

Index

[References are to numbered sections of the text. The Index has been updated to (2015 – Rel. 2).]

Accused

compellability 5.5(a)
civil proceedings 5.5(a)(iii)
criminal proceedings 5.5(a)(ii)
general 5.5(a)(i)
other proceedings 5.5(a)(iv)
provincial offence 5.5(a)(ii)
competence 3.2(c)(ii)

Admissibility

expert opinion 10.1-10.4
general 1.5
hearsay rule 22

Adverse Witness: see also Hostile Witness

adverse party as witness 14.4
general 14.4(a)
manner of examination 14.4(c)
scope of rule (technical requirements) 14.4(b)
adversity
s. 9 of the Canada Evidence Act 14.2(b)
statutory construction 14.2(b)(i)
adversity, meaning 14.2(b)(ii)
concerns with the existing approach 14.2(c)
general 14.1, 14.3
hostility
the common law rule 14.2(a)
permissible use of prior inconsistent statement 14.3

Burdens of Proof: see also Presumptions

burden, different types 1A.2
burdens of proof, need for 1A.1
evidential burden 1A.4
civil cases 1A.4(c)
criminal cases 1A.4(b)
generally 1A.4(c)
legal burden of proof 1A.3
civil proceedings 1A.3(c)
criminal proceedings: the accused 1A.3(b)
criminal proceedings: the prosecution 1A.3(a)

Calling of Witnesses: see also Witness

before Parliament 18.1
by judge 2.2(c), 10.5
civil proceedings 2.2(a), 2.2(d)(i)
criminal proceedings 2.2(b)
Crown obligation 2.2(b)
failure to call 2.2(d)
tribunals 17.4

Children

common law 4.1
cross-examination 4.4
in person 4.4(d)
general 4.1
inquiry 4.3
testimonial competence 4.2
oath 4.2
presumption of competence 4.2(c)
promise to tell truth 4.2(b)

INDEX

statutory requirements 4.1, 4.2
unsworn testimony 4.2(a)
testimony 4.4

Co-accused

cross-examination 2.5(a)
spouse of, compellability 5.5(c)(iii)

Collateral Issue: see Credibility and Weight, Relevance

Commission Evidence

civil cases 19.2(a)
criminal cases 19.2(b)
 application procedure 19.2(b)(i)
 criteria for order 19.2(b)(ii)
 overview 19.2(b)(i)
 presence of accused 19.2(b)(iii)
general 19.2

Compellability

accused 5.5(a)
 Canada Evidence Act, s. 4(6),
 effect of 5.5(a)(iii)
 criminal proceedings 5.5(a)(ii)
 general rule 5.5(a)(i)
 other proceedings 5.5(a)(iv)
accused's spouse 5.5(a)(i), 5.5(c)
ambassador 5.3
Board and Tribunal members 5.2(c)
cabinet ministers 5.2(a)
civil proceedings 5.4
co-accused 5.5(a)(i), 5.5(a)(iv), 5.5(b)
co-accused's spouse 5.5(c)(iii)
consular officials 5.3
crown officials 5.2(a), 5.2(a)(ii)
diplomatic agent 5.3
diplomatic staff 5.2
 general 5.1
head of government 5.2(a)
investigators 5.2(d)
judges 5.2(b)
lieutenant governor 5.2(a)
mediators 5.2(d)
members of parliament 5.2(a)

officers of corporation 5.5(d)
ombudsmen 5.2(d)
opposing counsel 5.6
parties 5.4
representative of foreign powers 5.2
sovereign 5.2
sovereign's representative 5.2
state officials 5.2
suspect 5.5(a)(iv)
Tribunal members 5.2(c)

Compelling Attendance: see also Contempt of Court, Failure to Attend, Inability to Testify, Foreign Letters Rogatory, Refusal to Testify, Subpoena

general 7.1, 17.3
civil proceedings 7.2, 19.2(a)
 general 7.2(a)
 inter-provincial 7.2(b)
commission evidence 19.2
coroner's inquest 7.4
criminal proceedings 7.3
 general 7.3
 material evidence 7.3
 prisoner 7.3
 state official 7.3
 technician 7.3
from out of country 19.2(a), 19.2(b)(i),
 19.4
from out of province 7.2(b), 7.3
letter rogatory 19.2(a), 19.2(b)(i),
 19.4(a)
inquiry 7.5
Parliament 18.1, 18.3
tribunal 7.6

