

INDEX

- A. Salomon & Co. Ltd., 65–67, 71,
 74, 78
 Salomon & Sons, 63–64
 A. Schroeder Music Publishing Co.
 Ltd., 137
Adams v Cape Industries plc, 77
 Adams, John, 44–48, 50
 adjudication, 7–9, 42
 adversarial system, 102
 Airedale General, 14
 Airedale National Health Service
 Trust, 15–16, *See also* Airedale
 Trust
 American Law Institute, 119
 American Medical Association, 118,
 See also AMA
 American Republicanism, 45
 Anholt, Adolph, 64
 Antifederalists, 44–45, 48, 55
 Australian Navy, 29
 autonomy, 81
 sexual autonomy, 90
- Baker, Justice, 21
 balance of powers, 55
 balance sheet approach, 21
 Balmain, 28–29, 40
Belge case, 111, *See also* The Buried
 Bodies Case
 Bernardo, Paul, 96–101
 best interests of the patient, 17–18,
 20–23
- Bierce, Ambrose, 61
 Bingham, Sir Thomas, 16
 Blackmun, Justice Harry, 122–123,
 125, 128
 Bland, Allan & Barbara, 14–15, 23
 Bland, Tony, 11, 13, 14–15, 17,
 18–20, 25
 Bolingbroke, Lord, 95
 Brennan, Justice William, 122
 British Medical Association, 20, *See*
 also BMA
 Brixton Prison, 89
 Broderip, Edmund, 66–68
 Brown, Anthony, 85–87, 89, 91–93,
 See also Tony Brown
 Brown, Sir Stephen, 16
 Browne-Wilkinson of Camden,
 Lord, 17
 Burger, Chief Justice Warren, 59,
 122
 Burns, Robbie, 1
 Butler-Sloss, Lady Elizabeth, 16
- Cadman, Graham, 85
 Cairns, Lord Justice, 139
 Caltex, 30–32
caveat dantis, 74
 Central Criminal Court, 84–85, 92,
 See also Old Bailey
certiorari, 23
 Chancery Division of the High
 Court, 139

- Chase, Samuel, 50
 Chevron, 30
 Chief Justice Warren Burger. *See also*
 Justice Warren Burger
 Clausewitz, Carl von, 42
Clifford Davis Management case,
 144
 Coffee, Linda, 116–118, 119–122,
 126, 129
 commercial fairness, 142
 common law, 1–9, 19, 27–28, 41,
 115, 142, 148–151
 as pragmatic, 4, 6, 9, 69
 work-in-progress, 1–9, 149
Companies Act 1862, 64, 69, 71
 consent, 16–17, 19, 22, 80–81,
 82–84, 87–89, 91–94, 128,
 133, 145
 in criminal assault, 84
 safe sex, 94
 constitution as a living tree, 148
 constitutional interpretation, 48, 51,
 54, 56
 contract law, 132–134, 143–146
 bargaining power, 142–146
 contracts for personal service, 140
 restraint of trade, 138, 141
 unconscionability, 133, 139,
 143–146
 Cooper, Austin, 101
 corporate capitalism, 72
 corporate social responsibility, 78–79
 Countdown on Spanner, 87
 counter-majoritarian difficulty, 56
 Court of Protection, 20–21
 criminal law, 10, 76
 actus reus, 106
 aiding and abetting assaults, 82
 assaults causing actual bodily
 harm, 82, 88
 assaults causing less than serious
 bodily harm, 89
 keeping disorderly houses, 82
 mens rea, 106
 obstructing justice, 96–97,
 105–107, 111
 possessing child pornography, 105
 unlawful wounding, 82
 willfulness, 105–106
Cruzan case, 21
 Cushing, William, 51
 Darwin, Charles, 4
 Davey, Lord, 71
 Denning, Lord, 144–145
 Devine, Andrew, 25
Dica case, 92
 Dickens, Charles, 95
 Dickensian London, 60, 70
 Oliver Twist, 39
 Dilhorne, Lord, 140
 Diplock, Lord, 140, 141–142, *See*
 also Lord Diplock of Wansford
District of Columbia Organic Act of
 1801, 45
 Donne, John, 8
Donoghue v. Stevenson, 35
Donovan case, 83
 Douglas, Justice William, 9
 Doyle, Kim, 99
 Dry Dock Hotel, 40
 Duckenfield, David, 12, 24, *See also*
 Duckenfield, Chief
 Superintendent David
 Durack, Mr., 31–32
 duty of confidentiality, 103–104,
 106–107, *See also* solicitor-
 client privilege
 fact of destruction, 104
 location of concealment, 104
Edwards case, 148
Eisenstaedt v. Baird, 120
Emmett case, 92
 English Court of Appeal, 16, 33, 69,
 83, 90, 139, 144, *See also* Court
 of Appeal
 ethics, 4
 abortion debate, 115
 business ethics, 61, 68–69, 73, 77
 ethics of euthanasia, 10–11, 18–21
 in criminal law, 102–107,
 108–112
 legal professional ethics, 95–96,
 108–112
 European Convention on Human
 Rights
 Article 8, 91
 European Court of Human Rights,
 24, 91
 euthanasia, 10–11, 16, 20, 25, *See*
 ethics of euthanasia
 expressed intentions, 22

