 7:18

Long-term supply contracts, 9:2,
9:3

Lumley v. Wagner injunction, 9:4

NEGATIVE COVENANTS

—**Cont'd**

Mandatory injunction, **9:1**
 Mutuality, **10:9**
 Stipulated remedy, **9:1**
 Supervision, **9:1, 9:2**

NON-PARTIES

See CONTEMPT; ORDER, FORM OF

NORWICH ORDERS

Generally, **2:38**

NUISANCE

See also POLLUTION; PROPERTY RIGHTS; PUBLIC NUISANCE

Generally, **4:1 to 4:8**
 Administrative controls, **4:7**
 Burden and benefit, **4:2 to 4:4, 4:6, 4:7**
 Class action, **4:7**
 Coming to nuisance, **4:3**
 Compensated injunction, **4:4, 4:6, 4:8**
 Conditional injunction, **4:4**
 Contempt, **6:7**
 Damages, **4:2**
 Deliberateness, **4:7**
 Economic analysis, **4:8**
 Fumes, **4:3**
 Hardship on defendant, **4:2, 4:3**
 Industrial, **4:2, 4:3**
 Intangible, **4:1**
 Legislation, **4:7**
 Light, right to, **1:9, 1:20, 4:2**
 Long-term environmental impact, **4:1**
 Mandatory injunction, **4:3**
 Modern approach, **4:2.50**
 Municipalities, **4:3, 4:7**
 Noise, **4:2, 4:3, 4:5**
 Order defining level of activity, **4:5**
 Prematurity, **1:20**
 Public authorities, **4:3, 4:7**

NUISANCE—Cont'd

Public interest, **4:2 to 4:7**
 Pulp mill, **4:3, 4:7**
 Riparian, **4:3, 4:7**
 Roots, **4:3**
 Sporting activities, **4:3, 4:5**
 Stay, **4:4**
 Suspended injunction, **4:3, 4:4**
 Trifling harm, **4:2, 4:3**
 Vibrations, **4:2**

OBSCENITY

Generally, **1:29, 3:9, 3:10**

OPPRESSION REMEDY

Generally, **3:9**
 Interlocutory injunctions, **2:6.50**

ORDER, FORM OF

Generally, **1:14**
 Defamation, **5:2**
 Mareva, **2:28**
 Non-parties, **6:11**
 Nuisance, **4:5, 6:7**
 Successor in title, **6:11, 6:11.50**
 Vague, **6:7, 7:14**

OUTPUT CONTRACTS

See LONG-TERM SUPPLY CONTRACTS

PARENS PATRIAE

Generally, **3:2 to 3:4, 3:11**

PARLIAMENT

See LEGISLATURE

PARTY STIPULATION

See STIPULATED REMEDY

PASSING OFF

See also ANTON PILLER ORDER
 Generally, **1:24, 1:30, 1:32, 1:33, 2:6, 2:7, 3:15**

