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Canada

Access to Information Act 1980 - 81 - 82 - 83, c 111, Sch I

Alberta Bill of Rights, RSA, 1980, c A - 16

Bail Reform Act 1970 - 71 -72 (Can) c 37 (now Criminal Code RSC 1985, c C - 46 sections 515 - 526)

British North America Act 1867 (renamed the Constitution Act, 1867 in 1982; also referred to as the Constitution Act, 1982)

Canada Evidence Act RSC 1970, c E - 10

Canadian Bill of Rights SC 1960

Charter of Human Rights and Freedoms SQ 1975, c 6

Charter of Rights and Freedoms (Part 1 of the Constitution Act 1982, being Schedule B to the Canada Act 1982 (UK) 1982, c 11)

Criminal Code Amendment Act 1907 (IK) c 8

Criminal Code of Canada RSC 1970

Criminal Code of Canada RSC 1985

Criminal Law Amendment Act 1974 - 75 - 76 (Can) c 93

Federal Court Act, RSC 1985, c F - 7

Identification of Criminals Act 1985 c I - 1

Interpretation Act, RSC 1970, c 1 - 23

Judges Act RSC 1985, c J - 1

Manitoba Human Rights Act SM 1974 (c 65)

Narcotic Control Act RSC, c N- 1 (now RSC 1985, c N - 1)

National Defence Act of Canada RSC 1970, N - 4

Parole Act RSC 1970, c P - 2

Public Order (Temporary Measures) Act SC 1970 - 71 - 72, c 2

Public Schools Act SM 1980 c 33

Royal Canadian Mounted Police Act RSC 1970, c R - 9

Saskatchewan Bill of Rights Code SS 1979, c S - 24.1

Supreme Court Act, RSC 1985, c S - 26

Tax Court of Canada, RSC 1985, c T - 2

South Africa

Abuse of Dependence-producing Substances and Rehabilitation Centres Act 41 of 1971

Aliens Control Act 96 of 1991

Constitution of the Republic of South Africa Act 200 of 1993

Constitution of the Republic of South Africa, 1996 Act 108 of 1996

Criminal and Magistrates' Courts Procedure Amendment Act 39 of 1926

Criminal Procedure Act 56 of 1955

Criminal Procedure Amendment Act 9 of 1968

Criminal Procedure Amendment Act 96 of 1965

Criminal Procedure and Evidence Act 31 of 1917

Criminal Procedure and Evidence Amendment Act 29 of 1955

Criminal Procedure Second Amendment Act 75 of 1995

Criminal Procedure Second Amendment Act 85 of 1997

Defence Act 44 of 1957

General Amendment Act 39 of 1961

General Law Amendment Act 37 of 1963

General Law Amendment Act 62 of 1966

General Law Amendment Act 76 of 1962

General Law Amendment Act 80 of 1964

Internal Security Act 44 of 1950

Internal Security Act 74 of 1982

Internal Security Amendment Act 79 of 1976

Judicial Matters Amendment Act 34 of 1998

Magistrates' Courts Act 32 of 1917

Mental Health Act 18 of 1973

Natal Criminal Procedure Ordinance 18 of 1845

Ordinance 5 of 1864 *Regulerende de Wijze van Regtspleging in Criminele Zaken*

Ordinance 9 of 1866

Ordinance as to Criminal Procedure 12 of 1902

Ordinance as to Law of Evidence 72 of 1830

Ordinance for Regulating the Manner of Proceeding in Criminal Cases in the Cape Colony 40 of 1828

Ordinance of Philip II as to Criminal Procedure of year 1570

Ordinance to Establish a Code of Criminal Procedure 1 of 1903

Ordonnantie, Wijzigende de Manier van Procederen in Crimineele Zaken in den Oranje-Vrijstaat 4 van 1856

Terrorism Act 83 of 1967

The Criminal Procedure Act 51 of 1977

Unlawful Organizations Act 34 of 1960

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Australian Freedom of Information Act, 1982

Bail Act of 1976 (English)

(Immunity Statute) 18 US Code 6002

New Zealand Official Information Act, 1982

United States Constitution, Fifth Amendment

United States Constitution, Eighth Amendment

United States Freedom of Information Act (5 USC s 552)