Index

161

- fair dealing, 68
 Federalists, 44–48, 55
 Flowers, Robert, 121
 Floyd, Jay, 121
 Franki, James, 29
 Franklin, Benjamin, 10
 fraud
 corporate fraud, 65–70, 73–77
 French, Kristen, 98–101
 Friedman, Milton, 75

 Gatehouse, Robert, 140
Gillick case, 88
 Ginsberg, Justice Ruth, 126
 Godfrey, Mr., 32
 Goff of Chievely, Lord, 17
 Goldberg, Justice, 120
Gonzales v. Carhart, 128
 good faith, 43, 70–72, 142
 Goulding, Lord Justice, 139
 Gravely, Justice Patrick, 105–107, 108
Griswold case, 120

 H. & G. Simonds, 35
 Hallford, James, 120
 Halsbury, Lord, 69, 71, 75
 Hamilton, Alexander, 44–45, 58
Harris v. MacRae, 128
 Herschell, Lord, 71
 Heysel Stadium, 12
 Hillsborough Independent Panel, 24
 Hillsborough Stadium, 11–13
 Lepping Lane End, 12–13
 history of the common law, 1, 5, 8, 149
 history of U.S. abortion law, 118–120
 Hoffman, Leonard, 16
 Homolka, Karla, 96–101
 Homolka, Tammy, 98
 homosexuality and the law, 81–86, 88, 91–92
 House of Lords, 17–19, 23, 35, 70, 74–76, 91, 140, 143, 145
 Howe, Dr. Jim, 14
Hughes case, 37
 Hunter, Professor, 33
 Huxtable, Richard, 20

in forma pauperis, 70
 incorporation, 61, 64–66, 67–75, 77
 veil of incorporation, 61, 69, 71, 73, 78, *See also* corporate veil
 individual responsibility, 61
 inflammability, 31–34
 inquisitorial capacity, 50

 Jaggard, Roland, 83, 85, 89–90, 91–93
 Jauncey, Lord of Tullichettle, 88
 Jefferson, Thomas, 44–55, 58
 Jones, James, 24
 judicial activism, 125
 judicial legislation, 124
 judocracy, 57
 judicial review, 43, 54–58, 124
 judicial supremacy, 55–57
Judiciary Act of 1789, 48, 50–55
Judiciary Act of 1801, 45, 48, 51
 Justice Kinsella, 36, 38
 Juventus fans, 12

 Kay, Lord Justice, 70
 Keith, Lord of Kinkel, 17
 Kekewich, Justice, 78
 Kelly, Tony, 40
 Kilbrandon, Lord, 140
 Kinsella, Justice, 33–34

