

Index

ABANDONMENT

- chattels, of, § 4:12
- easements, of, § 10:3, § 10:22

ABORIGINAL PROPERTY RIGHTS (see also CROWN; FIDUCIARY DUTY; INDIGENOUS LEGAL TRADITIONS; RESERVES; TREATY RIGHTS)

- Australian law of, § 1:8
- bona fide* purchasers for value and,
§ 12:11
- common law recognition of, rules for,
§ 5:23
- communal nature of, § 5:24, § 5:34,
§ 12:10
- conceptions of, § 5:34, § 12:29
- constitutional protection for, § 2:19,
§ 3:17, § 5:24, § 5:26
- content of, § 5:24
- duty to consult and accommodate, § 5:24,
§ 5:27
- exclusive use and occupation, § 5:24
- extinguishment of, § 12:10
- fiduciary duty and, § 5:24, § 6:18,
§ 12:10
- honour of the Crown and, § 5:24, § 5:32,
§ 6:18
- infringements of, § 5:24, § 5:31, § 12:12
- land registration and, § 5:34, § 5:36,
§ 5:37, § 12:16, § 12:28
- Métis, § 5:39, § 5:40, § 5:41, § 5:42,
§ 5:43
- Nisga'a Final Agreement and, § 5:33,
§ 5:34
- possession (or occupation) and, § 5:24,
§ 5:26, § 5:34, § 12:10
- proof of, § 5:24
- reserves, and, § 5:36, § 5:37, § 5:38
- Royal Proclamation 1763*, § 5:22, § 5:24,
§ 12:11
- sui generis* nature of, § 5:1, § 5:24,
§ 6:18, § 7:8, § 12:10
- water boundaries and, § 3:16

ACCESSION

- animals and, § 3:33
- nature of, § 3:30, § 3:33
- principal chattel and, § 3:30
- tests for, § 3:30

ACCOUNTING AMONG CO-OWNERS (see also PARTITION AND SALE), § 9:16, § 9:17, § 9:23

ACCRETION (see RIPARIAN RIGHTS)

AD MEDIUM FILUM AQUAE RULE (see RIPARIAN RIGHTS)

ADVANCEMENT, PRESUMPTION OF (see also RESULTING TRUSTS; TRUSTS), § 6:7, § 6:8, § 6:14, § 9:14, § 9:24, § 12:25

ADVERSE POSSESSION

- crown lands, on, § 4:6
- elements of, § 4:5
- purposes of, § 4:6, § 4:9
- race and, § 4:8, § 4:9, § 4:10

AIRSPACE, § 3:3, § 3:4, § 3:9, § 3:11, § 10:13

ALBERTA BILL OF RIGHTS (see also CANADIAN BILL OF RIGHTS), § 2:19

ALBERTA PERSONAL PROPERTY BILL OF RIGHTS (see also CANADIAN BILL OF RIGHTS), § 2:19

ALIENABILITY (see RESTRAINTS ON ALIENATION)

ALLODIAL LAND (TITLE), § 2:5, § 12:29

ALTERATION (see SPECIFICATIO)

ANIMALS

- accession and, § 3:33
- animus revertendi* and, § 4:3
- possession of, § 1:8, § 4:3
- wild, qualified property in, § 1:8, § 4:3

ANTICOMMONS, TRAGEDY OF THE,
§ 1:24, § 3:43

ASSURANCE FUND (see **TITLE
REGISTRATION**)

AVULSION (see **RIPARIAN RIGHTS**)

BAILMENT

bailees, duty of, § 8:25, § 8:29, § 8:31

constructive, § 8:25, § 8:29

contributory negligence and, § 8:29,
§ 8:30

exculpatory clauses and, § 8:32

licences distinguished from, § 8:29

nature of, § 8:27, § 8:29, § 8:31

obligations, § 8:27, § 8:29, § 8:31

onus of proof and, § 8:29, § 8:30

possession and, § 8:29, § 8:30, § 8:31,
§ 8:32

sub-bailment (or sub-bailee) and, § 8:31

types of, § 8:29

BENEFIT AND BURDEN PRINCIPLE,
§ 10:41 (see also **COVENANTS**)

BLACK CANADIANS AND PROPERTY
(see **RACE**)

BODY PARTS (or DEAD BODIES),
PROPERTY IN, § 1:30, § 3:38

**BONA FIDE PURCHASER FOR VALUE
WITHOUT NOTICE** (see also
**FRAUD, PRIORITIES AND;
NOTICE, DOCTRINE OF**), § 12:3,
§ 12:11, § 12:19

BONA VACANTIA, § 5:3

BOUNDARIES (see also **ADVERSE
POSSESSION; AIRSPACE;
RIPARIAN RIGHTS;
SUBSURFACE RIGHTS**)

improvements, effect on, § 3:28

land bounded by land, for, § 3:18

legal descriptions of, § 3:18

title registration and, § 12:29

surveying and, § 3:14, § 3:45

tree trespass, § 3:21, § 3:22, § 3:23

water and, § 3:13, § 3:14

BUILDING SCHEMES (see
COVENANTS)

CANADIAN BILL OF RIGHTS (see also
**CONSTITUTION, PROPERTY
AND THE**), § 2:19

**CANADIAN CHARTER OF RIGHTS
AND FREEDOMS** (see also
**CONSTITUTION, PROPERTY
AND THE**)

equality, guarantee of, § 2:15, § 2:19,
§ 7:11, § 8:16

expression, freedom of, § 10:26, § 10:27

protection of property and, § 2:18, § 2:21

public policy and, § 7:11

public property and, § 1:5, § 2:14,
§ 10:26

section 7, life, liberty, and security of the
person, and, § 2:14, § 8:16

section 15, equality, and, § 2:15

CAPTURE, RULE OF (see also
**ANIMALS; OCCUPANCY
THEORY**), § 4:3

CAVEAT EMPTOR (see also
PRIORITIES), § 8:12, § 12:3

CAVEATS, MEANING OF (see also
TITLE REGISTRATION), § 12:29

CESTUI QUE USE, MEANING OF (see
also **EQUITY; USES**), § 6:2

CESTUI QUE VIE, MEANING OF (see
also **LIFE ESTATES**), § 5:11

CHANCELLOR (see **EQUITY**)