Competence: see also Oath

accused 3.2(c)(ii)
attacking credibility 11.5
child 4.1, 4.2, 4.3
counsel 3.2(g)
expert witness 10.5
general 3.1

INDEX

- interest in proceedings 3.2(c)
 - civil proceedings 3.2(c)(i)
 - criminal proceedings 3.2(c)(ii)
 - judge 3.2(g), 5.2(b)
 - jurors 3.2(g)
 - mental deficiency 3.2(a), 3.2(e)
 - oath 3.2(a)
 - prior convictions 3.2(b)
 - spouse 3.2(c)(i), 3.2(d), 15.3(a)
 - tribunal 3.2(g)
 - intelligibility 3.2(f)
 - Contempt of Court: see also Compelling Attendance, Failure to Attend, Foreign Letters Rogatory, Refusal to Testify, Subpoena**
 - general 8.1
 - Corroboration**
 - accomplice 12.4
 - children 12.4
 - civil proceedings 12.3
 - criminal proceedings 12.4
 - criminal code 12.4(a)
 - common law 12.4(b)
 - defined 12.2
 - general 12.1
 - historical approach 12.2
 - jailhouse informants 12.5
 - perjury 9.3(b)(iv)
 - sexual offences 12.4
 - Vetrovec* warning 12.2, 12.4
 - content 12.4(b)(iii)
 - when required 12.4(b)(ii)
 - Credibility and Weight**
 - accused, the
 - attacking credibility 11.5(d)
 - collateral issue rule 11.6, 11.7
 - enhancing credibility 11.3(a)
 - assessing 11.1
 - attacking
 - accused, the 11.5(d)
 - generally 11.5
 - good faith basis 11.5(b)
 - questions must be relevant 11.5(a)
 - sexual history, prior 11.5(c)
 - collateral issue rule
 - exceptions to 11.7
 - bias of witness 11.7(c)
 - conviction, prior 11.7(a)
 - exclude, discretion to 11.7(a)(ii), (iii)
 - interest in outcome 11.7(c)
 - prior inconsistent statement 11.7(b)
 - qualifications, testimonial 11.7(e)
 - reputation, general 11.7(d)
 - generally 11.6
 - cross-examination *see* attacking demeanour of witnesses 11.2
 - enhancing 11.3(a)
 - oath helping 11.3(a)
 - prior consistent statements
 - admissible in proof of facts, where 11.4(b)
 - complaints, recent 11.4(c)(iv)
 - exceptions, general theory 11.4(b)
 - exculpatory statements upon arrest 11.4(c)(v)
 - fabrication, recent 11.4(c)(i)
 - generally 11.4(a)
 - identification, previous 11.4(c)(ii)
 - narrative exception 11.4(c)(iv)
 - video recording 11.4(c)(iii)
 - restoring 11.8
- Cross-examination**
 - adversarial process 2.5(c)(i)
 - child 4.4
 - co-accused 2.5(a.1)(ii)
 - contradicting witness 2.4, 11.7(b)
 - expert witness 10.8
 - failure to 2.4
 - friendly parties 2.5(a.1)(ii)
 - general 2.4
 - inquisitorial proceedings 2.5(c)(ii)
 - questioning by judge 2.5(c)(i)
 - right to cross-examine 2.5(a.1)(i)

INDEX

rule in *Browne v. Dunn* 2.4
scope 2.5(a.1)(i)
technician 7.3
tribunals 17.2, 17.4

Crown Privilege: *see* **State Secrets**

Disclosure: *see* **Preparation for Trial, Privilege**

Evidence: *see also* **Admissibility, Credibility and Weight, Exclusion of Evidence, Expert Witness, Hearsay Rule, Relevance**

degree of proof 1.4
discretion to exclude 1.3, 1.6(d)-1.6(f)
facts in issue 1.1, 11.1
general 1.1
highly prejudicial 1.1
misleading 1.1
prejudicial impact on trial 1.3(d)
privilege 15.3(b)(ii)
production 11.7(b)
question of jury 1.5(a)
sufficiency 1.5(a)

