

Index

- 90-day law, 241
a priori knowledge, 91
 Abella, Rosalie, 234
 Aberdeen, Scotland, 209
 Aberdovey, Wales, 118, 119, 120, 139
 Aberdyfi, Merionydd, Wales. *See* Aberdovey, Wales
 aboriginal rights, 225–226
 abortion. *See* reproductive rights
 Abrahams, Henry J., 6
Abrams case, 99
 academia, legal, 35–36, 87–88, 122, 212, 242–243
 Adams, John, 60, 61, 66
 Adams, John Quincy, 61
 administrative law, 155, 224–225
 admiralty law, 87, 147, 185
 affirmative action, 197–199
 African National Congress, 240, 243–244, 246, 249, 260
 code of conduct, 243–244
 Constitutional Committee, 243
 Alfred the Great, 143
 Ali, Muhammad, 186
Ambard case, 134
 Ambler, Jacquelin, 57
 Ambler, Mary Willis. *See* Marshall, Polly
 American Law Review, 87
 American Revolution. *See* war – War of Independence, American
 ANC. *See* African National Congress
 Anderson, John, 127
Ann and Mary (ship), 42

Index

- apartheid
 as constitutional norm, 260
 introduction of, 239
 oppressive actions of apartheid
 regime, 240–242, 244, 255
- Arcos* case, 126
- Arlington National Cemetery, 109, 205
- Armstrong, Scott, 201
- Asquith, Cyril, 160
- Asquith, H.H., 119
- atheism, 104
- Atkin, Dick. *See* Atkin, James
- Atkin, James, 31, 157, 173, 272–275
 as ‘ordinary person,’ 112, 118, 130–131, 139
 community, love of, 130
 courtroom style of, 119, 120
 dissents of, 120–121, 126–130
 early life, 112–116
 education, 116–117
 family life of, 118, 133–134
 Gray’s Inn, affiliation with, 117
 judges’ private lives, view on, 130, 131
 judicial appointments of, 119, 120
 judicial philosophy of, 123, 131, 132–133, 135
 king’s counsel, appointment as, 119
 later life and death, 138–139
 law practice of, 117–119
 legal education, view of, 131–132
 marriage of, 118
 public involvements of, 137–138
- Atkin, Lizzie, 118–119, 138
- Atkin, Nancy, 118
- Atkin, Robert Jr., 113
- Atkin, Robert Travers, 112–114
- Atkin, Rosaline, 118
- Atkin, Walter, 113
- Atkinson, John, 120
- attorney general (UK), 28, 29
- attorney general (US), 60, 184
- August* case, 257–258
- Autocrat of the Breakfast Table, The*, 83
- Bacon, Francis, 3
- bad faith, 127
- ‘bad man’ theory of law. *See* Holmes, Oliver Wendell Jr. – ‘bad man’ theory of law
- Bailey* case, 103–104
- Bakke* case, 197–198
- Baltimore, Maryland, 174, 175, 176, 180, 181, 182, 186, 205
- Bankes, Lord, 120
- bar exams, 86, 117, 181
- bargaining power, 163, 170
- baseball, 1–3
- Basson* case, 255
- battles, Civil War, 85–86
- Bay Street, Toronto, 213
- Becker, Rosa, 222
- Bell* case, 126
- Bentham, Jeremy, 33
- Beswick, John Joseph, 152
- Beswick, Peter, 152
- Beyond the Fringe*, 4
- Bhadauria* case, 222–223
- Bible, The, 123

Index

- Birmingham Six, 152–153,
 166–167
 Bissett, F.W., 212
Black and White Taxi case,
 100–101
 Black, Hugo, 7, 187
 Blackmun, Harry, 191, 197
 Blackstone, William, 35–36, 54,
 56
boni iudicis est ampliare justitiam,
 47
Book of English Law, The, 132
 Boston Brahmins, 82, 83
 Bowen, Catherine, 109
Bracken case, 59
 Brennan, William, 201, 204
Brethren, The, 201
 Bristol Race Riots, 167
 Brittan, Leon, 171
Broome case, 155
Brown case, 183
Buck case, 101–102, 106
 Buck, Carrie, 101
 Buckmaster, Stanley, 124, 132
 Buller, Francis, 49
 Bundy, Herbert, 152
 Burey, Vivian “Buster,” 180, 184
 Burger, Warren, 192
 Burton, Richard, 118
 Burwell, Rebecca, 57
- Calhern, Louis, 109
 Calloway, Cab, 182
 Campbell, John, 40
 Campbell, Kim, 233
 Canadian Bar Association, 234
 Canadian Bill of Rights, 224
- Canadian Charter of Rights and
 Freedoms, 215, 223–224
 Section 1, 224
 Section 2, 225
 Section 7, 224
Candler case, 157, 160
 Cape Town, South Africa, 264
 capital punishment, 195–197, 204,
 250
 capitalism, 64
 as metaphor for freedom of
 expression, 99
 Captain Kirk, 158
 Cardozo, Benjamin, 75
 Carleton University, 209
 Carlyle, Thomas, 111
 Carneson, Fred, 242
 Carroll, Lewis, 170
Carter case, 39
Catholic Relief Bill 1778, 46
 certainty. *See* law – certainty,
 importance of
Chapman case, 41
 Charles I, King, 128
 Christianity, 73, 133, 160, 161,
 165, 166, 190, 211, 213
 impact of on law, 122–123, 161,
 256
 John Wilson and, 209–211, 212
 Churchill, Winston, 172
 Cibber, Colley, 27
 civil rights movement, 175, 181,
 182, 183, 185
 Civil War, American. *See* war –
 Civil War, American
 Clark, Tom, 187
 Clinton, Bill, 205

