

INDEX

A

- abbreviations, common, App. D
- academic study, law as, 2-3
- administrative law, 16, 23, 55, 58-59
- adversary system, 109, 113-114
- advocacy
 - ethics of, 114-117
 - influence of, 117-122
- American cases, 83-84
- American courts, 110
- American law reports, 36, App. C
- American model of legal education, 21, 23
- analysis of legal problems, *See* legal problems, analysis of
- areas of study
 - administrative law, 58-59
 - civil procedure, 66-67
 - comparative law, 68
 - contracts, 61-62
 - conflict of laws, 69
 - constitutional law, 59
 - criminal law, 55-58
 - general first-year courses, 67-68
 - international law, 59
 - other subjects, 68-69
 - property law, 64-65
 - restitution, 64
 - torts, 62-63
 - unjust enrichment, 64
- articling
 - generally, 21, 33-34
 - Law Practice Program as alternative to, 34

B

- Bar Admission Course, 21
- barrister's oath, 116
- benchers, Law Society of Upper Canada, 123
- Bill of Rights*, American, 93-94
- British North American Act*, *See* *Constitution Act, 1867*

C

Canadian Charter of Rights and Freedoms, 7, 10, 12, 14, 16, 59, 83, 94

cases

- briefs, use of, 24-28
- casebooks and textbooks, 28-29
- case method of study, 23-24
- citing cases, 36-37, 85-86
- decided cases, use of, 45-46, 75-82
- reliance on English, American and Commonwealth cases, 83-84

Chancellor's foot, 50, 88

Chancery, Court of, 87-88

Civil Code of Quebec, 68, 104-105

civil law

- generally, 16, 71, 105
- judges, 113

civil procedure, study of in first year, 66-67

common law

- decided cases, use of, 75-82
- definition, 71
- judicial reasoning, 71-73
- law reports and digests, 85-86, App. C
- legal fictions, 84-85
- liked cases decided alike, 9
- logic and, 73-74
- obiter dicta*, 75, 76, 77
- ratio decidendi*, 75-78
- reason and, 73-74
- reliance on English, American and Commonwealth cases, 83-84
- res judicata*, 82-83
- rigidity of, historical, 87
- stare decisis*, 9, 75, 79, 81, 82-83

Commonwealth cases, Canadian reliance on, 83-84

comparative law, 68

Constitution Act, 1867, 93-95

constitutional law, 16, 59

contingent fees, 125

contracts, law of, 61-62

courts

- American courts, 110
- Chancery, Court of, 87-88
- English courts, 109-110
- Equity, Court of, 87, 88
- Federal Court, 107
- fusion of courts of law and equity, 88-89
- inferior courts, 107-109
- judges, *See* judiciary
- litigation process, 108-109

- modern, 88-89
- Privy Council, 110
- provincial courts, 107
- references, 104
- small claims courts, 107-109
- superior provincial courts, 103
- Supreme Court of Canada, 103-107
- criminal law
 - as distinguished from civil law, 55-57
 - generally, 16, 55-58
 - indictable offences, 58
 - summary offences, 58
- curriculum in law school, 22-23

D

- decided cases, use of, 45-46, 75-82
- Denning, Lord, 35-36
- digests, legal, 85, App. C
- distinguishing cases, 10, 27, 77-78

E

- ejusdem generis*, 99-100
- electronic research, 53
- English cases, 83-84
- English courts, 109-110
- equitable doctrines, 89-92
- equity
 - Chancery, Court of, 87-88
 - Court of, 87, 88, 89, 91
 - equitable doctrines, 89-92
 - fusion of courts of law and equity, 88-89
- Equity, Court of, 87, 88, 89, 91
- ethics of advocacy, 114-117
- examinations, 54

F

- Federal Court, 107
- fees for legal services, 125
- fictions, legal, *See* legal fictions
- French
 - use of French phrases, 38-39
 - words and phrases derived from, App. B

G

- golden rule, *See* legislation, interpretation of statutes

H

- House of Lords, 109-110
- hypothetical problems, 46-48

I

in-house counsel, 112
international law, 17, 59
interpretation of statutes, *See* legislation

J

Judicature Act, 88, 89
judiciary
 appointment to the bench, 113
 forms of address, 8
 impartiality, concept of, 8
 interpretation of statutes, *See* legislation
 judicial reasoning, 71-73
 judicial titles and forms of address, 109
 result-oriented reasoning of, 71-73
 role of judges, 8-12
judgment, definition, 38
justice, idea and definition of, 4-5

L

Latin phrases,
 ejusdem generis, 99-100
 expressio unius exclusio alterius, 100
 generally, 39-40
 mens rea, 73
 obiter dicta, 75, 76, 77
 ratio decidendi, 75-78
 res judicata, 82-83
 stare decisis, 9, 75, 79, 81, 82-83
 words and phrases in common legal use, App. A
law
 definition, 1
 language of, *See* legal language
 logic and, 73-74
 process, as, 3-4
 reason and, 73-74
 rule of, 6-8
 set of rules, as, 3-4
 sources of, 16-17
Law Practice Program as alternative to articling, 34
Law Reform Commissions, 16
law reports and digests, 85-86, App. C
Law School Admission Test (LSAT), 31-32
Law Society of Upper Canada
 benchers, 123
“lawyers’ law”, 16
Legal Aid, 124-125