PATENTS

See INTELLECTUAL PROPERTY

PENALTY CLAUSE

See STIPULATED REMEDY

INJUNCTIONS AND SPECIFIC PERFORMANCE

PERMANENT INJUNCTION

Definition, 1:4

PERSONAL SERVICE

CONTRACTS

Generally, 5:4, 5:5

Agreement not to terminate, 9:2

At suit of employee, 7:15

Collective agreements, 7:15.50

Exclusive agency contract, 9:6

Inducing breach of, 5:6

Injunctions, 7:15 to 7:17, 9:4, 9:5

Involuntary servitude, 7:15, 9:4

Mutuality, 10:9

Piecemeal performance, 11:6

Real estate in exchange for personal service, 10:9.50

Specialized service, 7:15

Specific performance, 7:15

Stipulated remedy, 7:17, 7:18

Suit by employee, 7:15.70

Supervision, 7:14, 7:15

Trust and confidence, 7:15

PICKETING

See LABOUR LAW

PIECEMEAL PERFORMANCE

Generally, 11:6

Negative covenants, 11:6

Severable terms, 11:6

PLAINTIFF'S BREACH, AS DEFENCE TO SPECIFIC ENFORCEMENT

Generally, 10:10, 11:6

PLANNING AND REGULATORY APPROVAL

See CONDITIONAL PERFORMANCE

PLANNING LEGISLATION, RESTRAINING BREACH

Generally, 2:13, 3:11

POLICE

See CONTEMPT

POLITICAL PARTY

Generally, 2:6, 2:7, 3:33, 5:4

POLLUTION

See also NUISANCE; PUBLIC
NUISANCE

Generally, 1:13, 3:7, 3:10, 3:16,
3:17

POST-JUDGMENT BARGAINING

See also ECONOMIC ANALYSIS

Generally, 1:9, 1:10, 1:18, 4:2, 4:9,
7:5

PREMATURITY

See QUIA TIMET INJUNCTION

PREROGATIVE WRITS

See JUDICIAL REVIEW

PRESERVATION OF PROPERTY

Generally, 2:20

PRESS, FREEDOM OF

See FREEDOM OF SPEECH

PRE-TRIAL EXECUTION

See MAREVA INJUNCTION;
RESTRAINING DISPOSI-
TION OF ASSETS

PRIOR RESTRAINT

Generally, 3:33

PRIVACY

Generally, 1:34, 2:7, 2:39, 3:3,
3:32, 3:33, 5:3

PROFESSIONS

Disciplinary proceedings, 3:21

Restraining unauthorized practice,
1:20, 3:5, 3:6, 3:15, 3:18

PROHIBITION

See JUDICIAL REVIEW

PROPERTY RIGHTS

See also NUISANCE; TRESPASS

Generally, 1:6, 1:7, 1:9, 4:1 to 4:10

Bargaining, injunction to validate,
4:7, 4:9

PROPERTY RIGHTS—Cont'd
 Damages, **1:10, 4:1**
 Injunction not restricted to, **3:16, 5:1, 5:4**
 Interest conferred by injunction, **3:16, 4:1, 4:7, 5:1**
 Social welfare prevailing, **4:7**

PROTESTS, RESTRAINING
 Charter rights, **3:33**
 Enforcement and contempt, **6:9, 6:10, 6:11.50, 6:13**
 Interlocutory injunctions, **2:7.70, 2:13.10, 3:31**
 Public nuisance, **3:31**

PROXY SOLICITATION
 See COMPANIES

PUBLIC AUTHORITIES
 See also NUISANCE; CROWN
 Interlocutory injunctions, **2:6, 2:13**
 Restrain breach of statute, **3:4**
 Restrain ultra vires act, **3:2 to 3:4, 3:6, 3:16**

PUBLIC NUISANCE
 Generally, **3:3**
 Prosecution for, **3:3**
 Standing, **3:17**

PUBLIC WATERWAYS
 Generally, **3:3**

QUASI-IN REM JURISDICTION
 Generally, **2:35**

QUIA TIMET INJUNCTION
 Generally, **1:5, 1:20**
 Accommodating innovation, **1:20.70**
 Cautious approach, **1:20.50**
 Delay, **1:28**
 Floodgates of litigation, **1:20.90**
 Interlocutory injunction, **2:15**
 Probability of harm, **1:20.30**
 Trade libel, **5:2**

READY AND WILLING
 Generally, **10:11, 10:14**

REAL ESTATE
 See LAND, CONTRACTS FOR SALE OF

REAL PROPERTY
 See LAND, CONTRACTS FOR SALE OF

RELATOR PROCEEDINGS
 See STANDING

REPLEVIN
 Generally, **8:5**

REPUDIATORY BREACH
 Generally, **5:11, 10:14**

REQUIREMENTS CONTRACTS
 See LONG-TERM SUPPLY CONTRACTS

RESCISSION
 Annulment clause, **11:5**
 Deficiency or defect, **11:3**
 Election, **10:14**
 Hardship, **10:4, 10:14**
 Misrepresentation, **10:3, 11:3**
 Mistake, **10:2**
 Unfairness, **10:4**

