

Index

A.

- Accounts of Canada, 60-61, 90-94
- “Administration and control” of non-public property, 38-39, 50, 67, 74, 97, 101-102, 108, 111-112
- Administration of non-public property, 77-128
- Administrative constructs, 31, 128, 131, 134, 145
- Air Force Museum of Alberta, 50
- Air Force Museum Society of Alberta, 150
- Alienation of non-public property, 38, 85, 96, 100, 113, 173, 184
- Alter Ego Theory, 136-139
- Amalgamation of the Canadian Forces, 61
- American Civil War, 12, 21
- American War of Independence, 10, 11
- Ames, Herbert Brown, 20
- Applicability to non-public property:
 - Auditor General Act*, R.S.C. 1985, c. A-17, 89
 - Federal Access to Information and Privacy Legislation, 141
 - Financial Administration Act*, R.S.C. 1985, c. F-11, 77
 - Government Contracts Regulations*, SOR/87-402, 82, 114
 - Trade Agreements, 144, 145
- Appraisals and Estimates Standard for Real Property*, 57, 62
- Appropriated funds, 14, 70, 158
- Appropriation Power, 59, 60, 70, 71, 74, 80, 81, 90, 91, 92, 117, 118
- Army Museum of Alberta, 150
- Arrangements with Her Majesty, 139
- Arsenault, Colonel J.W., D. CANEX, 134
- Art of War*, Sun Tzu, 8
- Assumptions regarding non-public property, 36
- Atlantic Command Welfare and Recreation Fund, 61
- Audit authority – Minister of National Defence, 88, 94
- Audit:
 - Audit Committee, 174, 178
 - Audit of non-public property, 88-95
 - Internal audit, 168

Auditor General of Canada:

Applicability of *Auditor General Act*, R.S.C. 1985, c. A-17, 89

Auditor General of Canada responsibilities, 89

Auxiliary services – see “charitable organizations”, 15, 24, 25

B.

Banking, 105, 108, 109, 112, 153, 184

Baron Allendale, 19

Barton, Clara, 18

Beaulac, Stéphane and Côté, Pierre-André, “Driedger’s Modern Principle at the Supreme Court of Canada: Interpretation, Justification, Legitimization”, 3, 98

Beneficiaries, 41

Berry, George “Army Canteens and their Tokens”, *Coin and Medal News*, 8, 9, 12

Bigelow, Brigadier-General F.G., xiii

Bishop, Matthew & Green, Michael, *Philanthrocapitalism. How Giving Can Save the World*, 16, 17, 23

Blanchard, Captain Ralph, USN, Ret. “The History of the YMCA in World War I”, 22, 26

Board of Directors, 171-172

Boer Wars, 18

Borden, Sir Robert, 21

Borrowing, 112, 113, 114, 115-128

Boys Clubs, 19

C.

Caesar, Gaius Julius, “Military Commentaries”, 8

Calgary Military Museums Society, 150

Campbell, Lara, “We Who Have Wallowed in the Mud of Flanders: First World War Veterans, Unemployment and the Development of Social Welfare in Canada, 1920-1939”, 23

Canadian Army Central Fund, 61

Canadian Forces Central Fund, 61, 74, 123, 153, 173, 178

Canadian Forces Central Fund Constitution, Policy and Procedures, 1968, 61

Canadian Forces Exchange System (also see CANEX), 31, 131, 133, 135, 146

Canadian Forces Morale and Welfare Services, xix, 131, 145, 146, 153, 171

Canadian Forces newspapers, 148, 151

Canadian Forces Policy A-PS-110-001/AG-002, 67, 68, 71, 180

Canadian Forces Radio and Television, 152

Canadian Forces Reorganization Act (Bill C-243, informally referred to as the “Unification Act”), 86