CHANCERY (see **EQUITY**)

CHARGE (see also **SECURITY
INTERESTS**)

floating, § 11:20

nature of, § 11:20

CHATTEL MORTGAGE (see also
SECURITY INTERESTS), § 9:15,
§ 11:20

CHATTELS

accession and, § 3:32, § 3:33

estates and, § 5:3

finders and, § 4:12, § 4:13

fixtures and, § 3:24, § 3:26, § 3:27,
§ 3:28

leases and, § 3:28

test for, § 3:25

meaning of, § 3:1

transformation and, § 3:29, § 3:30

trespass and, § 3:43

INDEX

- CHATTELS REAL**, § 8:1
- CHOSSES IN ACTION**, § 6:2
- CHOSSES IN POSSESSION**, § 3:39
- CLASS** (see **HOMELESSNESS**;
PANHANDLING; **POVERTY**)
- CLOGS ON THE EQUITY OF
REDEMPTION** (see
REDEMPTION, EQUITY OF)
- COASE THEOREM** (see also
**ECONOMIC ANALYSIS OF
PROPERTY LAW**), § 3:7
- COLLECTIVE PROPERTY** (see
COMMON PROPERTY)
- COMMINGLING** (see **CONFUSION OF
FUNGIBLES**)
- COMMON PROPERTY, MEANING OF**
(see also **CO-OWNERSHIP**;
TRAGEDY OF THE COMMONS),
§ 1:3, § 1:5, § 1:6, § 2:9
- COMPULSORY ACQUISITION** (see
EXPROPRIATION)
- CONCURRENT OWNERSHIP** (see
CONDOMINIUMS; **JOINT
TENANCY**; **TENANCY IN
COMMON**)
- CONDITIONAL GRANTS,
COVENANTS AND**, § 10:41, § 10:42
- CONDITIONAL SALES AGREEMENTS**
(see also **SECURITY INTERESTS**),
§ 3:25, § 11:20
- CONDITIONS PRECEDENT**, § 7:4,
§ 7:5, § 7:8, § 7:20
- CONDITIONS SUBSEQUENT**, § 7:5,
§ 7:23
- CONDOMINIUMS**
anti-social behaviour and, § 9:31
cooperative, distinct from, § 9:21
covenants and, § 10:41
land ownership, § 9:26
short-term rentals and, § 9:27, § 9:28
- CONFUSION OF FUNGIBLES**, § 3:30
- CONFUSION, TRADE-MARKS AND**
(see **TRADE-MARKS**)
- CONSERVATION EASEMENTS**, § 10:45
- CONSTITUTION, PROPERTY AND
THE** (see also **ABORIGINAL
PROPERTY RIGHTS**; **CANADIAN
CHARTER OF RIGHTS AND
FREEDOMS**; **EXPROPRIATION**)
absence of protection for in Canada,
§ 2:18, § 2:19
international investment treaties, relation
to, § 2:34, § 2:35, § 2:36
South Africa, § 1:23, § 2:21
United States Fifth Amendment, § 2:25,
§ 2:26
- CONSTRUCTIVE DELIVERY**
Gifts § 4:22
- CONSTRUCTIVE EXPROPRIATION**
(see **EXPROPRIATION**)
- CONSTRUCTIVE NOTICE** (see
NOTICE, DOCTRINE OF)
- CONSTRUCTIVE POSSESSION**, § 4:2,
§ 4:12, § 5:24
- CONSTRUCTIVE TRUSTS** (see also
TRUSTS; **UNJUST ENRICHMENT**)
institutional, § 6:16, § 6:17, § 6:18
licences and, § 8:22
nature of, § 6:14
remedial, § 6:12, § 6:14, § 6:15, § 6:17
- CONTINGENT INTERESTS** (see also
PERPETUITIES, RULE AGAINST),
§ 7:4, § 7:29
- CONVERSION, TORT OF**, § 1:8, § 1:30,
§ 4:2, § 4:3
- COOPERATIVE**, § 9:2, § 9:11, § 9:12,
§ 9:26
- CO-OWNERSHIP** (see **COMMON
PROPERTY**; **CONDOMINIUM**;
COOPERATIVE; **JOINT
TENANCY**; **TENANCY IN
COMMON**)
- COPARCENARY**, § 9:8

COPYHOLD TENURE (see also **TENURES, DOCTRINE OF**), § 2:5

COPYRIGHT

nature of, § 1:26, § 3:36, § 3:45
news and, § 1:26
surveying and, § 3:45

COVENANTS (see also **PUBLIC POLICY; RACE**)

benefit and burden principle and, § 10:41
benefits of,
 running of, at law, § 10:32
 running of, in equity, § 10:32
building schemes and, § 10:35, § 10:36, § 10:43
competition and, § 10:28, § 10:38
conditional grants, covenants and, § 10:41
conservation and, § 10:45
modification of, § 10:41
nature of, § 10:28
positive, § 10:41, § 10:28
race and, § 10:33
termination of, § 10:43