RESTITUTION
 See DAMAGES

RESTRAINING DISPOSITION OF ASSETS
 See also MAREVA INJUNCTION
 Generally, **2:15, 2:20 to 2:35**
 Costs award, **2:22**
 Entitlement established, **2:22**
 Foreign judgment, **2:22**
 Fraudulent conveyance, **2:21**
 Lis pendens, **2:20**
 Proprietary claim, **2:20**

RESTRAINT OF TRADE
 Generally, **9:3 to 9:5**

INJUNCTIONS AND SPECIFIC PERFORMANCE

RESTRICTIVE COVENANT

See also **NEGATIVE COVENANTS**

Generally, **1:10, 1:27, 2:6, 2:9, 2:41, 9:5**

RIPARIAN RIGHTS

See **NUISANCE**

ROLLING ORDERS

See “John Doe” **ORDERS**

SCHOOLS

See also **CONSTITUTIONAL LAW**—minority language rights

Generally, **3:20**

SEAL, CONTRACT UNDER

Generally, **10:8**

SECURITIES COMMISSION

Generally, **3:22**

Fraudulent trading, **3:8**

SELF-HELP

Generally, **4:9**

SELF-INCRIMINATION

PRIVILEGE

Generally, **2:37, 3:10, 6:12 to 6:15**

SEQUESTRATION

See **CONTEMPT**

SERVICE EX JURIS

Generally, **1:33 to 1:12, 2:35**

SET OFF, DEFENCE OF

Generally, **10:1**

SHAREHOLDERS

See **COMPANIES; SHARES, CONTRACTS FOR SALE OF**

SHARES, CONTRACTS FOR SALE OF

Generally, **8:9**

Adequacy of damages, **8:9**

Control block, **8:9**

Private companies, **8:9**

SHARES, CONTRACTS FOR SALE OF—Cont’d

Public company, **8:9**

SLANDER

See **DEFAMATION**

SPECIFIC RESTITUTION

Generally, **8:6, 8:7**

SPORTS

Generally, **1:32, 2:7, 4:3, 5:4, 9:2, 9:4, 10:9**

STANDING

Generally, **3:14 to 3:18**

Abortion, illegal, **3:8**

Competitors, **3:18, 3:22**

Constitutional cases, **3:16**

Criminal cases, **3:16**

Declaration, **3:16**

Economic loss, **3:17**

Judicial review, **3:20**

Municipalities, **3:15, 3:16**

Public bodies, **3:15, 3:16**

Public nuisance, **3:3, 3:17**

Relator proceedings, **2:37 to 2:40, 3:2 to 3:4**

Special damages, **3:17, 3:18**

Statutory cause of action, **3:16 to 3:18**

STAR CHAMBER

Generally, **3:5**

STATUTE, BREACH OF

See **CRIMINAL LAW**

STATUTE, POWER TO GRANT INJUNCTION

Generally, **3:9**

STAY

See **LITIGATION, RESTRAINING**

STAY PENDING APPEAL

Generally, **2:1, 2:41**

STIPULATED REMEDY

Generally, **7:14, 7:16 to 7:19**

STIPULATED REMEDY—Cont'd

Economic analysis, 7:16
 Forfeiture, relief from, 10:10
 Injunction, 7:16, 7:17 to 7:19
 Liquidated damages, 7:14, 7:16, 7:17, 7:19
 Negative covenant, 7:18, 9:1
 Penalty clause, 7:16, 7:19
 Personal service contract, 7:18, 7:19
 Specific performance, 7:16, 7:17 to 7:19
 Supervision, 7:19

STRIKES

See LABOUR LAW

SUB JUDICE

See CONTEMPT

SUPER-INJUNCTIONS

Generally, 5:3

SUPERVISION

Constitutional cases, 3:38
 Contract partly performed, 7:12
 Contract to build, 7:12
 Court unwilling to undertake, 1:13, 7:11
 Court willing to undertake, 1:13, 7:11 to 7:14
 Definition of work to be performed, 1:14, 7:12 to 7:14
 Dignity of court, concern for, 7:14
 Ensuring effectiveness of order, 7:14
 Expert, appointment of, 1:13
 Forcing sour relationships, 7:14
 Historic rationale, 7:1, 7:14
 Injunctions, 1:13 to 1:15
 Judicial cost, 1:15, 7:14
 Long-term supply contracts, 8:2, 8:8 to 8:8.70
 Master, appointment of, 1:13, 1:15, 7:14
 Negative covenant, 9:1, 9:2