Index

- Code de Commerce* (France), 38
 Coke, Edward, 35
 College of William and Mary, 56, 59
 colonialism, 43, 48, 52, 53, 78, 82, 243
Commentaries on the Laws of England, 36, 54
 commercial law, 30, 33, 38, 39–41, 64, 87, 119, 136
 feudalistic origins of, 38
 common law
 American federal law and, 100–101
 as “ragbag of details,” 91
 as comprising principles rather than rules, 32, 91, 123, 132–133
 as possessing wisdom, 35, 157
 as work-in-progress, 9–10, 11, 30–31, 48–49
 gender-based presumptions of, 226, 227–229
 legislation, relationship to, 34–35, 42, 157
 reflection of common practice or opinion in, 38, 92, 112
Common Law, The, 88, 91, 93, 103
 communism, 166, 239
 conflict of interest, 29–30, 47, 68
 Congress of the People, 240
 conservatism, 48, 103, 104, 153, 187, 190, 192, 202, 204, 215
 consideration, doctrine of. *See* contract law – consideration, doctrine of
 Constitution of Canada, 215. *See also* Canadian Charter of Rights and Freedoms.
 Constitution of Kenya, 184
 Constitution of South Africa, 246–247, 250–253, 256, 257, 258
 Constitution of the United States, 58–59, 64, 102, 177
 Article III, 66
 Eighth Amendment, 195–197
 First Amendment, 99
 Fourteenth Amendment, 96–98, 182, 183, 198–199
 Fourth Amendment, 192
 ‘Necessary and Proper Clause,’ 71
 Constitutional Court of South Africa
 collegiality of, 250
 role of the Court, 246–247
 constitutional interpretation, 1, 66–68, 70, 71–73, 96–98
 contextual or ‘purposive’ approaches to, 221, 225, 251–253
 formalism or originalism in, 190, 198–199, 221, 225
 liberal approaches to, 187, 192–193, 221
 limits on, 251–252
 constitutional law
 constitutions as accommodating differing views, 97–98
 division of powers, 70–72, 73
 equality, right to, 182, 183, 190, 195, 197–199, 258–259

Index

- freedom of expression, 99, 225
 freedom of religion, 233, 256
 fundamental freedoms,
 importance in South Africa,
 252
 liberty, right to, 96–98, 128, 204,
 224, 232
 positive vs. negative rights in,
 257–259
 ratification of constitutions,
 58–59, 246–247
 reconciliation of conflicting
 rights or laws, 251–253,
 259
 supremacy of constitutions, 58,
 64–68, 72–73
 consumption. *See* tuberculosis
 contract law, 100, 122, 126, 154
 consideration, doctrine of, 36,
 40–41, 163–164
 duty to perform contract, 92–93
 equitable estoppel, 163–164
 freedom of contract, 97, 163, 170
 limitation clauses, 169–170
 promises, legal status of, 40, 92,
 163–164
 strict construction, 126
 Cook, Peter, 4
 Cox, Harold, 185
 Craig-y-don, Aberdovey, 118, 139
 criminal law, 201, 212, 214, 226,
 227, 231, 250
 accused criminals as
 disadvantaged group, 220
 in Eighteenth-Century England,
 23, 48
 mental illness and, 137
 murder, 166
 perjury, 166
 Croson case, 198–199
 cruel and unusual punishment. *See*
 Constitution of the United
 States – Eighth Amendment

 Dalhousie University, 211–212
 damages, law of, 219
Dandridge case, 194
 Darwinism, 91, 96, 101, 104
 death penalty. *See* capital
 punishment
 Defiance of Unjust Laws
 Campaign, 239–240
 democracy, 69, 93, 263
 constitutional democracy, 52, 76,
 245, 248, 260, 269
 interaction with ‘great’ judging,
 10, 269–270
 Denning family, 143–144
 Denning, Joan, 146
 Denning, Mary, 146
 Denning, Robert, 146
 Denning, Tom, 18, 32, 116, 120,
 129, 137, 238, 258, 272–275
 as public celebrity, 148
 decision to retire, 168–169
 decisions vindicated at later
 date, 148
 disillusioned in House of Lords,
 147–148
 doctrine of precedent,
 relationship to, 148,
 154–155, 164–165
 early life and education,
 143–145