CROWN (see also **ESTATES, DOCTRINE OF; FIDUCIARY DUTY; PUBLIC PROPERTY; TENURES, DOCTRINE OF**)

land, § 5:31
radical title in, § 5:24, § 5:26, § 12:29

CUJUS EST SOLUM EJUS EST USQUE AD COELUM ET AD INFEROS (see also **AIRSPACE; SUBSURFACE, RIGHTS**), § 3:3, § 3:6, § 3:8

CYBERSPACE (see also **TRESPASS**), § 2:12, § 3:43

DE FACTO EXPROPRIATION (see **CONSTITUTION, PROPERTY AND THE; EXPROPRIATION**)

DEEDS REGISTRATION (see also **TITLE REGISTRATION**), § 12:14, § 12:21

DEFEASIBLE INTERESTS (see **CONDITIONS SUBSEQUENT, MEANING OF**)

DELIVERY (see **GIFTS**)

DETERMINABLE INTERESTS
creation of, § 7:6, § 7:7, § 7:23

DETERMINABLE INTERESTS

—Cont'd

effect of invalidity on, § 7:7

DETINUE, § 3:32, § 3:34, § 8:25, § 8:32

DONATIO MORTIS CAUSA (see also **GIFTS**), § 4:22, § 4:23, § 4:24, § 6:9, § 9:14

DOWER (see also **GENDER; HOMESTEAD**)

LAWSLEGISLATION; WOMEN, PROPERTY RIGHTS OF)

common law right to, § 3:26, § 5:3, § 6:4, § 6:12

statutory forms of, § 5:3

EASEMENTS (see also **PRESCRIPTION**)

abandonment of, § 10:3, § 10:21

condominiums and, § 10:13, § 10:41

conservation, § 10:45

creation of, § 10:8, § 10:15

dedication of, § 10:15, § 10:14

estoppel and, § 10:12, § 10:15

location of, § 10:15

nature of, § 10:3

necessity, easements of, § 10:10, § 10:15, § 10:16

possession and, § 10:2, § 10:3, § 10:6

scope of, § 10:8, § 10:41

termination of, § 10:3, § 10:18

title registration and, § 10:18

Wheeldon v. Burrows, rule in, and, § 10:9

words of severance, § 10:18

ECONOMIC ANALYSIS OF PROPERTY LAW (see also **COASE THEOREM; ECONOMIC EFFICIENCY, PROPERTY AND; TRANSACTION COSTS**)

animals and, § 4:3

basic elements of, § 1:24

developing world and, § 1:24

ECONOMIC EFFICIENCY, PROPERTY AND (see also **COASE THEOREM; ECONOMIC ANALYSIS OF PROPERTY LAW**), § 3:9, § 7:18

EMINENT DOMAIN (see **EXPROPRIATION**)

INDEX

ENTAIL (see **FEE TAIL; STRICT SETTLEMENT**)

EQUITABLE INTERESTS (see **CONSTRUCTIVE TRUSTS; RESULTING TRUSTS; TRUSTS; USES**)

EQUITY (see also **CONSTRUCTIVE TRUSTS; TRUSTS; UNJUST ENRICHMENT; USES**)

conflict between law and, § 6:3, § 6:4, § 6:5

Court of Chancery and, § 6:2, § 11:3, § 12:8, § 12:10

fusion of law and, § 12:10

mortgages and, § 11:1, § 11:2

origins of, § 6:2, § 6:3

women, history of and, § 6:2, § 6:4

ESCHEAT, § 2:5, § 2:6, § 5:4, § 5:10, § 7:2

ESTATES, DOCTRINE OF (see also **FEE SIMPLE; FEE TAIL; FREEHOLD ESTATES; LIFE ESTATE**)

meaning of, § 5:2

personal property and, § 5:3

waste and, § 5:2

ESTOPPEL

easements and, § 10:12, § 10:15

licences and, § 8:22

proprietary, § 6:2, § 8:22, § 8:23, § 10:12, § 10:15

EVICITION (see also **LEASES; RESIDENTIAL TENANCIES**), § 2:10, § 8:3, § 8:6, § 8:17, § 9:32, § 11:23

EXCLUDE, OWNER'S RIGHT TO (see also **PRIVATE PROPERTY**), § 1:6, § 3:1, § 3:3, § 3:43, § 9:1, § 9:2

EXCLUSIVE POSSESSION (see **LEASES; POSSESSION**)

EXECUTORY INTERESTS, § 7:23

EXPRESS TRUSTS (see **TRUSTS**)

EXPROPRIATION (see also **CONSTITUTION, PROPERTY AND THE**)

compensation and, § 2:30, § 2:33

EXPROPRIATION (see also **CONSTITUTION, PROPERTY AND THE**)—Cont'd

constructive or *de facto*, § 2:26, § 2:28, § 2:30, § 2:32, § 10:23

investment treaties and, § 2:35

legislation, § 2:26, § 2:30, § 3:9, § 10:15

profits à prendre and, § 2:31

regulatory takings in the United States, § 2:25, § 2:26

FAMILY PROPERTY (see also **GENDER; WOMEN, PROPERTY RIGHTS OF**), § 6:4, § 6:12, § 6:14, § 6:15, § 9:24

FEE SIMPLE (see also **ESTATES, DOCTRINE OF**)

estate in, § 5:2, § 5:9, § 5:12, § 5:33, § 7:3, § 7:25

language of creation for, § 5:10

nature of, § 5:4, § 5:5, § 5:6, § 5:7

FEE TAIL (see also **ESTATES, DOCTRINE OF**), § 2:5, § 5:1, § 5:2, § 5:3, § 7:3, § 7:24, § 12:25

