

# Index

- Aboriginal Peoples, *see Native Peoples*
- Absolute liability offences 180-81
- Access to justice
  - Access to the courts 133-35
  - Definition 133-35
  - Open courts principle
    - Definition 137-38
    - Costs of 139
    - Practical obscurity 139
  - Technological tools for facilitating
    - Electronic access to court records 139-41
    - Electronic filing of court documents 140-41
    - Online dispute resolution 145-46
    - RSS feeds 146
    - Skype 142
    - Social media
      - Jurors 144-45
      - Twitter 141, 143, 146
    - Teleconferencing 141-42
    - Videoconferencing 142
    - Webcasting court proceedings 143
- Act of Settlement* 1701 140-41, 45
- Act of Union* 1840 51
- Act of Union 1800* 45
- actus reus* 180
- Administrative Law Administrative tribunals 149-51
  - Appeals from 106, 158-59
  - Decisions 156-58
  - Evidence 153-55
  - Jurisdiction 150-52, 157-58,
  - Hearings 153-56
  - Pre-hearing 152-53
  - Remedies 38, 157-58, 160-61
- Alternative dispute resolution 133-36
- Appellate Jurisdiction Act 1876* 44
- Aquinas, Thomas 2
- Aristotle 2

## INDEX

- Assizes, *see Courts*
- Augustine of Hippo 2
- Austin, John 3-4
- Backbencher 19
- Bentham, Jeremy 3
- Bicameral 18
- Bijuralism 61-62
- Binding law, *see Law*
- Bill of Rights 1689* 45
- Bill of Rights 1960* 83, 100
- Bills, *see Legislation*
- Blackstone, William 3, 25
- British North America Act (1867)*, *see also Constitution Act, 1867* 46, 52, 63-76
- Cabinet, Canada 43, 64, 66, 103-06
- Canada Act, 1982* 77-82,
- Canada Evidence Act* 95, 189
- Canadian Charter of Rights and Freedoms*, *see Constitution, Canada*
- Canadian Judicial Council, *see Judges*
- CanLII 21-23, 146
- Canon law 38-39, 49, 54-57
- Case law, *see Law*
- Certiorari*, writ of 38, 160
- Champlain, Samuel de 57
- Chancery, *see England*
- Charter of Rights and Freedoms*, *see Constitution, Canada*
- Chattels 182
- Cicero 2
- Civil law, *see Law*
- Civil Code of Lower Canada* 59
- Civil Code of Quebec* 60-61
- Civil procedure
  - Appeal 70, 187
  - Cause of action 186
  - Costs 134, 187
  - Damages 157, 179, 183-84
  - Decision 187
  - Default 186
  - Discovery 186
  - Enforcing judgment 161, 187
  - Factum 187
  - Initiating document 185-86
  - Judgment 187
  - Judgment debtor 187
  - Parties 109, 139-42
  - Pleadings 186
  - Remedies 182-83

## INDEX

- Service 186
- Settlement 136, 157, 166-67
- Statement of defence 186
- Trial 186-90
- Colonial Laws Validity Act, 1865* 46
- Common law, *see Law*
- Confederation, Canada
  - Pre-Confederation 46-51
- Constitution Act, 1867, see also British North America Act (1867).*
- Constitution Act, 1982* 75, 77-81
- Constitution, Canada
  - Amending 63, 78, 80-82
  - Charlottetown Accord 78
  - Charter of Rights and Freedoms*
    - Democratic Rights 88
    - Enforcement 99-100
    - Equality Rights 97-98
    - Fundamental Freedoms 83-88
    - General Provisions 100
    - Justification of infringements, *see Constitution, Canada, Charter of Rights and Freedoms, Section 1*
    - Legal Rights 89-96
    - Minority Language Educational Rights 99
    - Mobility Rights 88
    - Official Languages of Canada 98-99
    - Remedies 99-100
    - Section 1 84-85
  - Division of powers 68-73
  - Living Tree 73-74
  - Meech Lake Accord 78
  - Peace, Order, and Good Government 69-70
  - Repatriation 77-78
  - Residual powers 69
  - Schedules 79-80
  - Strict Construction 73-74
- Constitution, England 45
- Constitutional Act of 1791* 51
- Constitutional Reform Act 2005* 45
- Constitutional supremacy 65
- Contract law 184-85
- Controlled Drugs and Substances Act* 180
- Corpus Juris Civilis* 54-55, 58
- Corruption of Foreign Public Officials Act* 180
- Courts
  - Alberta 120-21
  - Appellate courts 110-11, 116-17, 173
  - Assizes 33, 35