Index

- Denning, Tom (*cont.*)
 judicial appointments of,
 147–148
 judiciary, relationship with rest
 of, 148, 159–160, 167
 justice, conception of, 142–143,
 150, 160–161
 king’s counsel, appointment as,
 146
 later life and death, 170–172
 law practice of, 145
 liberal or conservative,
 characterizations as, 153,
 163
 marriages of, 146, 161
 war experiences of, 144
What Next in the Law
 controversy, 167–168
 women, attitude toward,
 161–162
 writing style of, 151–153, 275
 deserted wives’ equity doctrine,
 162
 Dickinson, Emily, 276
 Dickson, Brian, 18
 Diplock, Kenneth, 130
 discrimination law, 166, 222–223,
 258–259. *See also*
 constitutional law –
 equality, right to
 dissenting opinions. *See* judicial
 opinions – dissent,
 significance of
 divorce law, 133, 222
 Dixon, Owen, 18
 Dixwell, Fanny. *See* Holmes,
 Fanny
 domestic violence, 226
 Donaldson, John, 148–149
Donoghue case, 121–126, 130, 132,
 157
 Donoghue, May, 122
Dowell Lea case, 166
Dred Scott case, 69
 Du Bois, W.E.B., 179
 Duvall, Gabriel, 63
 Dworkin, Ronald, 31
 Edgar, David, 242
 Edinburgh, Scotland, 27
Edmonton Journal case, 225
 Eduardo Mondlane University,
 243
 Edwardian era, 150, 166
 Einstein, Albert, 14
 Eliot, T.S., 2
 Elizabeth I, Queen, 14
 Emergency Powers (Defence) Act
 1939, 127
 Emerson, Ralph Waldo, 84
 employment and labor law, 96–97
 equality law. *See* constitutional
 law – equality, right to;
 discrimination law
 equity, 33, 162, 163–164
Erie case, 100
 eugenics, 101–102
Everett case, 121
 evidence law, 47, 226
 Fairfax, Lord, 53, 54, 60
 family law, 222, 230–231
Family Story, The, 167
 Fauquier County, Virginia, 52, 53

Index

- federalism, 56, 59, 63, 64, 68, 72, 75
- feminism, 162, 217, 227–229
- fiat justitia, ruat caelum*, 47
 expression shortened by Lord Denning, 160
- Fidler* case, 219
- fiduciary duties, 225–226
- Finch, Lady Elizabeth. *See* Mansfield, Lady
- Fisher* case, 31
- Fletcher* case, 64
- Foley, Thomas, 24
- Foley, Thomas Jr., 24
- formalism, legal, 91, 100, 190, 221
- Foss, Edward, 43
- Founding Fathers, 58, 76
- Fourie* case, 258–259
- Freedom Charter, 240
- freedom of religion. *See*
 constitutional law – freedom of religion
- freedom of speech. *See*
 constitutional law – freedom of expression
- freemasonry, 190
- French language, 24
- Furman* case, 195–197
- Gallie* case, 154–155
- Gandhi, Mahatma, 14
- George I, King, 24
- George III, King, 46
- George Mitchell* case, 169–170
- Gerry, Elbridge, 60
- Gibbons* case, 64
- Ginsberg, Ray, 239
- Ginsburg, Ruth Bader, 208
- Glory of the Garden, The* (poem), 154, 172
- Glyndwr, Owain, 114
- golden maxim, 122–123
- good faith, 39
- Good Samaritan, parable of the, 134
- Good, Thorney, 177
- Gordon Riots, 46–47
- Gordon, George, 46–47
- Gray, Horace, 89
- Gray's Inn, 117, 118
- Great Depression, 82
- greatness, general
 definition and evaluation of, 13–14, 21–22, 51, 147
 great persons, nature of, 13–14, 81, 111
 literature, as depicted in, 21
- greatness, judicial
 as revealing new possibilities, 12, 13, 14–17, 18, 48–49, 76–77, 102–103, 133, 234, 267, 268, 275, 276
 characterizations of, 5–8
 comparative nature of, 270
 contextual factors affecting, 272–275
 definition and evaluation of, 12, 15–16, 234, 254–255, 267
 limitations on, 268–269, 270
 qualities of, 51
 creativity or playfulness, 8, 15, 268
 independence, 14