Examination for Discovery: *see* **Preparation for Trial**

Examination-in-Chief

child 4.4
direct examination 2.5(a)
expert witness 10.8
leading questions 2.5(a)
questioning by judge 2.2(c)
tribunals 17.2, 17.4

Exclusion of Evidence

bringing the administration of justice into disrepute: s. 24(2) Inquiry 21.1(f)
current approach 21.1(f)(iv)
historical overview, 21.1.(f)(i)-(iii)
burden of proof 21.1(e)
Charter 21.1
consent 1.5(e)(iv)
court of competent jurisdiction 21.1(b)

impact on accused's interests 21.1(h)
bodily evidence 21.1(h)(iii)
discoverability 21.1(h)(v)
generally 21.1(h)(i)
non-bodily physical evidence 21.1(h)(iv)
statements 21.1(h)(ii)
introduction 21.1(a)
obtained in a manner 21.1(d)
procedural issues 21.1(e)
seriousness of Charter-breaching state conduct 21.1(g)
deceit or falsehoods by police 21.1(g)(vi)
good faith 21.1(g)(ii)
gravity of breach 21.1(g)(iii)
introduction 21.1(g)(i)
magnitude – impact on third parties 21.1(g)(viii)
pattern of disregard 21.1(g)(vii)
systemic concerns 21.1(g)(v)
urgency 21.1(g)(iv)
standing 21.1(c)
common law-residual discretion 1.6
discretion to exclude Crown evidence 1.6(d)
threshold 1.6(d)(i)
prejudice 1.6(d)(iii)
probative value 1.6(d)(ii)
discretion to exclude defence evidence 1.6(e)
discretion to exclude in noncriminal cases 1.6(f)
English experience 1.6(b)
R. v. Wray 1.6(c)

Exclusion of Witnesses

general 2.3
parties 2.3
refusal to leave 2.3

Executive Immunity: *see* **State Secrets**

INDEX

Expert Opinion: *see also* **Expert Witness**

admissibility 10.1
basis
 ascertaining facts 10.7(a)
 business records 10.7(b)
 primary facts 10.7(b)
 technologists 10.7(b)
 using own expertise 10.7(b)
exclusionary rules 10.4
general 2.1, 10.1, 10.7
necessity 10.3
 generally 10.3(a)
 particular areas of concern 10.3(b)
 context of human behavior
 10.3(b)(ii)
 disposition evidence 10.3(b)(iii)
 issues of credibility at trial
 10.3(b)(i)
 questions of law 10.2(b)(iv)
 ultimate issue myth 10.3(c)
novel theory 10.2(b)
qualification of expert
 generally 10.5(a)
 independence 10.5(c)
 specialized area 10.5(b)
relevance 10.2
 prejudicial effect 10.2(a)
 probative value 10.2(a)
reliability 10.2(b)
exclusionary rules 10.4
type
 DNA 10.2(b)
 polygraph 10.2(b)
 psychiatric 10.2(b)
 technician 7.3
validity 10.2(b)
weight 10.8

Expert Witness: *see also* **Expert Opinion**

court appointed 10.9
credibility 10.8
criminal trials 6.3

cross-examination 10.8
examination-in-chief 10.8
fields of expertise 10.2(b)
general 10.1
limit on number 10.4
qualification
 generally 10.5(a)
 independence 10.5(c)
 specialized area 10.5(b)
statutory restrictions 10.4
ultimate issue myth 10.3(c)
usurping jury's function 10.3(c)

Failure to Attend: *see also* **Contempt of Court, Compelling Attendance, Foreign Letters Rogatory, Inability to Testify, Refusal to Testify**

arrest warrant 8.2
civil liability 8.5
criminal offence 8.4
general 8.1, 8.2

Foreign Letters Rogatory: *see also* **Contempt of Court, Compelling Attendance, Inability to Testify, Refusal to Testify**

general 19.2(a), 19.2(b), 19.4(a)