## INDEX

- British Columbia 119-20
  - County courts 67, 115,
  - Court Martial Appeal Court 132
  - Court of Chancery 36-39, 41-42
  - Court of Common Pleas 34, 42
  - Court of the Exchequer 34, 42
  - Court of King's/Queen's Bench 35
  - Courts martial 131-32
  - Federal Court 130-31
  - Federal Court of Appeal 131
  - High Court 35-36, 42
  - House of Lords Appellate Committee 43-45
  - Inherent jurisdiction 67, 111-12, 152
  - Judicial Committee of the Privy Council 69-70
  - Justices in Eyre 34
  - Magistrates' Court 36-37
  - Manitoba 122-23
  - Military courts, *see* Courts, Courts martial and Court Martial Appeal Court
  - New Brunswick 125
  - Newfoundland and Labrador 127-28
  - Nisi Prius* 35
  - Northwest Territories 128-29
  - Nova Scotia 126
  - Nunavut 128
  - Ontario 123-24
  - Open courts principle, *see* *Access to justice*
  - Organization
    - Graphical representation 118
    - Guiding principles 113-13
  - Prince Edward Island 126-27
  - Quebec 124-25
  - Saskatchewan 121-22
    - Cree Court 121
  - Specialized courts 112-14, 173-74
  - Star Chamber 37
  - Statutory courts 111-2, 114
  - Superior courts 67, 99, 111-12, 116-17
  - Supreme Court of Canada 132
  - Supreme Court of the United Kingdom 44
  - Tax Court 130
  - Trial courts 110, 113
  - Yukon 129-30
- =
- Coutume de Paris* 49, 56
  - Criminal Code of Canada* 179-81 188
  - Criminal law

## INDEX

- Actus reus* 180
- Defences 180-81
- Mens rea* 180
- Criminal Procedure
  - Appeal 188-90
  - Bail 92-93, 187-88
  - Charter of Rights and Freedoms 89-96, 99-100
  - Evidence 91-93, 95, 99-100
  - Hybrid offences 188
  - Indictable offences 128, 188
  - Information 188
  - Preliminary hearing 188
  - Private prosecutions 188
  - Sentencing 90, 94, 189
  - Summary offences 188
  - Trial 92-93
- Crimes Against Humanity and War Crimes Act* 180
- Crown attorney 180, 188
- Damages 179, 183-84
- Delegated legislation, *see Legislation*
- Division of powers, *see Canada, Constitution*
- Domestic law, *see Law*
- Driedger, Elmer 23-24
- Durham Report 51
- Dworkin, Ronald 4-5
- England
  - Anglo-Saxon Period 31-32
  - Chancery 36-39, 41-42
  - Courts, *see Courts*
  - Curia Regis* 32-35
  - Domboc 31
  - Feudalism 32
  - Judges 40-41
  - Law Reports
    - Law Reports 39-40
    - Nominate Reports 39
    - Year Books 39
  - Magna Carta 33-34, 45
  - Norman England 32-33
  - Roman occupation 31
- English law, Reception of into Canada 46-47
- Equity, law of 42
- European Communities Act 1972* 45
- Evidence 91-93, 99-100, 154-55, 186-89
- Executive, *see Government, Canada, Branches of*
- Finnis, John 2
- Fuller, Lon L. 2-3

## INDEX

- Gazette 20, 22
- Government, Canada
  - Branches of
    - Executive 103-06
    - Judicial 103, 109
    - Legislative 103, 106-07
  - Committees
    - Committee of the Whole 20
  - Federal 68-71, 77-78
  - House of Commons 66-67, 81-82, 106-08
  - Legislature 18-20, 69-70
  - Parliament 18-23, 64-67, 103-05
  - Provincial 70, 72
  - Senate 18-20, 106-08
- Governor General 64-67, 103-05
- Governor General in Council 66, 169
- Habeas Corpus Act, 1640* 37
- Habeas Corpus Act 1679* 45
- Habeas corpus*
  - Writ of 37-38
- Hansard 20, 23
- Hart, H.L.A. 4-5
- Henry of Bratton 39
- House of Commons, *see* Government, Canada
- House of Lords Appellate Committee, *see Courts*
- Human Rights Act 1998* 45
- Incorporated Council of Law Reporting 40
- Indigenous Peoples, *see Native Peoples*
- Intellectual property 131, 182
- International law, *see Law*
- Interpretation Acts, *see Legislation, Statutory Interpretation*
- Islamic law, *see Legal pluralism*
- Judges
  - Appointment process 170-71
  - Canadian Judicial Council 177-78
  - Discipline of 177-78
  - Diversity of 172
  - Duties of 173-74
  - Ethics 177-78
  - Impartiality of
    - Bias 176-77
    - Recusal 177
  - Independence of
    - Financial security 175
    - Institutional independence 175-76
    - Security of tenure 40, 175