Index

- greatness, judicial (*cont.*)
 influence, continued, 14, 17,
 18–19, 31, 48, 130, 234, 269
 trendsetting, 271
 race or gender identity,
 relevance of, 174, 201–203,
 226–227
- Greek language, 23, 54
- Grey, Asa, 91
- Guerin* case, 225–226
- Guilford Four, 171
- Gunther, Gerald, 8
- habeas corpus*, writ of, 42
- Hailsham, Lord, 155
- Haldane, Richard, 119
- Hale, Brenda, 208
- Halifax, Nova Scotia, 211, 212
- Hamilton, William, 25
- Hand, Billings Learned, 7, 8
- ‘hard cases,’ 142
- Harding, R.W., 135
- Hardy Boys, the, 151
- Harker, Gordon, 131
- Harlem Renaissance, 180
- Harlem, New York, 176, 182
- Harvard University, 79, 84, 110,
 181
 Harvard Law School, 86, 87, 88,
 91, 109, 212
 Harvard Magazine, 84
 Harvard Medical School, 83
 ‘Harvard Regiment’ (Civil War),
 84
- Harvey, Mary. *See* Denning, Mary
- Hastie, Bill, 185
- Hawkes* case, 40
- Hawthorne, Nathaniel, 83
- Hedley Byrne* case, 158
- Hemingway, Ernest, 151
- Hemmant, Lucy Elizabeth. *See*
 Atkin, Lizzie
- Hemmant, William, 113, 114, 118
- heroes, nature of, 173–174
- High Trees* case, 147, 163–164
- Hite* case, 60
- Hobbes, Thomas, 90
- Holmes, Amelia, 83
- Holmes, Edward, 87
- Holmes, Fanny, 87, 108
- Holmes, John, 84
- Holmes, Oliver Wendell Jr., 8, 56,
 75, 77, 144, 272–275
 academic and professional
 career of, 87–88
 as “great dissenter,” 106
 ‘bad man’ theory of law, 92, 104
 Civil War experiences of, 84–86,
 109
 criticisms of, 90, 94, 104–106
 early life and education, 83–84
 father, relationship to, 83, 86,
 94, 109
 judicial appointments of, 88–89,
 94
 later life and death, 108–109
 legal and judicial philosophy of,
 91–93, 94, 97–99, 100–101
 liberal or conservative,
 characterizations as,
 103–104
 marriage of, 87
 personal philosophy of, 84, 86,
 90, 96, 103–106

Index

- political and social views of, 96,
 101–102, 103–104
 popularity of views, 106
 writing style of, 82, 84, 107–108,
 275
- Holmes, Oliver Wendell Sr., 83, 86,
 94, 109
- House of Burgesses, 53
 House of Hanover, 23, 24
- Houston, Charles Hamilton, 181,
 182
- Howard University, 180
- Howell* case, 159
- Hughes, Charles Evans Sr., 108
- human rights, 222, 228
- Human Rights Code* (Ontario),
 222–223
- Hume, David, 56
- Humpty-Dumpty, 127
- Hunter, Alberta, 182
- I.R.C.* case, 130
- immigration law, 167, 185
- imprisonment, false or wrongful,
 121, 133, 240–242
- in forma pauperis*, 122
- independence of the judiciary,
 155–156, 264
- Industrial Age, 23
- Institute of Commonwealth
 Studies, 243
- insurance law, 38–39
- intellectual property law, 185
- international law, 64, 256
- Jackson, Amelia Lee. *See* Holmes,
 Amelia
- Jackson, Andrew, 61
- Jackson, Robert, 5
- Jacobitism, 23, 24, 28, 44, 46
- Jail Diary of Albie Sachs, The*
 (book), 243
- Jail Diary of Albie Sachs, The*
 (play), 242
- James, Henry, 88
- James, William, 88
- Jefferson, Thomas, 53, 56, 57, 61,
 66, 68, 70
- Jenks, Edward, 132
- Jewish peoples, 171, 176, 215
- Johannesburg, South Africa, 239,
 240, 246
- Johnson, Lyndon, 186, 187
- Jones, Edwyn, 117
- judges, great. *See* greatness,
 judicial
- judging, concepts in
 disadvantaged or minority
 groups, judicial relationship
 to, 133, 192–193, 219–220,
 224
- judicial activism, 224
- judicial deference, 93, 94, 96–99,
 103, 129, 224, 261–262
- judicial role, 1–5, 7, 14, 135,
 158–159, 187, 260–261,
 269
- unanimity, judicial preference
 for, 37, 62–63, 218
- judicial opinions
 as literature, 124–125
 delivery of, 37, 42
 dissent, significance of, 63, 106,
 218–219

