

**R.**

R.abbr.1.REX. 2.REGINA. 3.RANGE. 4.Trademarks. When contained in a circle (and often superscripted), the symbol indicating that a trademark or servicemark is registered in the U.S. Patent and Trademark Office. See registered trademark under TRADEMARK; SERVICEMARK.

**RABBINICAL DIVORCE**

rabbinical divorce.See DIVORCE.

**RACE ACT**

race act.See RACE STATUTE.

**RACE-NOTICE STATUTE**

race-notice statute.A recording law providing that the person who records first, without notice of prior unrecorded claims, has priority. • About half the states have race-notice statutes. — Also termed race-notice act; notice-race statute. Cf. RACE STATUTE; NOTICE STATUTE. [Cases: Vendor and Purchaser 231(11). C.J.S. Vendor and Purchaser § 502.]

**RACE OF DILIGENCE**

race of diligence.Bankruptcy. A first-come, first-served disposition of assets. [Cases: Bankruptcy 3442. C.J.S. Bankruptcy §§ 351–352.]

**RACE STATUTE**

race statute.A recording act providing that the person who records first, regardless of notice, has priority. • Only Louisiana and North Carolina have race statutes. — Also termed pure race statute; race act. Cf. NOTICE STATUTE ; RACE-NOTICE STATUTE. [Cases: Vendor and Purchaser 231(11).C.J.S. Vendor and Pur-chaser § 502.]

**RACE TO THE COURTHOUSE**

race to the courthouse. 1.Bankruptcy. The competition among creditors to make claims on assets, usu. motivated by the advantages to be gained by those who act first in preference to other creditors. • Chapter 11 of the Bank-ruptcy Code, as well as various other provisions, is intended to prevent a race to the courthouse and instead to promote equality among creditors. [Cases: Bankruptcy 3442. C.J.S. Bankruptcy §§ 351–352.] 2.Civil pro-cedure. The competition between disputing parties, both of whom know that litigation is inevitable, to prepare and file a lawsuit in a favorable or convenient forum before the other side files in one that is less favorable or less convenient. • A race to the courthouse may result after one party informally accuses another of breach of contract or intellectual-property infringement. When informal negotiations break down, both want to resolve the matter quickly, usu. to avoid further business disruption. While the accuser races to sue for breach of contract or in-fringement, the accused seeks a declaratory judgment that no breach or infringement has occurred. See ANTICIPATORY FILING.

**RACHAT**

rachat (rah-shah), n.[French] 1. Repurchase; redemption. 2. Ransom.

**RACHETER**

racheter (rah-sh<<schwa>>-tay), vb.[French] 1. To repurchase or buy back. 2. To ransom.

**RACIAL DISCRIMINATION**

racial discrimination.See **DISCRIMINATION**.

**RACIAL PROFILING**

racial profiling.The law-enforcement practice of using race, national origin, or ethnicity as a salient basis for suspicion of criminal activity. • Originally, the term referred to the practice of stopping a disproportionate number of male African-American drivers on the assumption that they had a heightened likelihood of being involved in criminal activity. After the terrorist attacks of September 11, 2001, the term was frequently used in reference to searching and interrogating Middle Eastern men at airports. — Also termed ethnic profiling; profiling.

**RACK**

rack,n. Hist. An instrument of torture on which a person was slowly stretched, formerly used to interrogate someone charged with a crime.

**RACKET**

racket,n.1. An organized criminal activity; esp., the extortion of money by threat or violence. 2. A dishonest or fraudulent scheme or business. [Cases: Racketeer Influenced and Corrupt Organizations 4, 103. C.J.S. RICO (Racketeer Influenced and Corrupt Organizations) §§ 4, 6.]

**RACKETEER**

racketeer,n. A person who engages in racketeering. [Cases: Racketeer Influenced and Corrupt Organizations 4, 103. C.J.S. RICO (Racketeer Influenced and Corrupt Organizations) §§ 4, 6.] — racketeer,vb.

**RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

Racketeer Influenced and Corrupt Organizations Act.A law designed to attack organized criminal activity and preserve marketplace integrity by investigating, controlling, and prosecuting persons who participate or conspire to participate in racketeering. • Enacted in 1970, the federal RICO statute applies only to activity involving interstate or foreign commerce. 18 USCA §§ 1961–1968. Since then, many states have adopted laws (sometimes called “little RICO” acts) based on the federal statute. The federal and most state RICO acts provide for enforcement not only by criminal prosecution but also by civil lawsuit, in which the plaintiff can sue for treble damages. — Abbr. RICO. [Cases: Racketeer Influenced and Corrupt Organizations 2. C.J.S. RICO (Racketeer Influenced and Corrupt Organizations) § 7.]