Canadian International Trade Tribunal, 123, 143, 145

-
- Canadian Legion War Services Inc, 24
 - CANEX, 31-34, 53, 64, 65, 69, 73, 130, 131, 134, 147, 158, 178
 - CANEX (commercial services), 146, 147
 - CANEX (duality of), 131
 - CANEX operations, 133, 146, 147
 - CANEX as a unit of the Canadian Forces, 131-133
 - Canteen Funds:
 - British canteen funds, 22
 - Ontario Canteen Fund, 23
 - Provincial canteen funds, 22
 - Carltona Doctrine, 87, 88
 - Carnegie, Andrew, 19
 - Cathcart, Major-General Blaise, Q.C., Judge Advocate General of the Canadian Forces, xvii, xix
 - Cestui que trust*, 41, 42, 47
 - Characterization of non-public property, 29, 63, 67, 70, 82, 119
 - Charitable Organization Society, 17
 - Charitable Organizations: 15-25
 - Boys Clubs, 19
 - Canadian Legion War Services Inc, 24
 - Charitable Organization Society, 17
 - Charities Commission, 16
 - Florence Nightingale, ix, 17
 - Harvard University, 20
 - Henri Dunant, ix, 17
 - Knights of Columbus, 24
 - National Association for the Advancement of Colored People, 20
 - National Society for the Prevention of Cruelty to Animals, 16
 - National Society for the Prevention of Cruelty to Children, 16
 - Red Shield War Services, 18, 21
 - Smithsonian Institute, 16
 - The American Red Cross, 18
 - The Canadian Red Cross, 24
 - The Christian Mission, 18
 - The Royal Canadian Legion, 24
 - The Royal Patriotic Fund Corporation, 17
 - The Salvation Army, ix, 18, 21, 24
 - Young Men's Christian Association, 21
 - Charities Commission, 16
 - Chief of the Defence Staff: 95-110
 - Express Powers, Duties and Functions, 96-98
 - Implied Powers, Duties and Functions, 98-110
 - Chisholm, Hugh, ed. *Encyclopedia Britannica*, 11th ed., 13

Churchill, Winston, xiv
Command Amenity Fund for R.C.N. Stations of C.F.S.R.S., 61
Commandant, CFSU(O), 66, 143
Commanding Officers, 110-112
Commercial Services Division, CFMWS, 146
Comptrollership (see Governance and Comptrollership), 157-182
Consolidated Revenue Fund, 59-60
Contracting, 112-114
Corporations – use of, 135-139
Côté, Pierre-André – see Beaulac, Stephane and Côté, Pierre-André, “Driedger’s ‘Modern Principle’ at the Supreme Court of Canada: Interpretation, Justification, Legitimization”, 3, 98
Côté, Pierre-André *The Interpretation of Legislation in Canada*, 3rd ed. 2000, 4
Creation of non-public property organizations, 129-134
Crimean War, 17
Crown public governance and comptrollership, 161-164

D.

Definition of non-public property, 29
Delo, David Michael, *Peddlers and Post Traders: The Army Sutler on the Frontier*, 12
Department of National Defence 1950 Explanatory Material, 26, 35, 69, 78, 86, 88, 89, 101
Departmental Services Program, 68
Dependant Education Program, 155
Deployed operations, 66, 148, 152, 153
Director General, Morale and Welfare Services, xiii, 65, 146, 149, 153, 154, 168, 172, 175
Disposition of non-public property, 38, 45, 85, 86, 95, 96, 100, 103, 113, 173, 185
Dispositions of real property, 55, 58, 65, 107
Driedger, Elmer:
 Construction of Statutes, 2nd ed. (1983), 1, 2, 116
 Construction of Statutes, 3rd ed. (1994), 2
 Modern Principle Theory, 1
Dunant, Henri:
 Battle of Solferino, 18
 First Nobel Peace Prize 1901, 18
 International Committee of the Red Cross, 18

E.

Employee Pension Board, 175

English Civil War, 16
 Establishment or closure of Messes, Institutes and Canteens of the Canadian Forces, 14, 31, 104, 105, 106, 109, 129, 130, 140, 184, 188
 Exchange Fund Account, 48, 49, 94
 Explanatory Material, Department of National Defence, 1950, 26, 35, 69, 78, 86, 88, 89, 101
 Express trust, 45

F.

Fair market value, 58, 67, 68, 69, 73
 Federal real property licences, 54, 55, 57, 58, 62, 64-66, 73
 Federal real property regime, 54-59
 Fiduciary duty, 40-50
 Field Marshal His Royal Highness the Duke of Connaught, 20
 Finance Division, CFMWS, 153, 180, 181
 Financial affairs of Canada, 94
 Financial Management, 168
 First World War, ix, 21, 22, 23
 For the benefit of – meaning, 40-47
 Foster, Lieutenant-Colonel T., 10
 Frederick II, King of Prussia, 10
 French, David J., 132

G.