FEOFEE TO USES, § 6:6

FEUDALISM, PROPERTY LAW AND (see also **INCIDENTS OF TENURE; TENURES, DOCTRINE OF**), § 2:1, § 2:7

FIDUCIARY DUTY (see also **ABORIGINAL PROPERTY RIGHTS; TRUSTS**)

constructive trusts and, § 6:10, § 6:17

Crown to Indigenous peoples, of the, § 5:24, § 6:18

medical profession, § 1:30

reserve land, and, § 6:18, § 11:23, § 12:10

FIFTH AMENDMENT (see **CONSTITUTION, PROPERTY AND THE**)

FISHERIES (see also **RIPARIAN RIGHTS**)

Aboriginal and treaty rights to, § 3:16, § 5:24, § 5:31, § 5:32

fishing licences and, § 8:20

profit à prendre and, § 10:22, § 10:23, § 10:24

FINDERS

employees as, § 4:12
general rules governing, § 4:12

FIRST OCCUPANCY (see OCCUPANCY THEORY)

FIXTURES

chattels, distinguished from, § 3:25, § 3:26, § 3:29
security interests and, § 3:28
tenants', § 3:27, § 8:4

FLOATING CHARGE (see also SECURITY INTERESTS), § 11:20

FORECLOSURE (see also MORTGAGES; REDEMPTION, EQUITY OF)

leases, effect on, § 11:12
remedy of, § 11:3, § 11:5, § 11:12, § 11:16

FRAUD, PRIORITIES AND (see also BONA FIDE PURCHASER FOR VALUE WITHOUT NOTICE), § 12:6, § 12:10, § 12:14, § 12:18, § 12:19, § 12:21, § 12:22, § 12:27, § 12:29

FREE AND COMMON SOCAGE (see TENURES, DOCTRINE OF)

FREE TENURES (see also FREEHOLD ESTATES), § 2:5

FREEDOM, PRIVATE PROPERTY, AND, § 1:23, § 2:10

FREEHOLD ESTATES MEANING OF (see also ESTATES, DOCTRINE OF)

FEE SIMPLE; FEE TAIL; LIFE ESTATE), § 5:1, § 5:2

FUTURE INTERESTS (see CONDITIONS SUBSEQUENT; CONTINGENT INTERESTS; DETERMINABLE INTERESTS; REMAINDER, MEANING OF; REVERSION)

**GENDER (see also FAMILY PROPERTY; WOMEN, PROPERTY RIGHTS OF)
constructive trusts and, § 6:10, § 6:14
discrimination and, § 7:11**

GENDER (see also FAMILY PROPERTY; WOMEN, PROPERTY RIGHTS OF)—Cont'd

equity and, § 6:2, § 6:4
property on reserves and, § 11:23
property provisions in family law and, § 5:34, § 5:38, § 6:4, § 9:24
qualified transfers and, § 7:11, § 7:13, § 7:16, § 7:17

GIFTS (see also DONATIO MORTIS CAUSA)

bargains contrasted with, § 4:20, § 6:7, § 6:14
basic requirements for, § 4:20, § 4:22
between family members, § 4:20, § 4:22
constructive delivery and, § 4:22, § 4:24
delivery requirement for, § 4:22, § 4:24
Indigenous legal traditions and, § 4:18
symbolic delivery and, § 4:24

GOOD-FAITH PURCHASER (see BONA FIDE PURCHASER FOR VALUE WITHOUT NOTICE)

GOVERNANCE PROPERTY, § 9:2, § 9:33

HEIRS, MEANING OF, § 5:9

HERITAGE SERVITUDES (see CONSERVATION EASEMENTS)

HOMELESSNESS (see also CANADIAN CHARTER OF RIGHTS AND FREEDOMS; HOUSING, RIGHT TO), § 2:10, § 2:14, § 2:15, § 8:16

HOUSING, RIGHT TO, § 2:14, § 2:15, § 8:17

HUNTING

Aboriginal rights to, § 5:24, § 9:3
Treaty rights to, § 5:31
easements and, § 10:20
possession, doctrine of, and, § 4:3

IMPOSSIBILITY, INVALIDITY BASED ON (see also TESTAMENTARY DISPOSITION), § 7:11, § 7:22

INDEFEASIBILITY (see TITLE REGISTRATION)

INDIAN RESERVES (see RESERVES)

INDEX

IN PERSONAM EXCEPTION TO INDEFEASIBILITY (see **TITLE REGISTRATION**)

IN PERSONAM, RIGHTS (see also **TITLE REGISTRATION**), § 12:24

IN REM, RIGHTS, § 9:1

INCIDENTS OF TENURE (see also **ESCHEAT; FEUDALISM, PROPERTY LAW AND; TENURES, DOCTRINE OF**), § 2:5

INCONSISTENT USE, TEST OF (see **ADVERSE POSSESSION**)

INCORPOREAL HEREDITAMENTS (see also **COVENANTS; EASEMENTS; PROFITS À PRENDRE**), 781

INDIGENOUS LEGAL TRADITIONS

gifts and, § 4:18

land and, § 1:18

sharing and, § 1:20

source of law, as, § 2:2, § 2:3

specific nations/communities, of,

Anishinabek, § 2:2

Coast Salish, § 1:20, § 9:3

Cree, § 2:3

Gitksan, § 2:3

Hul'qumi'num, § 1:20

Innu Council of Ekuanitshit, § 1:21

Red River Métis, § 5:42

Teme-Augama Anishnabai, § 1:18

trespass, and, § 5:24

INTANGIBLE PROPERTY (see **CHOSES IN ACTION; COPYRIGHT; INCORPOREAL HEREDITAMENTS, PATENTS; TRADE-MARKS**)

INTELLECTUAL PROPERTY (see **COPYRIGHT; PATENTS; TRADE-MARKS**)

INTERMIXTURE (see **CONFUSION OF FUNGIBLES**)