“Before criminal or civil liability can attach under RICO, it must be shown that the two or

more acts of racketeering alleged in the criminal indictment or civil complaint constitute a pattern of racketeering activity on the part of the culpable person. The statutory definition of pattern 'requires at least two' predicate acts occurring within ten years of each other, with one of them occurring after October 15, 1970. More broadly put, the pattern of racketeering activity is a scheme of unlawful conduct with a nexus to both the culpable person and the enterprise." David R. McCormack, *Racketeering Influenced Corrupt Organizations* § 1.04, at 1-20 (1998).

#### RACKETEERING

racketeering, n. 1. A system of organized crime traditionally involving the extortion of money from businesses by intimidation, violence, or other illegal methods. [Cases: *Racketeer Influenced and Corrupt Organizations* 4, 103. C.J.S. *RICO (Racketeer Influenced and Corrupt Organizations)* §§ 4, 6.] 2. A pattern of illegal activity (such as bribery, extortion, fraud, and murder) carried out as part of an enterprise (such as a crime syndicate) that is owned or controlled by those engaged in the illegal activity. • The modern sense (sense 2) derives from the federal RICO statute, which greatly broadened the term's original sense to include such activities as mail fraud, securities fraud, and the collection of illegal gambling debts. See 18 USCA §§ 1951–1960. [Cases: *Racketeer Influenced and Corrupt Organizations* 1–124. C.J.S. *RICO (Racketeer Influenced and Corrupt Organizations)* §§ 2–11, 13–29, 35–37.]

#### RACK RENT

rack rent, n. Rent equal to or nearly equal to the full annual value of the property; excessively or unreasonably high rent. — rack-rent, vb. — rack-renter, n.

#### RAFFLE

raffle, n. A form of lottery in which each participant buys one or more chances to win a prize. [Cases: *Lotteries* 3. C.J.S. *Lotteries* §§ 2–7, 11.]

#### RAID

raid, n. 1. A sudden attack or invasion by law-enforcement officers, usu. to make an arrest or to search for evidence of a crime. 2. An attempt by a business or union to lure employees or members from a competitor. 3. An attempt by a group of speculators to cause a sudden fall in stock prices by concerted selling.

#### RAIDER

raider. See CORPORATE RAIDER.

#### RAILROAD

railroad, vb. 1. To transport by train. 2. To send (a measure) hastily through a legislature so that there is little time for consideration and debate. 3. To convict (a person) hastily, esp. by the use of false charges or insufficient evidence.

#### RAILROAD-AID BOND

railroad-aid bond. See BOND(3).

---

**RAILROAD COMPANY**

railroad company. See railroad corporation under CORPORATION.

**RAILROAD CORPORATION**

railroad corporation. See CORPORATION.

**RAILROAD RETIREMENT BOARD**

Railroad Retirement Board. A three-member federal board that administers the program providing retirement, unemployment, and sickness benefits to retired railroad employees and their families. • The Board was established by the Railroad Retirement Act of 1934. — Abbr. RRB.

**RAILWAY LABOR ACT**

Railway Labor Act. A 1926 federal law giving transportation employees the right to organize without management interference and establishing guidelines for the resolution of labor disputes in the transportation industry. • In 1934, the law was amended to include the airline industry and to establish the National Mediation Board. 45 USCA §§ 151–188. See NATIONAL MEDIATION BOARD .

**RAINMAKER**

rainmaker, n. A lawyer who generates a large amount of business for a law firm, usu. through wide contacts within the business community <the law firm fell on hard times when the rainmaker left and took his clients with him>. — rainmaking, n.

**RAISE**

raise, vb. 1. To increase in amount or value <the industry raised prices>. 2. To gather or collect <the charity raised funds>. 3. To bring up for discussion or consideration; to introduce or put forward <the party raised the issue in its pleading>. 4. To create or establish <the person's silence raised an inference of consent>. 5. To increase the stated amount of (a negotiable instrument) by fraudulent alteration <the indorser raised the check>.

**RAISE A QUESTION OF PRIVILEGE**

raise a question of privilege. To offer a question of privilege to be considered by the meeting or ruled on by the chair. See question of privilege under QUESTION(3).

**RAISED CHECK**

raised check. See CHECK.

**RAISING AN INSTRUMENT**

raising an instrument. The act of fraudulently altering a negotiable instrument, esp. a check, to increase the sum stated as being payable. See raised check under CHECK. [Cases: Banks and Banking 147. C.J.S. Banks and Banking §§ 415–416.]