C: SELECTED OTHER SOURCES

(The sources are in alphabetical order)

Canada

Law Reform Commission of Canada (1974): Study report on *Discovery in criminal cases*

Report of the Canadian Committee on Corrections (1969) *Towards unity: Criminal justice and corrections*

Report of the Federal/Provincial Task Force on Uniform Rules of Evidence (1982) Toronto: The Carswell Company

South Africa

Beeld 16 October 1999

Beeld 20 September 1994

Business Day 16 November 1999

Explanatory Memorandum to the Early Draft Bill of Rights of 9 October 1995

Extraordinary Government Gazette No 960 of 30 November 1964

Government Gazette No 20036 dated 30 April 1999

Heads of argument by counsel for *Dladla & Others* in CCT 22/98

Heads of argument by Director of Public Prosecutions in *S v Dlamini; S v Dladla and Others; S v Joubert; S v Schietekat* 1999 (7) BCLR 771 (CC)

House of Assembly debates Volume 87 col 1405 (21 February 1955)

House of Assembly debates Volume 88 col 7563 - 5 (13 June 1955)

House of Assembly debates, columns 3453 - 3457 (11 March 1977)

Pretoria News 12 October 1999

Pretoria News 15 October 1999

South African Law Commission (1994) *Report on bail reform in South Africa*
Project 66 Pretoria

The Star 6 September 1994

Other jurisdictions

American Convention on Human Rights (1969)

Australian Bail Act (1978)

European Convention on Human Rights (1950)

European Convention on Human Rights (1975)

German Constitution/German Basic Law (1949)

International Covenant on Civil and Political Rights (1966)

United Nations Human Development Report 2000

Universal Declaration of Human Rights (1948)

D: BIBLIOGRAPHY

(The authors appear in alphabetical order)

Basson D (1994) *South Africa's Interim Constitution: Text and notes* Kenwyn: Juta

Bayefsky AF (1992) *International human rights law: Use in Canadian Charter of Rights and Freedoms litigation* Toronto: Butterworths

Beaudoin GA & Ratushny E (editors), (1989) *The Canadian Charter of Rights and Freedoms* Toronto: Carswell

Bell P (editor), (1997) *The making of the Constitution: The story of South Africa's Constitutional Assembly, May 1994 to December 1996* Churchill Murray Publications

Bekker M, Geldenhuys T, Joubert JJ, Swanepoel JP, Terblanche SS, Van der Merwe SE & Van Rooyen JH (1999) *Criminal procedure handbook* fourth edition Kenwyn: Juta

Black-Branch JL (1997) *Rights and realities* Aldershot: Dartmouth Publishing

Black HC (1979) (edited by the publishers editorial staff) contributing authors Nolan JR & Connolly MJ, *Black's law dictionary* fifth edition St Paul Minnesota: West Publishing Company

Black MA (1990) (edited by the publisher's editorial staff) co-authors Nolan JR & Nolan-Haley JM contributing authors Connolly MJ, Hicks SC & Alibrandi MN *Black's law dictionary* sixth edition St Paul Minnesota: West Publishing Company

Borkowski AB (1994) *Textbook on Roman law* London: Blackstone Press Limited

Botha CJ (1991) *Wetsuitleg: 'n Inleiding vir studente* Kenwyn: Juta

Botha G "The early influence of the English law upon the Roman-Dutch law in South Africa" (1923) 40 *SALJ* 396

Brown GP (1967) *The Judicial Committee and the British North America Act: An analysis of the interpretative scheme for the distribution of legislative powers* Toronto: University of Toronto Press

Buckland WW (1963) *A textbook of Roman law from Augustus to Justinian* Cambridge: Cambridge University Press

Burns Y (1999) *Administrative law under the 1996 Constitution* Durban: Butterworths

Cairns AC (1992) *Charter versus federalism: The dilemmas of constitutional reform* Montreal & Kingston: McGill-Queen's University Press

Cameron E "Rights, constitutionalism and the rule of law" (1997) 114 *SALJ* 504

Chamberlin GK "Use of Freedom of Information Act (5 USCS @ 552) as substitute for, or as means of, supplementing discovery procedures available to litigants in federal civil, criminal or administrative proceedings" (1997) 57 *ALR Fed* 903