Index

- judicial opinions (*cont.*)
 reliance on cases not pleaded,
 145
 separate concurrences,
 significance of, 218–219
 statistics about, 63, 106, 185,
 192, 219, 249–250
 unanimity, significance of, 37,
 62–63, 75, 218
- judicial reasoning
 personal experience and values
 in, 90, 96, 106, 161–163,
 216–217, 232, 255, 259
 policy considerations in,
 158–159
 subjectivity of, 254, 259
- judicial review, 62, 68–70, 127–128
- judiciary
 appointment process of, 1, 185,
 187
 constitutional issues,
 jurisdiction to decide, 58–59,
 62, 64–68, 69
 court levels, relationship
 between, 155
- Judiciary Act, 66
- Junius, 44–46
- juries, 39–40, 46, 47, 167,
 226
- Justice in South Africa*, 243
- Kaunda case*, 256
- Kemp, Stephanie, 242, 243
- Kennedy, Edward M., 184
- Kennedy, Robert F., 184
- Kent's Commentaries on American
 Law*, 87
- Kentridge, Sydney, 252
- Kenwood House, 49
- Kenyon, Lloyd, 49
- King, Martin Luther Jr., 14, 183
- king's counsel/queen's counsel, 28,
 119, 146, 212, 213
- Kipling, Rudyard, 154
- Kirkcaldy, Scotland, 208, 235
- Korean War. *See* war – Korean
 War
- Korematsu case*, 129
- Kotane, Moses, 239
- Kras case*, 194–195
- Ku Klux Klan, 187
- labor law. *See* employment and
 labor law
- laissez-faire* economics, 96,
 97
- Lamb case*, 158–159
- Lamer, Antonio, 218
- Laskin, Bora, 215
- Latin language, 4, 23, 54
- Lavallee case*, 226, 230
- Lavery, Emmet, 109
- law
 art, intersection with, 262–263
 as predictive of judicial
 decision-making, 92, 93
 certainty, importance of, 32, 38,
 142
 distinction between 'fact' and
 'law,' 33
 economics, intersection with, 93,
 97–99, 124
 individual cases, doing justice in,
 32, 142, 150

Index

- justice, relationship to, 22,
 32–33, 122, 141–143,
 160–161, 190, 191, 193, 260
- literature, intersection with, 26,
 124, 270
- morality, intersection with, 6,
 92, 105–106, 122–123
- politics, intersection with, 3, 10,
 16, 30, 68, 69, 70, 94, 203,
 260–262, 269–270, 273
- poverty, intersection with,
 194–195, 196
- religion, intersection with,
 122–123, 161, 256–257
- utilitarianism in, 92, 93
- Law Quarterly Review*, 124
- law school, 56, 86, 87, 180–181,
 182
- gender issues in, 211, 212
- Lawn, The (home of Lord
 Denning), 146
- Lawrence* case, 256–257
- Lawrence, T.E., 116
- Leechman, Walter, 122
- legal education, approaches to, 56,
 117, 131–132
- legal feminism. *See* feminism
- legal fictions, 33–34, 269
- legal formalism. *See* formalism,
 legal
- legislation, workings of, 35
- L’Heureux-Dubé, Claire, 234, 235
- liberalism, western, 229, 263
- libertarianism, 171
- liberty. *See* constitutional law –
 liberty, right to
- Life of Washington, The*, 64, 78
- Lincoln University, 176, 179, 180,
 182
- Lincoln, Abraham, 205
- Lincoln’s Inn, 25, 49, 145
- Liversidge* case, 126–130, 136, 138
- Liversidge, Robert, 127
- ‘Living Tree’ doctrine, 221
- Lloyds Bank* case, 152, 163
- Lochner* case, 96–99
- Lodge, Henry Cabot, 94
- Longfellow, Henry Wadsworth, 83
- Lowell Lectures, 88
- Luke* case, 38
- Macbeth*, 23
- MacKinnon, Frank, 117
- Macmillan, Hugh, 128
- Madison, James, 58, 59, 61, 66, 78
- Magnificent Yankee, The*, 109
- Magor* case, 159
- Mahomed, Ismail, 252
- Malan, Daniel François, 239
- Malcolm X, 183
- mandamus*, writ of, 66
- Mandela, Nelson, 14, 245, 246
- Mansfield, Lady, 27, 49
- Mansfield, Lord, 53, 75, 133, 160,
 272–275
- accusations of Jacobitism, 23,
 24, 28, 44, 46
- attempt on life, 47
- common law, approach to,
 30–31, 33–35, 40
- criticisms of, 44–46, 48
- early life and education, 22–26
- efforts to modernize law, 22,
 33–34, 44