**RAKE-OFF**

rake-off,n. A percentage or share taken, esp. from an illegal transaction; an illegal bribe, payoff, or skimming of profits. — rake off,vb.

#### RALLY

rally,n. A sharp rise in price or trading (as of stocks) after a declining market.

#### RAM

RAM. See reverse annuity mortgage under MORTGAGE.

#### RAMBO LAWYER

Rambo lawyer.Slang. A lawyer, esp. a litigator, who uses aggressive, unethical, or illegal tactics in representing a client and who lacks courtesy and professionalism in dealing with other lawyers. — Often shortened to Rambo.

#### RAMSEYER RULE

Ramseyer rule.A rule of the U.S. House of Representatives requiring any committee reporting a bill that amends legislation in force to show in its report what wording the bill would strike from or insert into the current law. • The rule is named for Representative C. William Ramseyer (1875–1943) of Iowa, who proposed it. The analogous rule in the U.S. Senate is the Cordon rule. See CORDON RULE.

#### R AND D

R and D.abbr.RESEARCH AND DEVELOPMENT.

#### RANGE

range,n. Land law. In U.S. government surveys, a strip of public land running due north to south, consisting of a row of townships, at six-mile intervals. — Abbr. R. [Cases: Public Lands 25. C.J.S. Public Lands § 32.]

#### RANGER

ranger. 1.Hist. In England, an officer or keeper of a royal forest, appointed to patrol the forest, drive out stray animals, and prevent trespassing. 2. An officer or warden who patrols and supervises the care and preservation of a public park or forest. [Cases: Woods and Forests 7. C.J.S. Woods and Forests §§ 9–11, 14–15.] 3. One of a group of soldiers who patrol a given region; esp., in the U.S. military, a soldier specially trained for surprise raids and close combat. 4. A member of a special state police force.

#### RANK

rank,n.1. A social or official position or standing, as in the armed forces < the rank of captain>. [Cases: Armed Services 8. C.J.S. Armed Services § 26.] 2.Parliamentary law. A motion's relative precedence. See PRECEDENCE(3).

#### RANK AND FILE

rank and file. 1. The enlisted soldiers of an armed force, as distinguished from the officers. 2. The general membership of a union.

#### RANK-ORDER VOTING

rank-order voting. See preferential voting under VOTING.

#### RANSOM

ransom, n. 1. Money or other consideration demanded or paid for the release of a captured person or property. See KIDNAPPING. 2. The release of a captured person or property in exchange for payment of a demanded price. [Cases: Kidnapping 1. C.J.S. Kidnapping §§ 1–2.]

ransom, vb. 1. To obtain the release of (a captive) by paying a demanded price. 2. To release (a captive) upon receiving such a payment. 3. To hold and demand payment for the release of (a captive).

#### RANSOM BILL

ransom bill. Int'l law. A contract by which a vessel or other property captured at sea during wartime is ransomed in exchange for release and safe conduct to a friendly destination. — Also termed ransom bond.

#### RAP

rap, n. Slang. 1. Legal responsibility for a criminal act <he took the rap for his accomplices>. 2. A criminal charge <a murder rap>. 3. A criminal conviction; esp., a prison sentence <a 20-year rap for counterfeiting>.

#### RAPE

rape, n. 1. At common law, unlawful sexual intercourse committed by a man with a woman not his wife through force and against her will. • The common-law crime of rape required at least a slight penetration of the penis into the vagina. Also at common law, a husband could not be convicted of raping his wife. — Formerly also termed rapture; ravishment. [Cases: Rape 1. C.J.S. Rape §§ 1–3, 15.] 2. Unlawful sexual activity (esp. intercourse) with a person (usu. a female) without consent and usu. by force or threat of injury. • Most modern state statutes have broadened the definition along these lines. Rape includes unlawful sexual intercourse without consent after the perpetrator has substantially impaired his victim by administering, without the victim's knowledge or consent, drugs or intoxicants for the purpose of preventing resistance. It also includes unlawful sexual intercourse with a person who is unconscious. Marital status is now usu. irrelevant, and sometimes so is the victim's gender. — Also termed (in some statutes) unlawful sexual intercourse; sexual assault; sexual battery; sexual abuse; (in Latin) *crimen raptus*. Cf. sexual assault under ASSAULT; sexual battery under BATTERY.

“[Another] offence, against the female part also of his majesty's subjects, but attended with greater aggravations than that of forcible marriage, is the crime of rape, *raptus mulierum*, or the carnal knowledge of a woman forcibly and against her will.” 4 William Blackstone, *Commentaries on the Laws of England* 210 (1769).