Cote JE "Reception of English law" (1977) 15 *Alta L Rev* 29

Cowling MG "Law reform: Bail and the search for a new theoretical approach" (1991) 4 *SACJ* 65

Cowling MG "Bail reform: An assessment of the Criminal Procedure Second Amendment Act 75 of 1995" (1996) 9 *SACJ* 50

Currey I & Woolman S chapter 39 "Freedom and security of the person" in Chaskalson *et al*, (1996) *Constitutional law of South Africa* Kenwyn: Juta (loose-leaf updated to 30 September 1998)

Davis D, Cheadle H & Haysom N (1997) *Fundamental rights in the Constitution: Commentary and cases* Kenwyn: Juta

De Waal J "A comparative analysis of the provisions of German origin in the Interim Constitution" (1995) 11 *SAJHR* 18

De Waal J "Is there a general and residual right to procedural fairness in South Africa?" (1997) 13 *SAJHR* 229

De Waal J chapter 32 "Arrested, detained and accused persons" in De Waal J, Currie I & Erasmus G (1998) *The Bill of Rights handbook 1998* Kenwyn: Juta

De Waal J, Currie I & Erasmus G (1998) *The Bill of Rights handbook 1998* Kenwyn: Juta

De Zulueta F (1967) *The Institutes of Gaius: Part I: Text with critical notes and translations* Oxford: Clarendon Press

Donovan PHK (1981) *The law of bail practice, procedure and principles* Sydney: Legal Books

Dow PE (1981) *Discretionary justice: A critical inquiry* Cambridge, Massachusetts: Ballinger Publishing Company

Du Plessis JH (1990) *Aspekte van borgtog: 'n Regsvergelykende studie* unpublished LLD thesis Faculty of Law University of South Africa

Du Plessis L & Corder H (1994) *Understanding South Africa's transitional Bill of Rights* Kenwyn: Juta

Dugard J (1977) *South African criminal law and procedure* Volume IV Cape Town: Juta

Du Toit *et al* (1987) *Commentary on the Criminal Procedure Act* Kenwyn: Juta (loose-leaf updated to 30 September 1998)

Ebrahim H (1998) *The soul of a nation: Constitution making in South Africa* Cape Town: Oxford University Press

Forsyth CF (1982) *Caney's - The law of suretyship* Cape Town: Juta

Friedland ML & Roach K (1997) *Criminal law and procedure: Cases and materials* Toronto: Emond Montgomery Publications

Funston BW & Meehan E (1994) *Canada's constitutional law in a nutshell* Ontario: Carswell Thomson Professional Publishing

Gall GL (1983) *The Canadian legal system* Toronto: Carswell

Gall GL (1990) *The Canadian legal system* Toronto: Carswell

Gibson D (1980) *Aspects of privacy law: Essays in honour of John M Sharp* Toronto: Butterworths

Gibson D "Constitutional amendment and the Implied Bill of Rights" (1966) 12 *McGill LJ* 497

Gibson D "- And one step backward: The Supreme Court and constitutional law in the sixties" (1975) 53 *Can Bar Rev* 621

Gibson D "Charter or chimera? 'A comment on the proposed Charter of Rights and Freedoms'" (1979) 9 *Man LJ* 363

Gibson D (1986) *The law of the Charter: General principles* Toronto: Carswell

Girard PF *A short history of Roman law* Florida: Gaunt (translated by Lefroy AHF & Cameron JH 1994)

Gloppen S (1997) *South Africa: The battle over the Constitution* Aldershot: Ashgate Publishing

Gora JM (1978) *Due process of law* Skokie Illinois: National Textbook Company

Hale M (1736) *The history of the pleas of the Crown* Vol II London: Professional Books (1971)

Hampton C (1982) *Criminal procedure* London: Sweet & Maxwell

Hiemstra VG (1977) *Introduction to the law of criminal procedure* Durban: Butterworths

Hiemstra VG (1987) *Suid-Afrikaanse strafproses* Durban: Butterworths

Hiemstra VG (1993) *Suid-Afrikaanse strafproses* fifth edition by Kriegler J Durban: Butterworths

Hoffmann LH & Zeffertt DT (1992) *The South African law of evidence* Durban: Butterworths