General Orders, War Office (White Plains, New York, November 26, 1776), 11
generalia specialibus non derogant, 4-5, 124-127
 Golden Rule, 3
 Governance and comptrollership: 157-182
 Accountability, 167-169
 Foundations, 169-171
 Governance and Comptrollership: An Introduction to Modern Management for Non-Public Property by Steven Turner, 159-169
 Recent developments, 171-181
 Stewardship, 166
 Strategic direction, 164-166
 The Crown public example, 161-164
 Governance and Strategic Direction, 164-166
 Governor General of Canada:
 Field Marshal His Royal Highness the Duke of Connaught, 20
 The Duke of Devonshire, 20
 Grammatical and ordinary meaning of words, 2, 3, 5, 116, 132
 Grant, General Ulysses S., 14

- Green, Michael & Bishop, Matthew, *Philanthrocapitalism. How Giving Can Save the World*, 16, 17, 23
Guide to the Management of Real Property, 57, 58
Gunn, Edward – *Aegis: The Otterbein College Humanities Journal*, Spring 2006, 20

H.

- Hale, James, *Branching Out: The Story of The Royal Canadian Legion* 1995, 24
Halsbury's Laws of England, 4th ed., (Reissue), 71
Harris, Jose, 18
Harvard University, 20
Henry V (William Shakespeare), 8, 9
History of non-public property, 7-27
Human Resources, CFMWS, 146, 152, 177, 179

I.

- Implied authority of the Chief of the Defence Staff, 98-110
Implied repeal of legislative provisions, 4, 124, 125
in pari materia, 63, 67, 70, 72, 90, 91, 107, 120
Internal audit of non-public property, 168
Interpretation:
 generalia specialibus non derogant, 4-5, 124-127
 Golden Rule, 3
 Grammatical and ordinary meaning, 2, 3, 5, 116, 132
 Implied repeal, 4, 124, 125
 in pari materia, 63, 67, 70, 72, 90, 91, 107, 120
 Interpretation Act (R.S.C. 1985, c. I-21), s. 13, 78, 88, 117
 Later in time principle, 4
 Liberal Construction and Interpretation, 108, 110, 113, 128, 141
 Literal Rule, 3
 Mischief Rule, 3, 125
 Modern Principle Theory, 1-3, 98, 116, 127, 128
 nemo dat quod non habet, 66, 73
 Plain Meaning Theory, 1, 2, 116
 Total Context Theory, 2, 124

K.

- Keshen, Jeffrey, *Saints, Sinners and Soldiers* 2004, 25
Knights of Columbus, 24

L.

- Langton, Major General (Ret'd.) Doug, xix

Later in time principle, 4
 Lawson, General T.J., Chief of the Defence Staff, 171
 Legal nature of non-public property, 34-51
 Legal status of non-public property organizations, 134-139
 Liberal construction and interpretation, 108, 110, 113, 128, 141
 Limitations on the use of federal real property, 74
 Literal Rule, 3
 Lord Strathcona's Horse (Royal Canadians) Museum, 150
 Lord Strathcona's Horse (Royal Canadians) Society, 150

M.

Management Accountability Framework, 161
 Managing Director of Non-Public Property, 146, 172, 173, 178
 Maple Leaf Services, 41, 130, 133, 134, 135, 136, 137
 Maritime Command (Pacific) Development Fund, 61
 Marshall, Alfred, 19
 McNulty, Pat, "*Sutlers: An Integral Part of the Civil War*", 13
 Messes, 104, 148-149
 Messes, Institutes and Canteens of the Canadian Forces – establishment or closure, 14, 31, 104, 105, 106, 109, 129, 130, 140, 184, 188
 Military Family Resource Centres, 154-155
 Minister of Finance, 48, 79, 90, 93, 94, 122, 125
 Minister of Justice and Attorney General for Canada, 139-141
 Minister of National Defence: 83-95
 Duty to Direct the Audit of Non-Public Property Accounts, 83, 88-95
 Power to Give Directions to the Chief of the Defence Staff, 83, 84-88
 Ministerial Organization Order 4/90 (March 7, 1990), 31, 32, 131-134
 Mischief Rule, 3, 125
 Modern Comptrollership Initiative, 161
 Modern Management Framework, 158
 Modern Principle Theory, 1-3, 98, 116, 127, 128
 Molot, Henry L., Q.C., ix, xix, 1, 88
 Morris, Philip H., "*The Canadian Patriotic Fund. A Record of its Activities from 1914-1919*", 20
 Moyles, R. G., *The Blood and Fire in Canada. A History of the Salvation Army in Canada 1882-1976*, 21
 Museums, 148, 149-150

N.