Hostile Witness: *see also* **Adverse Witness**

general 14.1

Hearsay Rule

categorical approach 22.2(a)
declarant called as witness 22.1(a), (b)
deconstructing the hearsay rule 22.1
 double hearsay 22.1(d)
 offered to prove the truth 22.1(c)
 common examples 22.1(c)(i)
 implied assertions 22.1(c)(ii)
out-of-court statement 22.1(b)
 basic components 22.1(b)
 “statements” by 22.1(b)(ii)
 animals 22.1(b)(ii)
 instruments 22.1(b)(ii)

INDEX

- machines 22.1(b)(ii)
 - witness's prior statements 22.1(b)(iii)
 - overview 22.1(a)
 - definition 22.1(a)
 - origin 22.1(a)
 - rational 22.1(a)
 - defence, lower threshold for admission 22.3(d)
 - exceptions to the rule 22.2
 - admissions by parties 22.2(h)
 - business and other records 22.2(g)
 - declarations against interest 22.2(e)
 - dying declarations 22.2(b)
 - general approach to exceptions 22.2(a)
 - miscellaneous 22.2(j)
 - prior identification 22.2(i)
 - res gestae/spontaneous utterances 22.2(a)
 - statements as to bodily or mental condition 22.2(d)
 - statements made by co-conspirators 22.2(l)
 - statutory exceptions 22.2(k)
 - testimony in former proceedings 22.2(f)
 - civil cases 22.2(f)(i)
 - criminal proceedings 22.2(f)(ii)
 - form 22.1(b)(i)
 - assertive statements 22.1(c)
 - communicative or assertive conduct 22.1(c)
 - demands 22.1(c)
 - exclamations 22.1(c)
 - implied assertions 22.1(c)
 - questions 22.1(c)
 - principled approach 22.3
 - admitting hearsay from the defence 22.3(d)
 - lower threshold 22.3(d)
 - introduction 22.3(a)
 - necessity of evidence 22.3(c)
 - reliability of evidence 22.3(b)
 - acceptable indicators of reliability 22.3(b)(ii)
 - general approach 22.3(b)(i)
 - general meaning 22.3(b)(i)
 - prior inconsistent statement, proving 22.1(b)(iii), (d)
 - prior statement, proving 22.1(b)(iii)
 - purpose 22.1(a)
 - reasons for rule 22.1(a)
 - relevance 22.1
 - proof of fact of statement 22.1
 - proof of truth of statement 22.1
 - self-serving evidence, rule against 22.2
- Hypnosis**
- aid to memory 13.5
- Inability to Testify: *see also* Contempt of Court, Compelling Attendance, Foreign Letters Rogatory, Inability to Testify, Refusal to Testify**
- absent from other jurisdiction and present in Canada 19.4
 - commission 19.2(a), 19.2(b)
 - foreign letters rogatory 19.4(a)
 - general 19.1
 - mutual legal assistance in Canadian courts 19.4(b)
 - out of jurisdiction 19.2
 - civil proceedings 19.2(a)
 - commission 19.2(a), 19.2(b)
 - criminal proceedings 19.2(b)
 - cross-examination 19.2(b)(ii)
 - letters rogatory 19.2(a), 19.2(b)
 - right of accused to be present 19.2(b)(iii)
 - testifying by video-conference or other means 19.3
 - civil cases 19.3(a)
 - criminal cases 19.3(b)
- Interpreters**
- Charter, and right to 2.6(b)
 - intelligibility 3.2(f)
 - official languages 2.6(c)

INDEX

use of, at common law 2.6(a)

Litigation Privilege

actual litigation, purpose of 15.4(b)
contemplated litigation, purpose of 15.4(b)
dominant purpose of 15.4(b)
end of litigation 15.4(d)(ii)
exceptions 15.4(d)(iii)
generally 15.4
limitations 15.4(d)
origin 15.4(a)
rationale 15.4(a)
statutory intervention 15.4(d)(i)
waiver 15.4(d)(iii)
work product, lawyer's 15.4(c)

Memory: see also Past Recollection Recorded

general 13.1
hypnosis 13.5
past recollection recorded 13.3
present memory revived 13.2
procedure in using testimonial aids 13.4
 memory refreshed pre-testimony 13.4(a)
 memory refreshed at trial 13.4(b)
truth serum 13.5