Hogg PW (1985) *Constitutional law of Canada* Toronto: Carswell

Hogg PW (1992) *Constitutional law of Canada* (student edition) Toronto: Carswell

Holdsworth W (1937) *A history of English law* New York: Wiley

Jörg N, Field S & Brants C chapter 3 "Are inquisitorial and adversarial systems converging?" in Fennel P, Harding C, Jörg N & Swart B (1995) *Criminal justice in Europe: A comparative study* Oxford: Clarendon Press

Joubert JJ (editor), (1998) *Strafprosesreg-handboek* Kenwyn: Juta

Jowitt E & Walsh C second edition by Burke J (1977) *Jowitt's dictionary of English law* London: Sweet & Maxwell

Kerper HB (1979) revised by Israel JH *Introduction to the criminal justice system* St Paul: West Publishing Company

Klaaren J chapter 25 "Administrative justice" in Chaskalson *et al* (1996) *Constitutional law of South Africa* Kenwyn: Juta (loose-leaf updated to 30 September 1998)

Kotzé DJL "S v Jonas 1998 2 SASV (SOK); S v C 1998 2 SASV 721(K); S v Nompumza (ongeraporteer – Saakno CA + R57/98 (Ck) 1998-11-16)" (1999) 1 *De Jure* 188

Kentridge J & Spitz D chapter 11 "Interpretation" in Chaskalson *et al* (1996) *Constitutional law of South Africa* Kenwyn: Juta (loose-leaf updated to 30 September 1998)

Kunkel W (1973) *An introduction to Roman legal and constitutional history* Oxford: Clarendon Press (translated by Kelly JM)

LaFave WR & Israel JH (1992) *Criminal procedure* St Paul Minnesota: West Publishing

Lambard W (1581) *Eirenarcha or the office of Justices of Peace* reprinted 1972 London: Professional Books

Langa M "Under a new sun" in Bell P (editor), (1997) *The making of the Constitution: The story of South Africa's Constitutional Assembly, May 1994 to December 1996* Churchill Murray Publications

Lee RW (1953) *An introduction to Roman-Dutch law* Oxford: Clarendon Press

(reprinted 1961 Oxford: University Press)

Mackenzie (1991) *Studies in roman law* Florida: WMW Gaunt & Sons

MacIntosh DA (1995) *Fundamentals of the criminal justice system* Ontario: Carswell

Macklem P, Swinton KE, Risk RCB, Rogerson CJ, Weinrib LE & Whyte JD (1997) *Canadian constitutional law* Toronto: Emond Montgomery Publications

Maine HS (1861) *Ancient law. Its connection with the early history of society and its relation to modern ideas* London: John Murray

Maine HS (1890) *Early history of institutions* London: John Murray

Malan K (1996) *Fundamental rights: Themes and trends* Durban: Butterworths (loose-leaf updated to January 1998)

Mathews AS (1971) *Law, order and liberty in South Africa* Cape Town: Juta

Matthaeus AJC *De Criminibus* translated by Hewett and Stoop Vol III (1994) as *On crimes: A commentary on books XLVII and XLVIII of the Digest* Cape Town: University of Cape Town Press

May R (1990) *Criminal evidence* London: Sweet & Maxwell

McCall A (1979) *The medieval underworld* London: Hamish Hamilton

McDonald DC (1989) *Legal rights in the Canadian Charter of Rights and Freedoms* Toronto: Carswell

Mcleod RM, Takach JD, Morton HF & Segal MD (1993) *The Canadian Charter of Rights: The prosecution and defence of criminal and other statutory offences* Ontario: Carswell Thomson Professional Publishing (loose-leaf updated to release no 2, June 1999)

Meiklejohn JMD (1897) *A new history of England and Great Britain* London: Holden

Mewett AW & Manning M (1994) *On criminal law* Toronto: Butterworths

Mommsen T & Krueger P (editors) translated by Watson A 1985 as *The Digest of Justinian* Vol IV xv Philadelphia: University of Pennsylvania Press

Mommsen T (1899) *Römisches Strafrecht* Leipzig: Verlag von Duncker & Humblot

Morton FL "Charting the Charter - year one: A statistical analysis" 2 *CHRYB* (1984 - 85) 237 - 261