## INDEX

- Judicial mediation 135-37
  - Powers of 174
  - Salaries, *see Judges, independence of, financial security*
  - Tenure of position 171
- Judicial Committee Act 1833* 43-44
- Judicial Committee of the Privy Council, *see Courts*
- Judicial mediation, *see Judges, Judicial Mediation*
- Judicial review 66, 158-60
- Judiciary, *see Government, Canada, Branches of*
- Judicature Act 1873* 42
- Justices of the Peace Act 1361* 36-37
- Jurisprudence
  - Analytic 1-3
  - Critical Legal Studies 6-7
  - Interdisciplinary studies 6
  - Legal Realism 6
  - Meaning 1-2
  - Normative Jurisprudence 5
  - Positive Law 3-5
- Justices of the peace 115, *see also Court*
- King, *see also Queen; Monarch* 32-38
- King's Council 38, 41
- King-in-council 43
- Law, Canada
  - Binding 25-27
  - Case law 17-18, 25-27
    - Citation 28-29
      - Neutral 29
      - Style of Cause 29
    - Disposition 26
    - Distinguishing 25
    - Headnote 28
    - Obiter dicta* 26-27
    - Print 28—29
    - Precedent 25-26
    - Procedural Law 185-87
    - Online 28-30, 146
    - Ratio decidendi* 26-27
    - Reasons 26-27
    - Reporters 28-29, 39-40
    - Stare decisis* 25-26
    - Substantive law 3, 179-85
  - Civil law 46, 49-50, 58-62
  - Common law 25-26, 38-39, 42-45
  - Domestic 18
  - International 18, 30
  - Natural Law 2-3

## INDEX

- Persuasive 25-26
- Sources of
  - Primary 18
  - Secondary 18
- Law Societies 163-64
- Lawyers 163-67
- Legal pluralism
  - Religious legal systems 8-16
    - Faith-based arbitration and mediation 10-11
    - Islamic business transactions 9-10
    - Laïcité* 16
    - Polygamy 11
    - Religious divorce 11-14
    - Religious dress 14-16
- Legislation
  - Bills 18-21
    - Coming into Force 20, 22
    - Debates 18-21
    - Numbering 19, 21
    - Private 19-20
    - Private members' public bills 19
    - Public 19
    - Readings 18-20
    - Report Stage 20
    - Royal Assent 19-20
  - Delegated 22
  - Orders-in-Council 18, 22
  - Regulations 22-23
  - Statutes 18, 21-24
  - Statutory Interpretation 23-25
  - Subordinate 22-23
- Legislature, *see Government, Canada*
- LexisNexis Quicklaw 21-23, 30
- Lieutenant Governor 18, 20, 103-04
- Lower Canada 50-51, 57-59
- Mandamus*, writ of 38, 160
- Mill, John Stuart 5
- Monarch, *see also, King; Queen* 103-05
- Native Peoples 17, 74-76
- Natural Justice 152-56
- Natural Law, *see Law*
- Negligence 164, 182-83
- Nominate Reports, *see England, Law Reports*
- Normative Jurisprudence, *see Jurisprudence*
- Nuisance 183
- Obiter dicta*, *see Law, Case Law*
- Online dispute resolution, *see Access to justice*



## INDEX

Open courts principle, *see Access to justice*  
Orders-in-Council, *see Legislation*  
Parliament, *see Government, Canada*  
*Parliament Act* 1911 45  
*Parliament Act* 1949 45  
Parliamentary Sovereignty 18, 41, 45, 83  
Parliamentary supremacy 41, 65  
Peace, Order, and good Government, *see Constitution, Canada*  
Persuasive law, *see Law*  
Petition of Right (1628) 45  
Positive law, *see Jurisprudence*  
Precedent, *see Law, Case Law*  
Premier 104, 170  
Prerogative, *see Royal Prerogative*  
Prerogative writs 38, 160  
Primary Sources, *see Law*  
Prime Minister 64, 66, 104-08  
Private law 181-85  
Privy Council, Canada 22, 64, 66, 104, 106  
Privy Council, England 43-44, 69-70  
Probate 42, 112, 116  
Prohibition, writ of 38, 160  
Property 69-70, 181-83  
Province of Canada 51-52  
Provisions of Oxford 38  
Provisions of Westminster 38  
Public law 59, 179-81  
Punishment 90, 93-95  
*Quebec Act* of 1774 50  
Queen, *see also, King; Monarch* 66-67, 104-05  
*Quo warranto*, writ of 38, 160  
Registrar of Regulations 22  
Regulatory offences 179, 181  
Regulations, *see Legislation*  
Religious law, *see Legal pluralism*  
Religious legal systems, *see Legal pluralism*  
Remedies 41-42, 157, 160-61, 182-83  
*Royal and Parliamentary Titles Act* 1927 45  
Royal Prerogative 41, 45  
Royal Proclamation of 1763 49  
Rule of law 79, 133-34  
Secondary sources, *see Law*  
Seigneurial tenure system 50, 57  
Senate, *see Government, Canada*  
Sharia law, *see Legal pluralism*  
Sources of Law, *see Law*  
Standing orders 19

## INDEX

Stare decisis, *see Law, Case Law*  
Subordinate legislation, *see Legislation*  
Statutes, *see Legislation*  
*Statute of Westminster 1931* 46, 77  
Strict liability offences 180-81  
Torts 182-83  
Treaty of Paris, 1763 49  
Treaties  
    International 30, 43, 107  
    Native Peoples 49, 74  
Upper Canada 50-51  
Westlaw Canada 21-23, 29  
Westminster, Three Statutes of 35  
Writs 36-38, 160  
Year Books, *see England, Law Reports*  
*Youth Criminal Justice Act* 180