Oath

before Parliament 18.1, 18.3
child 4.2
competence to take 3.2(a)
form 3.2(a)
general 3.2(a)
solemn affirmation 3.2(a)

Order of Witnesses

accused 2.3
general 2.3
tribunals 17.4

Parliament

calling witnesses 18.1
compelling attendance 18.1, 18.2, 18.3

contempt of court 18.3, 18.4, 18.5
immunity from prosecution 18.2
judicial review
 Charter 18.5
 general 18.5
oath 18.1, 18.3
privilege 18.1
refusal to testify 18.1, 18.2, 18.3
right to counsel 18.1, 20.2
self-incrimination 18.2
witness protection
 Charter 18.2
 general 18.2

Parliamentary Privilege: see Parliament

Past Recollection Recorded: see also Memory

accuracy 13.3
at trial 13.4(b)
general 13.3
pre-trial 13.4(a)

Perjury

corroboration 9.3(b)(iv)
elements 9.3(a), 9.3(b)
falsity 9.3(b)(i)
general 9.1, 9.3
historical development 9.2
intent 9.3(b)(iii)
issue estoppel 9.3(c)
knowledge 9.3(b)(ii)
related offences 9.4
 aiding and abetting 9.4
 conspiring to perjure 9.4
 counselling perjury 9.4
 giving contradictory evidence 9.4
 obstructing justice 9.4
 subornation of perjury 9.4
requirements 9.3

Preparation for Trial: see also Witness

finding witnesses 6.4

INDEX

- who “owns” the witness 6.4(a)
- uncovering the identity of the witness (civil discovery) 6.4(b)
- uncovering the identity of the witness (criminal disclosure) 6.4(c)
- general 6.1
- opponent’s witnesses 6.5
 - ethical concerns 6.5(a)
 - physicians 6.5(d)
 - represented parties 6.5(c)
- preparing the witness 6.2
 - interviewing 6.2(a)
 - crown’s ability to communicate with witness pre-charge 6.2(b)
- unrepresented witnesses 6.5(b)
- witness communications
 - between witnesses 6.6
 - with testifying witness
 - at discovery 6.3(b)
 - at trial 6.3(a)
- Present Memory Revived: see Memory, Past Recollection Recorded**
- Presumptions see also Burdens of Proof**
 - presumptions of fact 1A.5(b)
 - presumptions of law 1A.5(c)
 - presumptions, meaning and use of 1A.5(a)
- Prior Consistent Statements: see Credibility and Weight**
- Prior Inconsistent Statements: see Credibility and Weight, Memory, Adverse Witness, Hearsay Rule**
- Privilege: see also Self-incrimination, State Secrets, Parliament**
 - class privileges
 - exceptions agent provocateur 15.6(d)(v)
 - generally 15.6
 - innocence at stake 15.6(a)(iv)
 - juror deliberations 15.6(b)
 - marital communications 15.6(a)
 - police informant privilege 15.6(d)(i)-(iii)
 - statutory scheme 15.6(f)(ii)
 - common interest privilege 15.3(e)(vi)
 - common law privilege
 - Charter and 15.7(c)
 - generally 15.7
 - particular examples 15.7(b)
 - confidentiality
 - loss of 15.3(e)(v)-(vi)
 - relative 15.3(c)(ii)
 - crime/fraud exception 15.3(f)(i)
 - derivative use immunity 15.2(d)(i)
 - disclosure
 - accidental 15.3(e)(v)
 - compelled 15.3(e)(v)
 - deliberate 15.3(e)(vi)
 - generally 15.1
 - juror deliberations 15.6(b)
 - legal advice, seeking
 - generally 15.3(d)
 - legal role, acting in a 15.3(d)(i)
 - purpose of communication 15.3(d)(ii)
 - legal advice privilege
 - accidental disclosure 15.3(e)(v)
 - client, communication between lawyer and 15.3(b)
 - common interest, parties with a 15.3(c)(ii)
 - common interest privilege 15.3(e)(vi)
 - compelled disclosure 15.3(e)(v)
 - confidence, communication made in 15.3(c)
 - confidentiality, loss of 15.3(e)(v)-(vi)
 - confidentiality, relative 15.3(c)(ii)
 - disclosure 15.3(e)(v)-(vi)
 - exceptions 15.3(f)
 - express waiver 15.3(e)(ii)
 - crime/fraud exception 15.3(f)(i)
 - implied waiver 15.3(e)(iii)-(vi)
 - imputations against lawyer 15.3(e)(iv)