“If force is to be declared an element of the crime [of rape] it becomes necessary to resort to the fiction of ‘constructive force’ to take care of those cases in which no force is needed beyond what is involved in the very act of intercourse itself. A better analysis is to recognize that the requirement of force is simply a means of demonstrating that the unlawful violation of the woman was without her consent and against her will. Therefore, evidence of serious force need not be shown in many cases. Hence the better view is that ‘force’ is not truly speaking an element of the crime itself, but if great force was not needed to accomplish the act the necessary lack of consent has been disproved in other than exceptional situations. The courts today frequently state the position that a woman's resistance need not be ‘more than her age, strength, the surrounding facts, and all attending circumstances’ make reasonable.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 211–12 (3d ed. 1982).

acquaintance rape. Rape committed by someone known to the victim, esp. by the victim's social companion. Cf. date rape; relationship rape.

date rape. Rape committed by a person who is escorting the victim on a social occasion. • Loosely, date rape also sometimes refers to what is more accurately called acquaintance rape or relationship rape. [Cases: Rape 4. C.J.S. Rape § 14.]

marital rape. A husband's sexual intercourse with his wife by force or without her consent. • Marital rape was not a crime at common law, but under modern statutes the marital exemption no longer applies, and in most jurisdictions a husband can be prosecuted for raping his wife. — Also termed spousal rape. [Cases: Rape 4. C.J.S. Rape § 14.]

prior-relationship rape. See relationship rape.

rape by means of fraud. An instance of sexual intercourse that has been induced by fraud. • Authorities are divided on the question whether rape can occur when a woman is induced by fraudulent statements to have sexual intercourse. But the term rape by means of fraud is not uncommon in legal literature.

rape under age. See statutory rape.

relationship rape. Rape committed by someone with whom the victim has had a significant association, often (though not always) of a romantic nature. • This term encompasses all types of relationships, including family, friends, dates, cohabitants, and spouses, in which the victim has had more than brief or perfunctory interaction with the other person. Thus it does not extend to those with whom the victim has had only brief encounters or a nodding acquaintance. — Also termed prior-relationship rape. Cf. date rape; acquaintance rape.

spousal rape. See marital rape.

statutory rape. Unlawful sexual intercourse with a person under the age of consent (as defined by statute), regardless of whether it is against that person's will. • Generally, only an adult may be convicted of this crime. A person under the age of consent cannot be convicted. — Also termed rape under age. See age of consent under AGE. [Cases: Rape 13. C.J.S. Rape §§ 18, 21.]

“Carnal knowledge of a child is frequently declared to be rape by statute and where this is

true the offense is popularly known as 'statutory rape,' although not so designated in the statute." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 198 (3d ed. 1982).

3.Archaic. The act of seizing and carrying off a person (esp. a woman) by force; abduction. 4. The act of plundering or despoiling a place. 5.Hist. One of the six administrative districts into which Sussex, England was divided, being smaller than a shire and larger than a hundred.

rape,vb.1. To commit rape against. 2.Archaic. To seize and carry off by force; abduct. 3. To plunder or despoil. — rapist, raper,n.

#### RAPE SHIELD LAW

rape shield law.See SHIELD LAW(2).

#### RAPE SHIELD STATUTE

rape shield statute.See SHIELD LAW(2).

#### RAPE UNDER AGE

rape under age.See statutory rape under RAPE.

#### RAPINA

rapina (r<<schwa>>-pI-n<<schwa>>). [Latin "robbery, pillage"] Roman & civil law. The forcible taking of another's movable property with the intent to appropriate it to one's own use.

"Rapina is the taking away of a thing by violent means. It gives rise to the praetorian actio vi bonorum raptorum ...." Rudolph Sohm, *The Institutes: A Textbook of the History and System of Roman Private Law* 419 (James Crawford Ledlie trans., 3d ed. 1907).

#### RAPINE

rapine (rap-in).1. Forcible seizure and carrying off of another's property; pillage or plunder. 2.Archaic. Rape.

#### RAPPORT À SUCCESSION

rapport à succession (ra-por ah sook-ses-syawn), n.[French "return to succession"] Civil law. The restoration to an estate of property that an heir received in advance from the decedent, so that an even distribution may be made among all the heirs. Cf. HOTCHPOT.

#### RAPPORTEUR

rapporteur (ra-por-tuuror -t<<schwa>>r), n.[French] An official who makes a report of committee proceedings for a larger body (esp. a legislature).

#### RAPPROCHEMENT

rapprochement (ra-prosh-mahn). The establishment or restoration of cordial relations between two or more nations. — Also spelled rapprochment.

#### RAP SHEET



rap sheet.Slang. A person's criminal record.