Index

- Mansfield, Lord (*cont.*)
 greatness, assessments of, 30, 43–44, 48–49
 Junius, as target of, 44–46
 juries, relationship to, 39–40, 46, 47
 later life and death, 49
 orator, as skilled, 29, 30, 44
 political career of, 28–30, 44
 procedural reforms of, 37–38
 rarely dissented from or reversed, 36–37
 rivalry with William Pitt, 24, 29
 slavery, effect on, 42–43
- Maputo, Mozambique, 243
- Marbury* case, 65–69, 70
- Marbury, William, 66, 68
- market economy. *See* capitalism
- Marriage Act (South Africa), 258
- Marshall, Aubrey, 176
- Marshall, Cissy, 184, 186, 204
- Marshall, John, 18, 272–275
 ability to create consensus, 74–75
 authority of, 62–63, 75
 conception of Constitution, 58–59, 64–68, 72–73
 early life and education, 52–54
 enduring influence of, 69
 epitaph of, 80
 family history of, 53
 judicial review, use of, 68–70
 later life and death, 78–79
 legal practice of, 59–60
 legal training of, 56
 marriage of, 57
 political career of, 57–59, 60–61, 78
 popularity of, 73–75
 war experiences of, 55–56
 writing style of, 75, 275
- Marshall, John William, 184
- Marshall, Mary Isham Keith, 52, 54
- Marshall, Norma Williams, 175–176, 177
- Marshall, Polly, 57, 79
- Marshall, Thomas, 52–56, 57
- Marshall, Thomas II, 57, 79
- Marshall, Thoroughgood. *See* Marshall, Thurgood
- Marshall, Thurgood, 7, 227, 272–275, 276, 277
 academic performance of, 181
 as contested candidate for judicial greatness, 188, 199, 201
 as “Mr. Civil Rights,” 183
 as solicitor general, 186–187
 early life and education, 174–175, 176–179
 family history of, 175–176
 judicial appointments of, 184–185, 187–188
 judicial philosophy of, 190–191
 ‘Knuckleheads’ (clerks to Marshall), 191, 206
 later life and death, 204–205
 law practice and work with NAACP, 181–184
 litigation record of, 183, 186–187
 marriages of, 180, 184
 name change of, 177
 physical appearance of, 179, 189
 racial identity, significance to greatness, 201–203

Index

- Marshall, Thurgood Jr., 184
 Marshall, William, 175–179
 Martland, Ronald, 215
 Matrimonial Proceedings and
 Property Act, 162
 Maugham, Frederic, 128
McCulloch case, 65, 70–73
 McCulloch, James, 71
McIlkenny case, 152–153, 166–167
 McIntyre, William, 225
 McKinley, William, 89
 McLachlin, Beverly, 234, 235
Me and My Girl, 131
Meering case, 121
 Meir, Golda, 14
 Melville, Herman, 270
 mercantile law. *See* commercial
 law
 Metaphysical Club, 88, 91
Mhlongu case, 250–254
 Mill, John Stuart, 86
Millar case, 37
Milles case, 38
 Monroe, James, 61
 Montesquieu, 30, 56
Morgentaler case, 231–233
 Morgentaler, Henry, 232
 Mozart, Wolfgang Amadeus, 276
 Munroe, James, 78
 Murray, Donald, 182
 Murray, Margaret, 23
 Murray, William. *See* Mansfield,
 Lord
 NAACP. *See* National Association
 for the Advancement of
 Colored People
 Narayan, Rudy, 168–169
 National Association for the
 Advancement of Colored
 People, 180, 182–183, 185,
 187, 198
 national security, 127, 129
 natural law, 6
 Nazism, 102, 138
 negligence, law of. *See* tort law –
 negligence
 neighbor principle, 122–123, 125,
 134
 New Deal, 98, 190, 195
 New Democratic Party, 219
 Newcastle, Duke of, 28
 Nietzsche, Friedrich, 90, 104
 nihilism, 90, 104
 Nixon, Richard, 192
noblesse oblige, 163
Northern Securities case, 95–96
 novelty of action, 122, 157
 Nuremberg Charter, 138
 Nuremberg trials, 102
 Obama, Barack, 202
 objectivity, as conceit of
 established groups, 229–230
 O'Connor, Sandra Day, 208, 216
Ode to Venus, 26
Old Ironsides (poem), 83
 ‘ordinary man’ standard, 226
 ‘ordinary’ people, 112, 173, 190
 relevance of to law, 121, 134,
 151, 191, 225
 Oxford University, 36, 144
 Christ Church College, 24
 Magdalen College, 116, 139, 144,
 145
 Vinerian Chair, 36