NAFIs (Non-appropriated fund instrumentalities), 50, 70, 135
 National Association for the Advancement of Colored People, 20
National Defence Headquarters Action Directive D8/89, Article 4, 146, 147

- National Naval Archives and Research Centre, 150
- National Society for the Prevention of Cruelty to Animals, 16
- National War Services Fund Advisory Board, 24, 25
- Naval Museum of Alberta, 150
- Naval Museum of Alberta Society, 150
- Nazi Third Reich, 23
- nemo dat quod non habet*, 66, 73
- Nightingale, Florence, ix, 17
- Nobel Peace Prize – Henri Dunant, 18
- Non-appropriated fund instrumentalities (NAFIs), 50, 70, 135
- Non-public property:
 - Administration, 77-128
 - Alienation, 38, 85, 96, 100, 113, 173, 184
 - Applicability of the *Auditor General Act*, R.S.C. 1985, c. A-17, 89
 - Applicability of the *Financial Administration Act*, R.S.C. 1985, c. F-11, 77
 - As distinguished from private property, 36-37
 - As distinguished from trust property, 41-47
 - Assumptions, 36
 - Audit, 88-95
 - Board of Directors, 171-172
 - Borrowing, 112, 113, 114, 115, 121, 128
 - Characterization, 29-34
 - Contracting, 112-114
 - Definition, 29
 - Disposition, 38, 45, 85, 86, 95, 96, 100, 103, 113, 173, 185
 - Governance and comptrollership, 157-182
 - Legal nature, 34-51
 - Managing director, 146, 172, 173, 178
 - Meaning (see characterization), 29-35
 - Ownership, 35-51
 - Regime, 26, 37, 47, 50, 61
 - Revenues:
 - Collection and distribution, 71
 - Generally, 69-71
 - Sources of, 13, 34, 110, 124, 158
 - Special Provision, 46, 69, 77-83, 185
- Non-public property organizations: 129-155
 - Application of Federal Access to Information and Privacy Legislation, 141
 - As administrative constructs, 31, 128, 131, 134, 145
 - Canadian Forces Exchange System, 31-34, 53, 64, 65, 69, 73, 130, 131, 134, 147, 158, 178
 - Canadian Forces Morale and Welfare Services, xix, 131, 145, 146, 153, 171
 - Commercial Services Division, 146

Creation, 129-134
In corporate form, 135-139
Personnel Support Programs, 112, 128, 131, 146, 148
Relationship to the Department of National Defence, 123, 143-145
Role of Minister of Justice and Attorney General for Canada, 139-141
Service Income Security Insurance Program, 131, 147, 158
SISIP Financial Services, 147-148

O.

Oliver, Joel A., xix
Orderly Book, General John Burgoyne, (Camp at Skeinesborough House, July 23, 1777), 11
Orderly Book, H.M. 47th Regiment of Foot (Camp at River Bouquet, June 16, 1777), 11
Ownership of Non-public property, 35-51

P.

Parliamentary appropriation power, 59, 70
Pearl Harbour, 24
Pennell, Adam, xix
Personnel Support Programs, 112, 128, 131, 146, 148
Plain Meaning Theory, 1, 2, 116
Popkin, William D., "*Statutes in Court: The History and Theory of Statutory Interpretation*", (1999), 4, 125
Prime Minister of Canada – Sir Robert Borden, 21
Princess Patricia's Canadian Light Infantry Museum and Archives, 150
Princess Patricia's Canadian Light Infantry Regimental Guard and Association, 150
Private property distinguished from non-public property, 36-37
Public Accounts, 60, 74, 80, 81, 90, 91, 93, 104, 117, 118, 181
Public debt, 26, 48, 70, 80, 81, 104, 115, 118, 119, 121, 181
Public disbursements, 80, 117
Public money regime, 59-61
Public Property – meaning, xiv, 35, 36
Public Service of Canada, 59, 60, 70
Puddister, Kate, xix

Q.

Queen's Privy Council for Canada, 42, 56, 78, 79, 121, 139

R.

R.C.A.F. Central Institute Fund, 61

Receiver General for Canada, 59, 60, 61, 62, 69, 78, 80, 81, 89, 90, 91, 104, 117, 118, 119, 122

Recent developments in governance and comptrollership, 171-176

Recreation, 151

Red Shield War Services, 18

Regimental Senate and 10th Battalion Calgary Highlanders Association, 150

Relationship of NPP organizations to the Department of National Defence, 123, 143-145

Retail services (see CANEX), 31-34, 53, 64, 65, 69, 73, 130, 131, 134, 147, 158, 178

Revenues from the use of federal real property, 69-72

Risk management practices, 157, 158, 161, 163, 170, 172, 174, 181

Rockefeller, John D., 18, 19

Rogers, Norman, Minister of National Defence, 24

Roosevelt, Franklin D., 23

S.

