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
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
```

```
\mathbf{C}
Canadian Charter of Rights and Freedoms, 7, 10, 12, 14, 16, 59, 83, 94
   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
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
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
golden rule, See legislation, interpretation of statutes
House of Lords, 109-110
hypothetical problems, 46-48
```

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

```
necessity, defence of, 3-4, 46
negligence, 63
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
Quebec law, 68, 71-72
Queen's Counsel (Q.C.), 123-124
R
ratio decidendi, 75-78
reasonable person, 71-72
```

188 INDEX

```
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 atlerius, 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
torts, law of, 62-63
U
unconscionability, 91
unconventional analysis, 50-53
unjust enrichment, 64
Vice-Chancellor's footrule, as replacement for Chancellor's foot, 50, 88
```

 \mathbf{W}

wills, law of, 52-53, 89, 100 words, meaning of, 100 Wright, CA, 21 writing, legal, 35-36