SUPERVISION—Cont'd

Personal service contract, 7:14, 7:15 to 7:15.70
 Specific performance, 7:1, 7:11 to 7:14
 Stipulated remedy, 7:19

SUSPENDED INJUNCTION

Generally, 4:3, 4:4, 4:9

TAKE-OVER BIDS

See COMPANIES; SECURITIES COMMISSION

TENDER

Generally, 10:11, 10:14

THIRD PARTIES

See CONTEMPT, non-parties; ORDER, FORM OF, non-parties; MAREVA INJUNCTION

TITLE DEFECT

See COMPENSATION, SPECIFIC PERFORMANCE WITH

TRADE, RIGHT TO

Generally, 5:4, 5:6

TRADE ASSOCIATION

Generally, 8:8, 9:3

TRADE LIBEL

See DEFAMATION

TRADE MARKS

See INTELLECTUAL PROPERTY

TRADE UNIONS

See also LABOUR LAW
 Breach of rules, 5:4
 Contract theory, 5:4
 Elections, 5:4
 Property right required, 5:4
 Removal of officer, 2:10
 Wrongful expulsion, 5:4

TRESPASS

See also PROPERTY RIGHTS
 Generally, 4:1, 4:9, 4:10

TRESPASS—Cont'd

Access to neighbouring land, **4:9**
Accommodation of neighbours,
4:9.50
Air space, **4:9**
Burden and benefit, **4:9**
Conditional order, **4:9**
Damage, want of, **4:9**
Defective expropriation proceedings, **4:9**
Deliberateness, **4:9**
Encroachments, **1:17, 4:1, 4:9**
Exercise of property rights, **4:9.50**
Necessity, **4:9**
Pre-Judicature Act practice, **4:9**
Public interest, **4:9**
Suspended injunction, **4:9**
Temporary, **4:9**

ULTRA VIRES

See COMPANIES;
CONSTITUTIONAL LAW;
CROWN; JUDICIAL
REVIEW; PUBLIC
AUTHORITIES

**UNCERTAINTY, AS DEFENCE
TO SPECIFIC
PERFORMANCE**

See also SUPERVISION
Generally, **10:13**

UNCONSCIONABILITY

See also UNFAIRNESS,
DEFENCE TO SPECIFIC
PERFORMANCE; HARD-
SHIP
Generally, **7:1**
Discretionary defence to specific
performance, **10:1**
Penalty clauses, **7:16**

UNDERTAKING IN DAMAGES

See INTERLOCUTORY INJUNC-
TIONS

UNDERTAKING TO ACCOUNT

Generally, **2:11, 5:3**

UNDERTAKING TO DESIST

Generally, **1:13, 1:20, 2:11**

**UNFAIRNESS, DEFENCE TO
SPECIFIC PERFORMANCE**

Generally, **10:1, 10:4, 10:5**
Misrepresentation, **10:6**
Mistake, **10:6**
Rescission, **10:4, 10:5**

**UNINCORPORATED
ASSOCIATIONS**

Generally, **5:4**
Breach of rules, **5:4**
Contract theory, **5:4**
Domestic tribunals, **3:21**
Election, **5:4**
Membership, restraining interfer-
ence with, **5:4**
Property interest, **5:4**

UNIQUENESS

See DAMAGES, INADEQUACY;
ECONOMIC ANALYSIS;
GOODS, CONTRACTS FOR
SALE OF

UNJUST ENRICHMENT

See DAMAGES, BREACH OF
CONTRACT

WAIVER

See DELAY

WATCHING AND BESETTING

See LABOUR LAW

WILLS

Specific performance of promise to
make a will, **8:10**

WINDING-UP

Abusive, **5:9**
Foreign defendant, **1:33, 1:33.30,**
1:33.50
Interlocutory injunction, **2:6, 5:9**