 Lane, Chief Justice Geoffrey, 86
 Laskey, Colin, 85, 91
 law and politics, 1–9, 59
 language of politics, 43
 Law Commission, 91
 Law Society of Upper Canada, 101, 105, 108, 113
 legal tradition, 2–7, 17, 55, 138, 141
 traditionalists, 3
 liability
 civil liability, 27–28, 35–38
 criminal liability, 76, 87
 limited liability, 64, 68, 72
 Lincoln, Levi, 48
 Lindley, Lord Justice, 69
 Liverpool F.C., 11, 23, 25
 Liverpool fans, 12–13, 25
 Shankly, Bill, 25
Lloyd Bank v. Bundy, 144
Lochner case, 56
Lock case, 91

- Lopes, Lord Justice, 70
 Lowry of Crossgar, Lord, 17–18, 88
 Lucas, Saxon, 85
- Macaulay, Thomas, 112
 Macaulay, Tony, 137–139, *See also*
 Anthony Instone
 MacDonald, Carolyn, 99, 105
 Madison, James, 44, 46, 48–50,
 58–59
 Magnusson, Roger, 20
 non-voluntary euthanasia, 20
 Maguire, Justice, 34
 Mahaffy, Leslie, 98–101
 Manning, Justice, 34
 Marbury, William Jr., 46–55, 48,
 51–54
 Marshall, John, 45–48, 49–54, 55,
 58, *See also* Chief Justice
 Marshall
 Marshall, Justice Thurgood, 122
 McCall, Buckley, and Cohen QCs,
 70
 McClusky, Henry, 116–117
 McCorvey, Norma Lea, 116–118,
 122, 129–131, *See also* Jane Roe
 McDonald, James, 29
 McGiffen, Mr., 32
 McLachlin, Beverly, 2
Mental Capacity Act 2005, 20
Meredith case, 109
 Miller Steamship Company, 31,
 38–39
 S.S. Audrey D, 31
 S.S. Corrimal, 31–32, 38, *See also*
 Corrimal
 Mitchell, J.S., 29
 Moore, Alfred, 51
 moral obligation, 27, 61
 morality. *See* ethics
 Morris, Lord of Borth-y-Gest, 34,
 39, *See also* Lord Morris
 Morrow, Father James, 15
 Mort Bay, 30
 Mort, Thomas Sutcliffe, 28–29
 Mort's Dock & Engineering
 Company, 29, 30–32, 40
 Sheerlegs Wharf 29, 40
 Muir Mackenzie, Montague, 69
 Murray, Kenneth, 96–102, 104–107,
 109–112
- Murray, Superintendent Bernard, 24
 Musicor, 136
Mustapha case, 41
 Mustill of Pateley Bridge, Lord,
 17–19, 89
- negligence, 27, 31, 32–34, 35–38,
 39, *See also* negligent acts
novus actus interveniens, 37
- O'Rourke, P.J., 43
Olwell case, 108
 omission, 18, 20
 letting die, 20
 Ontario Superior Court of Justice,
 105
 Operation Spanner, 82
 Obscene Publications Squad, 82
 original jurisdiction, 48, 50, 52, 55
 Overseas Tankship Limited, 30, 34,
 36–38, 39
 Owen, Justice, 34
- Parker, Chief Justice, 37
 Parkin, Mr., 31–32
 Paterson, William, 50
 persistent vegetative state, 14, 16–18,
 20–22, 25, *See also* PVS
Planned Parenthood v. Casey, 128
 Plowman, Justice, 139
 Popper, Stefan, 14–15
 Potter Stewart, 121
 Privy Council, 34, 36, 38–39, 148
 Judicial Committee of the House
 of Lords, 16, 34, 87
 pro-choice. *See* woman's right to
 choose
 pro-life, 15, 130
 proportionality, 27
 public inquiry, 24
 public interest, 88, 96, 140
 public opinion, 92, 107, 114
- R v. Arnaud*, 68
 Radcliffe, Lord of Werneth, 34
 Randolph, John, 50
 Rant, Judge James, 84
 Raphael, Ralph, 68, 78
Rasouli case, 22
Re M. case, 21
Re Polemis, 33–35, *See also* *Polemis*