Index

- Parliament (UK), 28–29, 33, 35, 43, 126, 147, 148, 166
 Parliament of Canada, 224
 Parliament of South Africa, 246
 paternalism, 97, 98
 peerages, 29, 160
 Peirce, Charles Sanders, 88
Pelech case, 230–231
 Perlzweig, Jack. *See* Liversidge, Robert
Perrin case, 41
Pettkus case, 222, 223, 230
 Pettkus, Lothar, 222
 Philadelphia, Pennsylvania, 78, 79, 180
Pillans case, 40
 Pinckney, Charles Cotesworth, 60
 Pitt, William, 24, 29, 44, 46
 Pitt, William Jr., 49
 pleadings, 37, 145
Plessy case, 183
 pneumonia, 108
 poetry, 24, 26, 83, 154
 police misconduct, 166–167
 politics. *See* law – politics, intersection with
 Pollock, Frederick, 124
 Pope, Alexander, 26, 270
 Portuguese language, 243
 positive law, 6, 35, 42, 91
 positivism, legal, 6, 91, 106
 Powell, Lewis, 7, 197–198
 Practice Statement of 1966, 154
 pragmatism, 76, 90
 precedent, doctrine of, 31–32, 124
 alterations to precedent, 123–124
 bindingness of precedent, 154–155
 methods of dealing with precedent, 31, 133, 148, 154, 221
 when precedent without purpose, 42, 92
 Presidential Medal of Honor, 205
 Pretender, the. *See* Stuart, Prince Charles
 Princeton University, 79
 principles of fundamental justice, 223, 224
 prisoners' rights, 257–258
 pro bono work, 213
 procedural law and justice, 37–38, 224–225, 232
 Profumo Inquiry, 148
 promises. *See* contract law – promises, legal status of
 property law, 33, 59
 constructive trusts, 222
 land ownership, 60
 marital property, 213, 222
 unjust enrichment, 222
 publication bans, 225
Pugh case, 32
 pupillage, 25, 117

 Queensland, Australia, 113, 114, 118, 139
Quirin case, 129

 race issues, 166, 167–168, 176, 177, 181, 182
 in American history, 104, 174–176, 188, 198, 205
 in South Africa. *See* apartheid

Index

- racial segregation, 174, 176, 177, 179–183, 190
- Read, Horace, 211, 212
- Reagan, Ronald, 17
- Reasonable Limits test. *See* Canadian Charter of Rights and Freedoms – Section 1
- Reasonable Person standard, 131, 136, 226, 256
- Rehnquist, William, 192
- relativism, 90, 93, 104, 105
- religious dissent, 46–47
- reproductive rights, 193, 231–233
- restraint of trade, 96
- retirement age, mandatory, 165
- rheumatic fever, 87
- Richmond, Virginia, 55, 58, 59, 78, 79
- Ritchie, Roland, 225
- Roane, Spencer, 56
- Roberts, John, 1, 12, 276
- Robey, George, 131
- Rodriguez* case, 195
- Roe* case, 191
- Rolfe, Robert, 142
- Roman law, 31, 36, 38
- Romer, Mark, 128
- Roosevelt, Theodore, 89, 94–96
- Royal Commission on the Status of Women (Canada), 213
- Ruck, Mary Anne, 114–116
- Ruck, Mary Elizabeth “Tilly,” 112–113, 114–116
- Rule of Law, 68, 76, 190, 192, 195, 204, 255, 263
 as oppressive force, 240, 247
- Ryder, Dudley, 28, 29
- Sachs, Alan, 243
- Sachs, Albert Louis. *See* Sachs, Albie
- Sachs, Albie, 272–275
 academic career of, 242–243
 appointment to Constitutional Court of South Africa, 245–246
 as author of ANC Code of Conduct, 243–244
 assassination attempt and recovery, 244–245
 concurring judgments, propensity for writing, 249
 criticisms of, 261–264
 early life and education, 239–240
 judicial philosophy of, 247–249, 254, 259, 260–261
 judicial writing and voting record of, 249–250
 labelled ‘terrorist,’ 243
 legal practice of, 240, 242
 political involvements of, 239–240, 243–244, 246
 retirement and later life, 264–266
 ‘soft vengeance,’ concept of, 247, 255, 263–264
 surprise at judicial appointment, 265
 ‘three Cs’ of good judging, 248–249
 wrongful imprisonment and torture of, 240–242, 244
- Sachs, Emil Solomon “Solly,” 239
- Sachs, Michael, 243
- Sachs, Oliver, 265

Index

- Sale of Goods Act, 170
 same-sex marriage, 258–259
Schenk case, 99
 Scone Palace, 23
 Scrutton, Thomas, 117, 120
 search and seizure, 192
 Secretary of State (US), 61, 66, 68
 seditious libel, 44–46
 Senate Judicial Committee, 1
 separate-but-equal doctrine, 183
 separation of powers doctrine, 30, 58, 61
 September, Vanessa, 265
Sexism and the Law, 243
 Shakespeare, William, 21, 276
 Sharp, Granville, 42
Shell Oil case, 218
 Shientag, Bernard, 48
Sim case, 126
 Simon, John, 128, 136
 Simonds, Gavin, 159
Singh case, 224–225
 slavery, 53, 78, 103, 175, 205
 abolitionist movement, 42, 57, 84
 historical status in America, 42
 historical status in England, 42–43
 slippery slope argument, 124
 Sloper, William, 27
Smith's Leading Cases, 145, 164
 Society of Black Lawyers, 168
Soldier's Faith, The (speech), 94, 110
 solicitor general (UK), 28, 31
 solicitor general (US), 186–187
Somerset case, 42–43
 Somerset, James, 42
 South African Communist Party, 239
Spectator magazine, 171
 Spencer, Herbert, 97, 102
 states' rights. *See* constitutional law – division of powers
 statutory interpretation, 127, 128
Stephanie on Trial, 243
 sterilization, human sexual, 101–102
 Steuart, Thomas Ruddiman, 116
 Stewart, Charles, 42
 Steyn, Johan, 129
 Stormont, Viscount, 23, 44
 Story, Joseph, 48, 63
Strange Alchemy of Life and Law, The, 265
 Stuart Royal Family, 23, 44
 Stuart, Joan. *See* Denning, Joan
 Stuart, Prince Charles, 28
 Sturges, John, 109
 suffrage, 23
 Supreme Court of the United States
 authority of, 62, 64, 68
 composition of, 63
 early development of, 61–63
 historical sessional dates, 78
 Supreme Court building, 79, 205
 Sussex University, 243
 Suyat, Cecilia. *See* Marshall, Cissy
 Tambo, Oliver, 243
 taxation, 70–71, 182
 Taylor, Elizabeth, 118
 Thatcher, Margaret, 17