INDEX

- innocence at stake exception 15.3(f)(iii)
- lawyer, communication between client and 15.3(b)
- limitation, statutory 15.3(f)(iv)
- limitations of waiver 15.3(e)(ii)
- public safety exception 15.3(f)(ii)
- state of mind 15.3(e)(iii)
- third parties 15.3(c)(i), 15.3(e)(vi)
- waiver 15.3(e)
- who may waive 15.3(e)(i)
- litigation privilege
 - actual litigation, purpose of 15.4(b)
 - contemplated litigation, purpose of 15.4(b)
 - dominant purpose of 15.4(b)
 - end of litigation 15.4(d)(ii)
 - exceptions 15.4(d)(iii)
 - generally 15.4
 - limitations 15.4(d)
 - origin 15.4(a)
 - rationale 15.4(a)
 - statutory intervention 15.4(d)(i)
 - waiver 15.4(d)(iii)
 - work product, lawyer's 15.4(c)
- marital communications 15.6(a)
- police informant privilege 15.6(d)(i)-(iii)
- scope and rationale 15.5(a)
- self-incrimination, privilege against
 - Charter 15.2(c), 15.2(d)
 - common law 15.2(b)
 - compelled statements 15.2(d)(ii)
 - derivative use immunity 15.2(d)(i)
 - generally 15.2
 - Section 13 of the Charter 15.2(c)
 - Section 7 of the Charter 15.2(d)
 - statutory privileges 15.2(b)
- settlement privilege
 - creating 15.5(d)
 - criminal proceedings 15.5(b)
 - exceptions 15.5(c)
 - separate proceedings 15.5(c)(iii)
 - threats 15.5(c)(ii)
 - waiver 15.5(c)(i)
 - fraud 15.5(c)(ii)
 - generally 15.5
 - settlement agreements 15.5(a)
 - statements made without prejudice 15.5
 - statutory provisions creating 15.5(d)
- waiver
 - express 15.3(e)(ii)
 - implied 15.3(e)(iii)-(vi)
 - legal advice privilege 15.3(e)
 - limitations of 15.3(e)(ii)
 - litigation privilege 15.4(d)(iii)
 - who may exercise 15.3(e)(i)
- without prejudice statements, *see* **Settlement Privilege**
- Protection of Witnesses: *see also* Credibility and Weight, Privilege, Publicity, Self-incrimination, Right to Counsel**
 - anonymity 20.3(c)
 - courtroom 20.6
 - general 20.1
 - protection from civil action 20.4
 - protection from physical harm
 - intimidation or retribution 20.5
 - civil protection from retribution 20.5(d)
 - specific crimes 20.5(b)
 - witness protection program 20.5(c)
 - publication ban 20.3(d)
 - publicity 20.3
 - general 20.3(a)
 - in camera proceedings 20.3(b)
 - right to counsel 20.2
- Provincial Legislature: *see* Parliament**
- Publicity**
 - anonymity 30.2(c)
 - Charter 20.3
 - general 20.3
 - in camera proceedings 20.3(b)
 - publication ban 20.3(d)

INDEX

Re-examination

rebuttal witnesses 2.5(b)
scope 2.5(b)
splitting case 2.5(b)
tribunals 17.4

Refusal to testify: *see also* Compelling Attendance, Contempt of Court, Failure to Attend, Inability to Testify, Foreign Letters Rogatory

commission evidence 19.2(a), 19.2(b)
criminal offence 8.5
general 8.3
lawful excuse 8.4
letters rogatory 19.2(a), 19.2(b), 19.4(a)
out of jurisdiction 19.2(a), 19.2(b)
Parliament 18.1, 18.2