- legal education
 - academic study v. practical training, 2-3
 - areas of study
 - administrative law, 58-59
 - civil procedure, 66-67
 - comparative law, 68
 - constitutional law, 59
 - contracts, 61-62
 - criminal law, 55-58
 - general first-year courses, 67-68
 - international law, 59
 - other subjects, 68-69
 - property law, 64-65
 - restitution, 64
 - torts, 62-63
 - unjust enrichment, 64
 - Bar Admission Course, 21
 - Canada, in, 21-22
 - casebooks and textbooks, 28-29
 - case briefs, use of, 24-28
 - case method, 23-24
 - clinical programmes, 21-22
 - curriculum, 22-23
 - history of, 21
 - law courses outside the law faculties, 29-31
 - law school admissions, 31-32
 - LSAT (Law School Admission Test), 31-32
 - purpose, 19-20, 112
 - reasons for studying law, 32-33
- legal fictions
 - generally, 4, 84-85
 - reasonable person, 71-72
- legal language
 - citing cases, 36-37
 - civil litigation, 37-38
 - French phrases, 38-39, App. B
 - generally, 35-36
 - Latin phrases, 39-40, App. A
 - litigation, language of, 36
 - pleadings, 37-38
- legal problems, analysis of
 - analysis, format, 44
 - clarity in writing, 41
 - concealed issues, 49
 - conclusions, reserving, 43
 - critical analysis, 42-43
 - decided cases, use of, 45-46

- essay questions, 49-50
- examinations, advice on, 54
- first principles, arguing from, 43-44
- hypothetical problems, facts in, 46-48
- legal research and writing, 53-54
- problems analyzed in parts, 48
- questions with unknown answers, 49
- unconventional analysis, 50-53
- legal profession
 - adversary system, 113-114
 - advocacy
 - ethics of, 114-117
 - influence of, 117-122
 - appointment to the bench, 113
 - barrister's oath, 116
 - benchers, 123
 - fees, 125
 - governing bodies, 112, 123
 - lawyers outside private practice, 112
 - Legal Aid, 124-125
 - organization of, 122-123
 - practice, varieties of, 112
 - Queen's Counsel, 123-124
 - representing a guilty person, 114-115
 - reputation of lawyers generally, 111-112
 - specialization, 123-124
- legal research and writing, 53-54
- legislation
 - interpretation of statutes
 - generally, 97-98
 - legislative intention, 101-102
 - rules of interpretation, 98-100
 - legislative supremacy, 93-95
 - process of legislation
 - publication of statutes, 95
 - regulations, 96-97
 - royal assent, 95
- legislative intention, 101-102
- legislative supremacy, 93-95
- litigation, language of, 36
- logic and the law, 73-74
- looseleaf services, App. C
- LSAT (Law School Admission Test), 31-32

M

- mens rea*, 73
- misrepresentation, law of, 91
- moot court, 22

N

necessity, defence of, 3-4, 46
 negligence, 63

O

obiter dicta, 75-77

P

palm tree justice, 9
 parties to litigation, names of, 36
 peace, order and good government, 6
 pleadings, 37-38
 practice

- admission to, 33-34
- fees, 125
- lawyers outside private practice, 112
- specialization in, 123-124
- varieties of, 112

 precedent, doctrine of, *See stare decisis*
 private law

- civil procedure, 66-67
- comparative law, 68
- contract law, 61-62
- divisions of, 16, 61
- property, 64-65
- public policy and, 65-66
- restitution, 64
- torts, 62-63
- unjust enrichment (restitution), 64

 Privy Council, 110
 profession, organization of, 122-123
 property law, 64-65
 provincial courts, 107
 public law

- administrative law, 58-59
- constitutional law, 59
- criminal law, 55-58
- international law, 59

 public policy

- generally, 12-14
- private right and, 65-66

Q

Quebec law, 68, 71-72
 Queen's Counsel (Q.C.), 123-124

R

ratio decidendi, 75-78
 reasonable person, 71-72

reason and the law, 73-74
references, 104
regulations, 96-97
res judicata, 82-83
restitution, 64
Roman law, 71
rule of law, 6-8
rules of statutory interpretation
 expressio unius exclusio alterius, 100
 golden rule, 99
 legislative intention, 101-102
 literal rule, 98-99
 mischief rule, 99, 102

S

sale of goods, 42-43, 51-52, 80-82
small claims courts, 107-109
social change, law and
 abortion, 14
 dissolution of marriage, 14-15
 Law Reform Commissions, 16
 “lawyers’ law”, 16
 social attitudes, 14
social science, law as, 2
Socratic method, 23
specialization in practice, 123-124
stare decisis, 9, 75, 79, 81, 82-83
statutes, *See* legislation, rules of statutory interpretation
superior provincial courts, 103
Supreme Court of Canada
 appointment of judges, 106-107
 Civil Code decisions, 104-105
 generally, 103-104
 leave to appeal, 106
 practice of, 105
 proposals for reform, 104, 106
 references, 104

T

torts, law of, 62-63

U

unconscionability, 91
unconventional analysis, 50-53
unjust enrichment, 64

V

Vice-Chancellor’s footrule, as replacement for Chancellor’s foot, 50, 88

W

wills, law of, 52-53, 89, 100

words, meaning of, 100

Wright, CA, 21

writing, legal, 35-36