INVESTMENT TREATIES (see **EXPROPRIATION; CONSTITUTION, PROPERTY AND THE**)

JOINT ACCOUNTS, § 6:8, § 9:21

JOINT FAMILY VENTURE (see also **CONSTRUCTIVE TRUSTS; UNJUST ENRICHMENT**), § 6:15

JOINT TENANCY (see also **ACCOUNTING AMONG CO-OWNERS; PARTITION AND SALE; SEVERANCE; TENANCY IN COMMON**)

creation of, § 9:6, § 9:7, § 9:24

jus accrescendi (or survivorship) and,

§ 9:6, § 9:13, § 9:14, § 9:23

nature of, § 9:6, § 9:7

personal property, of, § 9:11

rights and responsibilities under, § 9:5, § 9:17

severance of, § 9:14, § 9:15, § 9:17, § 9:26

survivorship (or *jus accrescendi*) under, § 9:5, § 9:6, § 9:11, § 9:14, § 9:23, § 9:24

termination of, § 9:14

words of severance and, § 9:1

JUS ACCRESCENDI (see **JOINT TENANCY**)

KNIGHT SERVICE (see **TENURES, DOCTRINE OF**)

LABOUR THEORY (see also **OCCUPANCY THEORY**), § 1:23

LAND, PHYSICAL DIMENSIONS OF (see **BOUNDARIES**)

LAND TITLES (see **TITLE REGISTRATION**)

LANDLORD AND TENANT (see **LEASES; RESIDENTIAL TENANCIES**)

LATERAL BOUNDARIES (see **BOUNDARIES**)

LEASEHOLD ESTATES (see **LEASES**)

LEASES (see also **EVICITION; RESIDENTIAL TENANCIES**)

assignments of, § 8:8, § 9:11

nature of, § 8:2

breaches of, § 8:5, § 8:8

chattels real, as, § 8:1

**LEASES (see also EVICTION;
RESIDENTIAL TENANCIES)**

—Cont'd

eviction and, § 8:3
exclusive possession and, § 8:3, § 8:10
fixtures and, § 3:47, § 3:48
forms of (kinds of), § 8:2
licences, as distinguished from, § 8:3
mortgages and, § 11:6
non-derogation, and, § 8:12
obligations under, § 8:10, § 8:11, § 8:12
perpetuities and, § 7:30
privity of estate under, § 8:5, 834
quiet enjoyment under, § 8:3, § 8:10,
§ 8:11
real covenants in, § 8:5
remedies for breach of, § 8:5, § 8:12
rent control and, § 8:16
residential, § 8:16
Spencer's Case, rule in, and, § 8:5, § 8:7
subleases of, § 8:5, § 8:8
termination of, § 8:2, § 8:5, § 8:12
top lease, § 7:30
touch and concern, § 8:6, § 8:7

**LEGAL DESCRIPTIONS (see
BOUNDARIES)**

**LEGAL EXECUTORY INTERESTS (see
EXECUTORY INTERESTS)**

LEGAL REMAINDER RULES, § 7:23

LICENCES

bailments distinguished from, § 8:25
constructive trusts and, § 8:22
leases, as distinguished from, § 8:3
proprietary status of, § 8:18, § 8:20,
§ 8:22

LIENS (see SECURITY INTERESTS)

**LIFE ESTATE (see also CURTESY;
DOWER; STRICT SETTLEMENT)**

language of creation for, § 5:10
nature of, § 5:11
power to encroach and, § 5:13
powers and obligations of a life tenant
under, § 5:17, § 5:18
waste and, § 5:19, § 5:20

**LIFE IN BEING (see PERPETUITIES,
RULE AGAINST)**

**LIMITATION OF ACTIONS (see
ADVERSE POSSESSION)**

LIMITATION, WORDS OF, § 5:10

**LIVERY OF SEISIN (see also
FEUDALISM, PROPERTY LAW
AND), § 7:4**

LOST GOODS (see FINDERS)

**LOST MODERN GRANT (see
PRESCRIPTION)**

**MARITAL PROPERTY LAW (see
FAMILY PROPERTY; GENDER;
WOMEN, PROPERTY RIGHTS
OF)**

**MINES AND MINERALS (see
SUBSURFACE RIGHTS)**

**MORTGAGES (see also CHARGE;
REDEMPTION, EQUITY OF;
FORECLOSURE)**

borrower protection and, § 11:18
disguised forms of, § 11:5
equitable, § 11:3, § 11:4
financialization of, § 11:21, § 11:22
foreclosure under, § 10:41
leases, distinguished from, § 11:6
mortgage, meaning of, § 11:1
Nisga'a lands and, § 5:34
origins of, § 11:2, § 11:5
personal covenant, § 11:10
receiver, appointment of under, § 11:11
redemption and, § 11:3
remedies under, § 11:2, § 11:10-§ 11:17
reserves and, § 11:23

**MULTI-VARIABLE ESSENTIALISM
(see also PRIVATE PROPERTY),
§ 1:6**

**NATIVE TITLE (see ABORIGINAL
PROPERTY RIGHTS)**

**NEC VI, NEC CLAM, NEC PRECARIO
(see also EASEMENTS,
PRESCRIPTION), § 5:33**

NEIGHBOURS (see also BOUNDARIES)

airspace rights and, § 3:3
anti-social behaviour and, § 9:31

INDEX

NEIGHBOURS (see also BOUNDARIES)

—Cont'd

- easements and, § 10:6, § 10:12
- Indigenous law and, § 9:3
- noise and, § 8:11
- trees and, § 3:22, § 3:23