Second World War, 15, 23, 24, 25

Self Help Housing Organization, 33, 123, 143

Separate agency, xi, 131, 145, 146, 152, 174

Service Income Security Insurance Program, 65, 131, 146, 147-148, 158

Settlor 45

Shakespeare, William, *Henry V*, 8,9

Simes, Thomas, "*Of the Colonel and his Duties*", 1780, 10

SISIP Financial Services, 147-148

Smithson, James, 16

Smithsonian Institute, 16

Sole-source Contracts, 58, 59, 67, 68, 69, 73

Sources of non-public property, 13, 34, 110, 124, 158

Special class of Crown property, xiii, 29, 50, 61, 65, 74, 77, 119, 134, 159

Special Provision 46, 69, 77-83, 185

Specialty interest activities, 151

Staff of the Non-Public Funds, Canadian Forces:

- Employee Pension Board, 175
- Generally, xi, xvi, 131, 132, 133, 144, 145, 146, 152-153, 174-175

Stewardship, 163, 166, 167, 171

Strategic direction (and governance), 161, 162, 163, 164-166, 171, 172

Sullivan, Ruth:

- Driedger on the Construction of Statutes*, 3rd ed., 1994, 64, 90, 120
- Sullivan on the Construction of Statutes* (5th ed.), 2008, 4

Sun Tzu, *The Art of War*, Chapter IX, Article 39, 8

Support Our Troops Family of Funds, 152

Sutlers: 8-15

Definition, 8
Grand and Petty, 10
Liquor Sales, 8, 10, 11
Military regulation of, 10, 11-13

T.

The American Red Cross, 18
The Calgary Highlanders Regimental Funds Foundation, 150
The Calgary Highlanders Regimental Museum and Archives, 150
The Canadian Patriotic Fund Act, 1914, ix, 17, 20
The Canadian Red Cross, 24
The Christian Mission, 18
The Great Depression, x, 22
The Great War, 20, 22, 23, 24
The King's Own Calgary Regiment (RCAC) Foundation and Association, 150
The King's Own Calgary Regiment (Royal Canadian Armoured Corps) Museum, 150
The Military Museums (Calgary), 150-151
The Military Museums Foundation, 150
The Regimental Band of the King's Own Calgary Regiment, 150
The Royal Canadian Legion, 24
The Royal Patriotic Fund Corporation, 17
The Salvation Army, ix, 18, 21, 24
The Times (London), 16, 17
Third party licences, 73
Thirty Years War, 16
Tim Hortons, xiii, 33, 34, 62, 147
Total Context Theory, 2, 124
Total War, 20
Trade Agreements – applicability to non-public property, 144, 145
Transfer payments, 23
Treasury Board of Canada:
 Appraisals and Estimates Standard for Real Property, 2006, 57, 58, 62
 Guide to the Federal Real Property Act and the Federal Real Property Regulations, 54
 Guide to the Management of Real Property, 2006, 56, 58
 Management Accountability Framework, 161
 Modern Comptrollership Initiative, 161
 Real Property Policies, 56-59, 67
 Secretariat, 54, 56, 57, 58, 79, 161, 163, 167, 177
Trust corpus, 45
Trust property distinguished from non-public property, 40-47
Trust-like relationships, 42, 47

Turner, Steven, xix, 159

U.

Under the control of – meaning, 141-142

Unification Act (*Canadian Forces Reorganization Act*, Bill C-243), 86

Unique legal nature of non-public property, xv, xvii, 49, 50, 69, 82, 89, 128, 160, 164

University of Calgary Libraries and Cultural Resources, 150, 151

Use of federal real property: 53-75

 Conclusions, 72-74

 Federal Real Property Regime, 54-59

 Limitations, 74

 Non-public property regime, 61

 Public money regime, 59-61

 Revenues, 69-72

 The Public/Non-Public Real Property Dichotomy, 64-69

 Treasury Board Real Property Policies, 56-59

V.

Vests – meaning, 37-40

Veterans, 22, 23, 44, 97, 98, 112

W.

Wall Street Crash of 1929, 22

Wallis, Colonel John, Director of Administration, The Adjutant-General, Army

 Headquarters, February 20, 1952, “Study of the Formation of a Canadian Army Institute Service”, 25

Words of settlement, 45

Y.

Young Men’s Christian Association, 21

Young, Scott, *Red Shield in Action. A Record of the Canadian Salvation Army War Services in the Second Great War*, 24