- Re Raphael* case, 78
 reasonableness, 28, 138, 140
 good reason, 86–87
 in business dealings, 74–77
 Rehnquist, Chief Justice, 22, 121,
 124–125, 128, *See also* Justice
 William Rehnquist
 Reid, Lord, 34, 39, 140–141,
 See also Lord Reid of Drem
 remoteness of damage, 27–28,
 33–36, 38, 149
 direct consequences, 35
 person of ordinary fortitude, 41
 reasonable foreseeability, 34–36,
 39–40
 reasonable man, 35, 37, 39
res judicata, 38–39
 right to privacy, 121–122
 right-to-die, 11, 19, 22, 25
 role of the press, 15–16, 83, 90
 Rosen, John, 101–102
 Rountree, Captain Thomas, 29
 Russell, Lord Justice, 140, *See also*
 Lord Russell of Killowen

S.S. Wagon Mound, 30–33, *See also*
 Wagon Mound
 sado-masochism and the law, 81–84,
 86, 88–93
 Salomon, Aron, 62–72, 77
 sanctity of life principle, 17–18
 Scalia, Justice Antonin, 128
 Scarman, Lord, 145
Schiavo case, 22
 Palm Sunday Compromise, 23
 Schroeder, Aaron, 135–140, 146
 Second World War, 29–31
 separate corporate personality, 68
 Sheffield City Hospital, 14
 Simon, Lord, 140
 Simonds, Louis De Luze, 34
 Simonds, Viscount of Sparsholt,
 34–36, *See also* Gavin Simonds
 Simpson, Brian, 6
 Singer, Peter, 19
 quality of life, 19
 Slynn, Lord of Hadley, 89
 small business, 64, 67, 70, 72–73,
 78, *See also* family business
Smith v. Leech Brain, 37
 standing, 121

stare decisis, 7, 38–39
 substantive fairness, 39, 133, 145
 substituted judgment, 18
 suicide, 10, 83
 Superior Court of New South
 Wales, 33
 Supreme Court of Canada, 22, 41,
 148
 Sydney Harbour, 28–31, 40
 Sydney University, 33

 Taylor, Lord Chief Justice Peter, 24
 Templeman, Lord, 88
 Texaco, 30
 the lawyer's trilemma, 103
 thin-skull rule, 37, 41
Thornburgh case, 128
 Tin Pan Alley, 134–135
 Tocqueville, Alexis de, 61
 tort law, 27–40, 149, *See also* law of
 tort
 causation, 33–34
 Tucker, Lord of Great Bookham, 34

 U.S. Constitution, 21, 43–44, 48, 50,
 52–58, *See also* American
 Constitution
 due process clause, 21, 56
 Fourteenth Amendment, 56,
 123–124, 126
 Ninth Amendment, 120
 United States Supreme Court, 21, 23,
 43–44, 48–54, *See also* Supreme
 Court of the United States

 Vaughan Williams, Roland, 69–70
 The Law and Practice of
 Bankruptcy, 69

 Wade, Henry, 117–118, 120, 129
Wagon Mound (No 2), 38
 Walsh, Justice, 38–39
 Wandsworth Prison, 85, 89
 Washington, Bushrod, 50
 Washington, George, 44–46
 Watson, Lord, 71
Webster v. Reproductive Health
 Services, 128
 Weddington, Sarah, 115–118, 122,
 126, 129, *See also* Sarah
 Ragle

<i>Westminster Bank v. Morgan</i> , 145	woman’s right to choose, 115, 125–127
White, Justice Byron ‘Whizzer’, 124	
Whitechapel High Street, 61–63, <i>See</i> also Whitechapel	<i>writ of mandamus</i> , 48, 52
Wilde, Oscar, 25	zealous advocate, 96, 103–104
Williams, Anne, 24	Zimmer, Carl, 4