NEMO DAT QUOD NON HABET (see also PRIORITIES), § 12:3, § 12:10

NEWS, PROPERTY CLAIMS RELATING TO, § 1:26

NISGA'A FINAL AGREEMENT (see also ABORIGINAL PROPERTY RIGHTS), § 5:33

NOMINALISM (see also PRIVATE PROPERTY), § 1:16

NON-DEROGATION FROM GRANT (see also LEASES), § 8:12

NOTICE, DOCTRINE OF (see also BONA FIDE PURCHASER FOR VALUE WITHOUT NOTICE; CAVEATS, MEANING OF; FRAUD, PRIORITIES AND; TITLE REGISTRATION),

- actual, § 8:22, § 12:8, § 12:21
- constructive, § 12:8, § 12:10
- priorities and, § 12:6, § 12:8, § 12:10, § 12:11, § 12:15, § 12:21
- title registration and, § 12:16, § 12:19

NOVEL CLAIMS TO PROPERTY (see also NUMERUS CLAUSUS)

- body parts, § 1:30
- land, § 1:33
- news, § 1:26
- spectacle, § 1:28

NUISANCE (see also NEIGHBOURS; TRESPASS)

- airspace rights and, § 3:3
- condominium, within, § 9:28, § 9:32
- de facto* expropriation and, § 2:28
- overlooking rights and, § 1:28
- public, § 2:12
- public land and, § 2:12
- residential tenancies and, § 8:11
- trees and, § 3:22, § 3:23

NUMERUS CLAUSUS (see also NOVEL CLAIMS TO PROPERTY), § 1:33, § 9:26, § 10:31

OCCUPANCY THEORY (see also POSSESSION), § 1:23

OCCUPATION (see OCCUPANCY THEORY; POSSESSION)

OCCUPATION RENT (see also ACCOUNTING AMONG CO-OWNERS; PARTITION AND SALE), § 9:17, § 9:24

PANHANDLING (see also HOMELESSNESS), § 2:12, § 2:14, § 2:16

PARTITION AND SALE (see also ACCOUNTING AMONG CO-OWNERS), § 9:17, § 9:24

PATENTS

- anticommons and, § 1:24
- cell lines, for, § 1:26
- life forms, § 3:38
- nature of, § 3:38
- organisms, § 1:30, § 3:38

PERPETUITIES, RULE AGAINST

- development of, § 7:27, § 7:30
- elements of, § 7:27
- leases and, § 7:30
- life in being, § 7:30
- purposes of, § 7:30
- reform of, § 7:27, § 7:30
- top leases and, § 7:30
- wait and see and, § 7:27

PERSONAL COVENANT (see MORTGAGES)

PERSONAL PROPERTY

- choses in action as, § 3:39
- choses in possession as, § 3:39
- estates and, § 5:3
- security interests in, § 3:26, § 11:20
- shared ownership of, § 4:2, § 9:11, § 9:21

PERSONAL PROPERTY SECURITY LEGISLATION, § 3:26, § 8:20

PERSONHOOD

- animals and, § 4:3
- nature and, § 1:19, § 1:21, § 4:3

PERSONHOOD—Cont'd

race and, § 1:13
theory of, § 1:23

PLEDGE, § 11:20

POSITIVE COVENANTS (see COVENANTS)

POSSESSION (see also ADVERSE POSSESSION)

Aboriginal title and, § 5:24, § 12:10
animals, of, § 1:8, § 4:3
bailment and, § 4:12, § 8:25, § 8:29, § 8:30
basic elements of, § 4:2
constructive, § 4:3, § 4:12
easements, and, § 10:2, § 10:3, § 10:4
exclusive, requirement of in leases, § 8:3, § 8:5, § 8:10
mortgagee, by, § 11:11

POSSESSORY TITLE (see ADVERSE POSSESSION)

POSSIBILITY OF REVERTER (see also DETERMINABLE INTERESTS), § 7:8

POSTPONEMENT (see PRIORITIES)

POVERTY (see also HOMELESSNESS; PANHANDLING), § 1:23, § 2:9, § 2:10

POWER OF SALE (see MORTGAGES)

PRE-POSSESSORY INTEREST, INVENTION OF, § 4:2

PRESCRIPTION (see also EASEMENTS), § 10:11

PRIORITIES (see also BONA FIDE PURCHASER FOR VALUE WITHOUT NOTICE; FRAUD, PRIORITIES AND; NOTICE, DOCTRINE OF; TITLE REGISTRATION), § 12:2

PRIVATE PROPERTY (see also EXCLUDE, OWNER'S RIGHT TO; HOMELESSNESS)

justifications of, § 1:3, § 1:23
meaning of, § 1:3

PRIVITY OF ESTATE (see also LEASES), § 8:5

PROFITS À PRENDRE, § 2:29, § 10:22, § 10:23, § 10:24

PROPRIETARY ESTOPPEL (see ESTOPPEL)

PUBLIC POLICY

airspace, § 3:3
copyright and, § 3:36
economic efficiency and, § 7:18
easements of necessity and, § 10:10, § 10:15, § 10:16
limits to proprietary freedom and, § 7:10
restrictive covenants and, § 10:28, § 10:32, § 10:33, § 10:34
rule against perpetuities and, § 7:27, § 7:28, § 7:29, § 7:30
international trade agreements and, § 2:36

PUBLIC PROPERTY (see also ACCESS TO PUBLIC AND PRIVATE PROPERTY; CANADIAN CHARTER OF RIGHTS AND FREEDOMS; CROWN)

access to, § 2:19, § 10:26, § 10:27
adverse possession and, § 4:6
homelessness and, § 2:10, § 2:12, § 2:15
nature of, § 1:3, § 1:6