Morton WL (1969) *The Kingdom of Canada: A general history from earliest times* Toronto: McClelland & Stewart

Nel TJ (1985) *Borgtog in die Suid-Afrikaanse strafprosesreg* unpublished LLM thesis Faculty of Law University of Stellenbosch

Nel TJ (1987) *Borgtoghandleiding* Durban: Butterworths

Neveling J and Bezuidenhout JH chapter 20 "Bail" in Nel F & Bezuidenhout J (1997) *Policing and human rights* Kenwyn: Juta

Nicholas B (1962) *An Introduction to Roman law* Oxford: Clarendon Press

Packer HL (1968) *The limits of the criminal sanction* California: Stanford University Press

Pollock F "English law before the Norman Conquest" (1898) xiv *LQR* 291

Pound R (1957) *The development of constitutional guarantees of liberty* Westport: Greenwood Press

Rautenbach IM (1995) *General provisions of the South African Bill of Rights*
Durban: Butterworths

Read JE "The early provincial constitutions" (1948) 26 *Can Bar Rev* 621

Roberts AA (1942) *A South African legal bibliography* Pretoria: Department of
Justice

Rodrigues GP (general editor), (1981) *Crankshaw's Criminal Code* volume 4
Toronto: Carswell

Rodrigues GP (general editor), (1982) *Crankshaw's Criminal Code* volume 5
Toronto: Carswell

Romanow R, White J & Leeson H (1984) *Canada-notwithstanding: The making
of the Constitution 1976 - 1982* Toronto: Carswell

Salhany RE (1968) *Canadian criminal procedure* Toronto: Canada Law Book
Company

Salhany RE (1986) *The origin of rights* Toronto: Carswell

Salmon ET (1968) *A history of the Roman world* London: Methuen & Co Ltd

Samaha JB "The recognizance in Elizabethan law enforcement" (1981) 25
AJLH 190

Schmidt CWH (1989) *Bewysreg* Durban: Butterworths

Scholtemeyer JVDV "Vrylating op sogenaamde eie verantwoordelikheid"
(1964) 27 *THRHR* 219

Schwikkard PJ "The presumption of innocence: What is it?" (1998) 11 *SACJ*
396

Schwikkard PJ (1998) *The scope, content and normative value of the presumption of innocence in the South African law of criminal procedure and evidence* unpublished LLD thesis Faculty of Law University of Stellenbosch

Scott FR (1977) *Essays on the Constitution. Aspects of Canadian law and politics* Toronto: University of Toronto Press

Scott FR "The Bill of Rights and Quebec law" (1959) 37 *Can Bar Rev* 135

Snyckers F chapter 27 "Criminal procedure" in Chaskalson *et al* (1996) *Constitutional law of South Africa* Kenwyn: Juta (loose-leaf updated to 30 September 1998)

Steytler N (1998) *Constitutional criminal procedure* Durban: Butterworths

Strachan-Davidson JL (1969) *Problems of the Roman criminal law* Vol 1 Oxford: Clarendon Press

Strauss SA "The development of the law of criminal procedure since Union" (1960) *Acta Juridica* 157

Strayer BL (1988) *The Canadian constitution and the courts: The function and scope of judicial review* Toronto: Butterworths

Stuart D (1987) *Canadian criminal law: A treatise* Toronto: Carswell

Stuart D "An entrenched Bill of Rights best protects against law and order expediency" (1998) 11 *SACJ* 325

Swinton K "Constitutional law - freedom of assembly - criminal law power" (1979) 57 *Can Bar Rev* 326

Tarnopolsky WS & Beaudoin GA (editors), (1982) *Canadian Charter of Rights and Freedoms* Toronto: Carswell