Relevance: *see also* Admissibility, Evidence, Expert Opinion

collateral issues 1.3(c)
discretion to decide 1.3(c)
expert opinion 2.1, 10.2(a)
fact-finding process 1.3(a), 1.4
facts in issue 1.1, 11.1
general 1.1, 11.1
inference-drawing process 1.3, 1.4
minimum standard 1.4
prejudice 1.4
principle 1.1
test 1.4

Re-opening case

civil proceedings 2.5(c)(i)
criminal proceedings 2.5(c)(ii)

Right to Counsel: *see also* Privilege, Self-incrimination

Charter 20.2
general 20.2
protection of witnesses 20.2
tribunals 17.1

Self-incrimination: *see also* Privilege

Charter 15.2(c)-(d)

common law 15.2(b)
derivative use immunity 15.2(d)(i)
general 15.2(d)(i)
statutory privileges 15.2(b)

Settlement Privilege

creating 15.5(d)
criminal proceedings 15.5(b)
exceptions 15.5(c)
 separate proceedings 15.5(c)(iii)
 threats 15.5(c)(ii)
 waiver 15.5(c)(i)
fraud 15.5(c)(ii)
generally 15.5
statutory provisions creating 15.5(d)

Spouse

co-accused's compellability 5.5(c)(iii)
compellability 5.5(a)(i), 5.5(c)
competence 3.2(c), 3.2(d)
privilege 15.6(a)

State Secrets

common law 16.2
general 16.1
federal 16.1, 16.3
 application 16.3(d)
 by whom 16.3(b)(iii)
 cabinet confidences 16.3(d)
 Canada Evidence Act 16.3
 Charter 16.3(d)
 general public interest 16.3(b)
 grounds 16.3(c)
 jurisdiction and procedure 16.3(b)(iv)
 manner of objection 16.3(b)(ii)
 special information 16.3(c)
provincial 16.1, 16.2
 cabinet secrets 16.2(c)
 criminal proceedings 16.2(d)
 grounds 16.2(d)
 importance 16.2(b)
 power to examine documents 16.2(c)
 relevance 16.2(a)
 requirements 16.2
 rationale 16.1

INDEX

Subpoena: *see also* **Compelling Attendance**

appeals 7.7
freedom of press 7.7
general 7.1, 7.2(a), 7.3
grounds for quashing 7.7
interprovincial 7.2(b), 7.3
material evidence 7.3
production of documents 7.7
setting aside 7.7
subpoena duces tecum 7.7

Summons: *see* **Compelling Attendance, Subpoena**

Trial Process

adversarial process 1.2, 2.5(c)(i), 17.1, 17.4
general 1.1, 2.1
inquisitorial process 1.3, 2.5(a), 2.5(c)(ii)
tribunals 17.1, 17.4

Tribunals

adverse witnesses 17.4
calling of witnesses 17.4
compellability 17.3, 5.2(c)
competence 17.3
cross-examination 17.2, 17.4
examination for discovery 17.1
examination-in-chief 17.2, 17.4
general 17.1
order of witnesses 17.4
re-examination 17.4
right to counsel 17.1
standing 17.2
testimony 17.4

Video-Conference, Testifying by

civil cases 19.3(a)
criminal cases 19.3(b)
general 19.3

Waiver

express 15.3(e)(ii)

implied 15.3(e)(iii)-(vi)
legal advice privilege 15.3(e)
limitations of 15.3(e)(ii)
litigation privilege 15.4(d)(iii)
settlement privilege 15.5(c)(i)
who may exercise 15.3(e)(i)

Weight: *see* **Credibility and Weight**

Witness: *see also* **Accused, Adverse Witness, Calling of Witnesses, Co-accused, Cross-examination, Hostile Witness, Preparation for Trial**

communications
 between witnesses 6.6
 with testifying witness
 at discovery 6.3(b)
 at trial 6.3(a)
contempt, conduct amounting to 8.3(c)(i), (ii)
contradicting, 2.4(c)
credibility 2.4(b)
defined 2.1
expert witnesses 2.1
fact vs. opinion 2.1
failure to cross-examine 2.4
function of 2.1
jailhouse informants 12.5
jury's ability to question 2.5(c)(iii)
language, *see* **Interpreters**
protection from physical harm, intimidation or retribution 20.5
rule in *Browne v. Dunn* 2.4
Vetrovec warning 12.5