PURCHASE, WORDS OF, § 5:10

QUIA EMPTORES, STATUTE OF, § 2:7, § 5:2, § 7:25, § 9:29

QUIET ENJOYMENT, COVENANT FOR (see LEASES)

RACE

adverse possession and, § 4:8, § 4:9
property and, § 1:13
qualified transfers and, § 7:14, § 7:15
covenants and, § 7:11, § 10:34
slavery, § 1:13

REAL COVENANTS (see LEASES)

RECEIVER, APPOINTMENT OF (see MORTGAGES)

RECEPTION OF ENGLISH LAW

general principles governing, § 2:5, § 2:7
Quia Emptores, § 2:5
Statute of Uses, § 2:5

INDEX

REDEMPTION, EQUITY OF (see also FORECLOSURE; MORTGAGES)

clogs, § 11:8
nature of, § 11:8
origins of, § 6:2, § 11:3

RE-ENTRY, RIGHT OF (see also CONDITIONS SUBSEQUENT), § 7:8

REGISTRATION OF TITLE (see TITLE REGISTRATION)

REGULATORY TAKINGS (see EXPROPRIATION; CONSTITUTION, PROPERTY AND THE)

RELIGION (see also CANADIAN CHARTER OF RIGHTS AND FREEDOMS)

qualified transfers, and, § 7:11

REMAINDER, MEANING OF, § 7:3

RENTCHARGE, § 10:41

RESERVES (see also ABORIGINAL PROPERTY RIGHTS)

fisheries on, § 3:16
housing on, § 11:23
land codes on, § 5:37
property interests in, § 5:36

RESIDENTIAL TENANCIES (see also EVICTION; HOMELESSNESS; HOUSING, RIGHT TO; LEASES)

application of legislation to, § 8:16
evictions from, § 8:17
National Housing Strategy Act, relation to, § 8:17
reform of landlord tenant law regarding, § 8:16
rent control, § 8:16

RESTRAINTS ON ALIENATION, § 7:24, § 7:25, § 7:26, § 7:30

RESTRICTIVE COVENANTS (see COVENANTS)

RESULTING TRUSTS (see also ADVANCEMENT, PRESUMPTION OF; TRUSTS; TITLE REGISTRATION)

joint accounts and, § 6:8, § 9:21

RESULTING TRUSTS (see also ADVANCEMENT, PRESUMPTION OF; TRUSTS; TITLE REGISTRATION)—Cont'd

nature of, § 6:7
presumption of, § 6:7, § 6:14
title registration and, § 6:9, § 12:24, § 12:25, § 12:26

REVERSION, § 7:4

REVERTER, POSSIBILITY OF (see DETERMINABLE INTERESTS)

RIPARIAN RIGHTS

accretion and, § 3:14
ad medium filum aquae rule and, § 3:16
avulsion and, § 3:14
fishery, § 3:16
navigation and, § 3:16
reception, doctrine of, and, § 2:7, § 3:16

ROYAL PROCLAMATION 1763 (see ABORIGINAL PROPERTY RIGHTS)

RULE OF LAW, THE, § 1:13, § 1:26, § 10:26

RURAL, § 5:6

SASKATCHEWAN BILL OF RIGHTS (see also ALBERTA BILL OF RIGHTS), § 2:20

SECURITY INTERESTS (see also MORTGAGES; PERSONAL PROPERTY

SECURITY LEGISLATION)

chattel mortgage, § 11:20
conditional sales agreements, § 3:25, § 11:20
hire-purchase agreement, § 11:20
floating charge, § 11:20
liens, § 11:20
survey of, § 11:20

SEISIN (see TENURES, DOCTRINE OF)

SERVITUDES (see COVENANTS; EASEMENTS; PROFITS À PRENDRE)

SEVERANCE (see also JOINT TENANCY)

acts of, § 8:8, § 8:29, § 9:6, § 9:14

SEVERANCE (see also **JOINT TENANCY**)—Cont'd
words of, § 9:11

SHARING, PROPERTY AND (see also **GIFTS**)
family assets and, § 9:24
Indigenous law and, § 1:20, § 9:3
treaty lands and, § 1:1, § 9:3

SINGLE-VARIABLE ESSENTIALISM
(see also **PRIVATE PROPERTY**),
§ 1:6

SLAVERY (see also **RACE**), § 1:13

SOCAGE (see **FEUDALISM, PROPERTY LAW AND; TENURES, DOCTRINE OF**)

SPECIFICATIO, § 3:29, § 3:30

SQUATTERS' RIGHTS (see **ADVERSE POSSESSION**)

STATE PROPERTY (see **PUBLIC PROPERTY**)

STRATA PROPERTY (see **CONDOMINIUM**)

STRICT SETTLEMENT (see **FEE TAIL; LIFE ESTATE**), § 5:3, § 5:21, § 6:4

SUBDIVISION
air space and, § 3:11
land and, § 3:10

SUBINFEUDATION, § 2:5, § 5:3

SUBSURFACE, RIGHTS
caves and, § 3:6
leases and, § 4:12
mineral rights and, § 3:9
oil and gas and, § 3:9
pore spaces and, § 3:9

SUPPORT
buildings and, § 3:19
natural right of, § 3:19
waiver of liability for, § 3:19

SURRENDER, TERMINATION OF LEASE BY (see **LEASES**)

SURVIVORSHIP, RIGHT OF (see **JOINT TENANCY**)

TAKINGS (see **CONSTITUTION, PROPERTY AND THE; EXPROPRIATION**)

TENANCIES (see **LEASES; RESIDENTIAL TENANCIES**)

TENANCY BY (THE) ENTIRETIES,
§ 9:8

TENANCY IN COMMON (see also **ACCOUNTING AMONG CO-OWNERS**;