Index

- Thayer, James Bradley, 88
 Thomas, Clarence, 202
 Thomson, James, 54
Through the Looking Glass, 127, 170
 Tomlin, Thomas, 124
 Toronto, Ontario, 209, 212, 213
 tort law, 121, 185
 defamation, 44–46, 126
 discrimination, tort of, 222–223
 duty of care, 123, 132
 negligence, 122–125, 157
 negligent misstatements, 157–158
 torture, 242, 256
 treason, 28, 47
 Trudeau, Pierre, 215
Trueman case, 32
 tuberculosis, 113, 143, 176
 Tutu, Desmond, 247
Twelfth Night, 21

uberrimae fides. *See* good faith
 umpires, 1, 2, 5, 19
 unanimity, judicial. *See* judging,
 concepts in – unanimity,
 judicial preference for;
 judicial opinions –
 unanimity, significance of
 United States Attorney, 59
 United States Congress, 60–61, 66
 House of Representatives, 59
 Senate, 1, 59, 66, 94, 186
 University College of Wales,
 Aberystwyth, 137
 University of Aberdeen, 209
 University of Cape Town, 239

 University of Maryland Law
 School, 180, 182
 University of Southampton, 243
 University of Toronto, 209
 Upham, Dorothy, 87
 utilitarianism, 93, 101

 Victorian era, 112, 143
 Vietnam War. *See* war – Vietnam
 War
 Virginia Convention, 58–59
 Virginia House of Delegates, 57
Vorvis case, 219
 voting rights, 257–258

 war
 Civil War, American, 82, 84–86,
 90, 94, 104, 109, 175
 Korean War, 184, 211
 psychological effects of, 56, 86,
 144
 Vietnam War, 186
 War of Independence, American,
 48, 53–54, 55–56
 World War, First, 118, 143, 144
 World War, Second, 127–128,
 129, 138, 146, 147, 184, 210,
 211, 239
Ward case, 162
 Warren, Earl, 187, 192
 Washington, Bushrod, 56, 60, 63
 Washington, D.C., 55, 66, 78, 87,
 104, 189
 Washington, George, 53, 56, 74
 Washington, Harold, 247
 Weekend Club, 179
 Wernham, Archibald, 208, 209

Index

- Wernham, Archie, 208, 209
 Wernham, Bertha. *See* Wilson, Bertha
 Wernham, Christina, 208, 209
 Wernham, Jim, 208–209, 210
 Westminster Abbey, 49
 Westminster School, 22, 24
What Next in the Law, 167
 Whitchurch, Hampshire, England, 143
 Whitman, Walt, 188
 Wilde, Oscar, 116
 Williams, Fearless Mentor, 176
 Williams, Isaiah Olive Branch, 175
 wills and estates, 41
 Wilson, A.N., 170–171
 Wilson, Bertha, 272–275
 accomplishments in private practice, 213
 as champion of the underdog, 217, 224–226
 as outsider on Supreme Court of Canada, 218–219
 early life and education, 208–209
 empathy, propensity for, 221
 first woman on Supreme Court of Canada, 216, 221
 first woman partner at Bay St. firm, 213
 independence as judge, 218–219
 judicial appointments of, 214–216
 judicial deference, attitude toward, 224
 judicial writing and voting record, 219
 later life and death, 233–234
 marriage of, 209–211, 216
 unanimity, stance on, 218–219
 work ethic of, 215, 221
 Wilson, John, 209–211, 212, 216
 Winchelsea, Earl of, 27
 women judges, impact of, 227–230
 Woodfall, Henry, 46
Woodward case, 64
 Woodward, Bob, 201
 Wren, Christopher, 26
 Wright, Chauncey, 91
 Wright, Robert, 117, 128
 wrongful imprisonment. *See* imprisonment, false or wrongful
 Wythe, George, 56
Yankee from Olympus, 109