- Tarnopolsky WS (1975) *The Canadian Bill of Rights* Toronto: Carswell
- Tarnopolsky WS "The Supreme Court and the Canadian Bill of Rights" (1975) 53 *Can Bar Rev* 649
- Teed EL & Shannon MA "Criminal law - bail - old and new legislation - Bail Reform Act - can a person not in custody be detained on first appearance before a justice?" (1982) 60 *Can Bar Rev* 720
- Thomas EM "Vox temporum" (1969) 12 *Can Bar J* 234
- Thomas JAC (1976) *Textbook of Roman law* Amsterdam: North-Holland Publishing Company
- Tollefson EA "Freedom of the press" in Lang OE (editor), (1968) *Contemporary problems of public law in Canada: Essays in honour of Dean FC Cronkite* Toronto: University of Toronto Press
- Trengove W chapter 26 "Evidence" in Chaskalson *et al*, (1996) *Constitutional law of South Africa* Kenwyn: Juta (loose-leaf updated to 30 September 1998)
- Tribe LH (1988) *American constitutional law* New York: The Foundation Press
- Turner RV (1985) *The English judiciary in the age of Glanvill and Bracton, c 1176 - 1239* Cambridge: Cambridge University Press
- Uit Beijerse J (1998) *Op verdenking gevangengezet: Het voorarrest tussen beginselen en praktische behoeften* doctoral thesis Faculty of Law Erasmus University Rotterdam: Ars Aequi Libri
- Van der Berg J (1986) *Bail-a practitioner's guide* Cape Town: Juta
- Van Der Keessel DG *Praelectiones in Libros XLVII et XLVIII Digestorum exhibentes jurisprudentiam criminalem ad usum fori Batavi applicatum (duce*

Cornelio van Eck) *et in Novum Codicem Criminalem*. Wynberg: Juta (translated by Beinard & Van Warmelo Vol II 1972)

Van der Merwe S chapter 9 "Bail" in Du Toit *et al*, (1987) *Commentary on the Criminal Procedure Act* Kenwyn: Juta (loose-leaf updated to 30 September 1998)

Van der Vyver JD "The private sphere in constitutional litigation" (1994) 57 *THRHR* 378

Van Greunen JW "Own recognisance" (1969) 86 *SALJ* 93

Van Leeuwen S *Roomsch Hollandsch Recht* translated by Kotze (1886) as *Commentaries on Roman-Dutch law* Vol II 41 London: Stevens & Haynes

Van Warmelo P (1970) *Die oorsprong en betekenis van die Romeinse reg* Pretoria: Van Schaik

Van Wyk D, Dugard J, De Villiers B & Davis D (1994) *Rights and constitutionalism: The new South African order* Kenwyn: Juta

Van Zyl DH (1983) *History and principles of Roman private law* Durban: Butterworths

Van Zyl SJ & Van der Vyver JD (1982) *Inleiding tot die regswetenskap* Durban: Butterworths

Verrilli Jr D "The Eight Amendment and the right to bail: Historical perspectives" (1982) 82 *Colum L Rev* 328

Viljoen F chapter 5 "The law of criminal procedure and the Bill of Rights" in *Bill of Rights compendium* (1996) Durban: Butterworths (loose-leaf updated to 31 March 1999)

Voet J *Commentarius ad Pandectas* and *Supplementum* translated by Percival Gane Vol 1 1955, and 7 1957 as *The selective Voet* being the *Commentary on the Pandects* (Paris edition of 1829) and the *Supplement* to that work by Van Der Linden Johannes, (1756 - 1835) Durban: Butterworths

Walker DM (1980) *The Oxford companion to law* Oxford: Clarendon Press

Watson A "Consensual *societas* between Romans and the introduction of formulae" (1963) 9 *RIDA* 431

Whyte JD & Lederman WR (1992) *Canadian constitutional law. Cases, notes and materials* third edition by Bur DF Toronto: Butterworths

Whyte J (November 1993) "A Melbourne diary" *The literary review of Canada* vol 2:10

Wigmore JH (1940) *Evidence* third edition vol 9 Boston: Little, Brown and Company

Wigmore JH (1961) McNaughton revised, *Wigmore, evidence* Boston: Little Brown and Company

Williams G (1961) *Criminal law: The general part* London: Stevens

Wlassak M (1888 - 1891) *Romische Processgesetze: Ein Beitrag zur Geschichte des Formularverfahrens* Leipsig: Duncker & Humblot

Woolman S chapter 12 "Limitation" in Chaskalson *et al*, (1996) *Constitutional law of South Africa* Kenwyn: Juta (loose-leaf updated to 30 September 1998)

Zuckerman AAS (1989) *The principles of criminal evidence* Oxford: Clarendon Press