JOINT TENANCY; PARTITION AND SALE)

creation of, § 9:6
nature of, § 9:1
reform of, § 9:7
rights and responsibilities under, § 9:1,
§ 9:17

TENANT-IN-CHIEF (see also **FEUDALISM, PROPERTY LAW AND**), § 2:5

TENURES, DOCTRINE OF, § 2:5, § 5:1
frankalmoin, § 2:7
free and common socage, § 2:5, § 6:6
knight service, § 2:5
seisin, § 2:5, § 6:2, § 6:5, § 7:3
serjeanty, § 2:7
Tenures Abolition Act, § 2:5, § 2:6

TERRA NULLIUS (see also **ABORIGINAL PROPERTY RIGHTS**), § 5:24

TESTAMENTARY DISPOSITION
advancement and, § 6:9
conditional and, § 7:20
inter vivos gifts and, § 6:8, § 6:9
impossibility and, § 7:11, § 7:13,
public policy and, § 7:14
uncertainty and, § 7:20

TITLE INSURANCE, § 12:34

TITLE REGISTRATION (see also **DEEDS REGISTRATION; TITLE INSURANCE**)

Aboriginal land rights and, § 5:35,
§ 12:28, § 12:29, § 12:30
adverse possession and, § 12:1
assurance fund under, § 5:34, § 12:16,
§ 12:19, § 12:27

INDEX

TITLE REGISTRATION (see also **DEEDS REGISTRATION; TITLE INSURANCE**)—Cont'd
fraud under, § 12:17, § 12:18
gratuitous transfers and, § 12:25, § 12:33
history of, § 12:16
in personam claims and, § 12:24
indefeasibility of title under, § 12:19, § 12:24
overriding interests under, § 12:33
Nisga'a Nation and, § 5:33
surveying and, § 3:45
unregistrable interests, § 12:33
volunteers under, § 12:33

TITLE SEARCH, § 12:14, § 12:37

TORRENS TITLE (see **TITLE REGISTRATION**)

TOUCH AND CONCERN (see also **LEASES; COVENANTS**)
covenants and, § 10:32, § 10:33, § 10:38, § 10:45
leases and, § 8:6, § 8:7

TRADE-MARKS, § 3:40

TRAGEDY OF THE COMMONS (see also **ECONOMIC ANALYSIS OF PROPERTY LAW**), § 1:24, § 2:14

TRANSACTION COSTS (see also **ECONOMIC ANALYSIS OF PROPERTY LAW**), § 3:7, § 3:9, § 5:34

TREATY RIGHTS (see also **ABORIGINAL PROPERTY RIGHTS; FISHERIES; HUNTING; INDIGENOUS LEGAL TRADITIONS**)
Douglas (Vancouver Island) Treaties, § 5:30, § 9:3
Nisga'a Treaty (Final Agreement), § 5:30, § 5:33
Peace and Friendship Treaties, § 5:30, § 5:32
Red River Métis Self-Government Recognition and Implementation Treaty, § 5:42
Treaty 6, § 1:15, § 4:13
Treaty 8, § 5:31
Yukon Final Agreement, § 5:30

TRESPASS (see also **ADVERSE POSSESSION**)
adverse possession and, § 4:9
airspace and, § 3:3
chattels, to, § 3:43
criminal, § 1:15, § 1:16
cyber-, § 3:43
defence of property and, § 1:15, § 1:16
finders and, § 4:12
Indigenous legal traditions and, § 1:20, § 5:24
labour disputes and, § 1:10
legislation, § 1:10, § 1:16, § 10:26
public property, on, § 10:26
mistake and, § 3:10
subsurface and, § 3:6
trade-marks and, § 3:40
trees, § 3:22

TRUSTS (see also **CONSTRUCTIVE TRUSTS; EQUITY; RESULTING TRUSTS; UNJUST ENRICHMENT; USES**)
constructive, § 6:10, § 6:14, § 6:16, § 6:17
express, § 6:6
nature of, § 6:6
origins of, § 6:2
resulting, nature of, § 6:7
resulting, presumption of, § 6:7, § 6:8, § 9:22, § 12:25

UNCERTAINTY, CONDITIONAL TRANSFERS AND, § 7:19, § 7:20, § 7:21, § 7:22

UNFREE TENURES (see **COPYHOLD TENURE**)

UNJUST ENRICHMENT (see also **CONSTRUCTIVE TRUSTS**)
elements of, § 6:14, § 6:15
juristic reason and, § 6:14
remedies for, § 6:14

USES (see also **EQUITY; TRUSTS**)
emergence of, § 6:6
Statute of, § 2:7, § 6:6, § 7:23

UTILITARIAN THEORY, PROPERTY AND, § 1:23

VALIDITY OF CONDITIONS (see **LEGAL REMAINDER RULES**;

IMPOSSIBILITY, INVALIDITY BASED ON; PERPETUITIES, RULE AGAINST; PUBLIC POLICY; RESTRAINTS ON ALIENATION; UNCERTAINTY, CONDITIONAL TRANSFERS AND)	
VESTING, PREFERENCE FOR, § 7:5, § 7:20	
VOLUNTEERS (see GIFTS; TITLE REGISTRATION)	
WASTE co-ownership and, § 5:19, § 9:17	WASTE—Cont'd forms of, § 5:2 life estates and, § 5:2
	WATER (see also RIPARIAN RIGHTS) public ownership of, § 3:16
	WILD ANIMALS (see ANIMALS)
	WOMEN, PROPERTY RIGHTS OF (see also DOWER; GENDER; UNJUST ENRICHMENT), § 9:24
	YEARS, TERM OF (see LEASES)
	ZONING, § 2:12, § 7:29, § 10:32, § 10:36, § 11:23