#### RAPTU HAEREDIS

raptu haeredis (rap-t[y]oo h<<schwa>>-ree-dis), n.[Latin] Hist. A writ for taking away an heir held in socage. See SOCAGE.

#### RAPTURE

rapture.Archaic. 1. Forcible seizure and carrying off of another person (esp. a woman); abduction. 2.RAPE(1). See RAPUIT.

#### RAPTU VIRGINUM

raptu virginum (rap-t[y]oo v<<schwa>>r-ji-n<<schwa>>m). See DE RAPTU VIRGINUM.

#### RAPUIT

rapuit (rap-yoo-it). [Latin] Hist. Ravished. • The term was formerly used in indictments for rape. See RAVISHMENT.

#### RAR

RAR.abbr.REVENUE AGENT'S REPORT.

#### RASURE

rasure (ray-zh<<schwa>>r).1. The scraping or shaving of a document's surface to remove the writing from it; erasure. 2. Obliteration. — rase,vb.

#### RAT

rat.Slang. See STOOL PIGEON(1).

#### RATABLE

ratable (ray-t<<schwa>>-b<<schwa>>l), adj.1. Proportionate <ratable distribution>.2. Capable of being estimated, appraised, or apportioned < because hundreds of angry fans ran onto the field at the same time, blame for the goalpost's destruction is not ratable>.3. Taxable <the government assessed the widow's ratable estate>. See PRO RATA.

#### RATCHET THEORY

ratchet theory.Constitutional law. The principle that Congress, in exercising its enforcement power under the 14th Amendment, can increase but not dilute the scope of 14th Amendment guarantees as previously defined by the Supreme Court. • The thought underlying the term is that the enabling clause works in only one direction, like a ratchet. The theory was stated by Justice Brennan in *Katzenbach v. Morgan*, 384 U.S. 641, 86 S.Ct. 1717 (1966), but was repudiated by the Supreme Court in *City of Boerne v. Flores*, 521 U.S. 507, 117 S.Ct. 2157 (1997). — Also termed one-way ratchet theory.

#### RATE

rate,n.1. Proportional or relative value; the proportion by which quantity or value is adjusted <rate of inflation>.2. An amount paid or charged for a good or service <the rate for a business-class fare is \$550>.

class rate.A single rate applying to the transportation of several articles of the same general character. [Cases: Carriers 189. C.J.S. Aeronautics and Aerospace § 231; Carriers §§ 470–472, 474.]

confiscatory rate.A utility rate set so low by the government that the utility company cannot realize a reasonable return on its investment. [Cases: Public Utilities 129. C.J.S. Public Utilities §§ 35, 38–41, 57.]

freight rate.A rate charged by a carrier for the transportation of cargo, usu. based on the weight, volume, or quantity of goods but sometimes also on the goods' value or the mileage. [Cases: Carriers 12, 189. C.J.S. Aeronautics and Aerospace § 231; Carriers §§ 367–368, 470–472, 474.]

joint rate.A single rate charged by two or more carriers to cover a shipment of goods over a single route. [Cases: Carriers 26, 193. C.J.S. Carriers §§ 138–140, 482.]

union rate.The wage scale set by a union as a minimum wage to be paid and usu. expressed as an hourly rate or piecework rate.

3.INTEREST RATE <the rate on the loan increases by 2% after five years>.4.PREMIUM RATE. 5.English law. A sum assessed or payable to the local government in the place where a ratepayer dwells or has property. See RATEPAYER. — rate,vb.

#### RATE BASE

rate base.The investment amount or property value on which a company, esp. a public utility, is allowed to earn a particular rate of return. [Cases: Public Utilities 124. C.J.S. Public Utilities §§ 23–26, 30–33, 48–49.]

#### RATE-BASE VALUE

rate-base value. See net book cost under COST(1).

#### RATE OF INTEREST

rate of interest.See INTEREST RATE.

#### RATE OF RETURN

rate of return.The annual income from an investment, expressed as a percentage of the investment. See RETURN(5).

fair rate of return.The amount of profit that a public utility is permitted to earn, as determined by a public utility commission. [Cases: Public Utilities 129. C.J.S. Public Utilities §§ 35, 38–41, 57.]

internal rate of return.Accounting. A discounted-cash-flow method of evaluating a long-term

project, used to determine the actual return on an investment. — Abbr. IRR.

#### RATEPAYER

ratepayer. English law. A person who pays local taxes; a person liable to pay rates. See RATE(4).

#### RATIFICATION

ratification, n. 1. Adoption or enactment, esp. where the act is the last in a series of necessary steps or consents <The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same>. • In this sense, ratification runs the gamut of a formal approval of a constitutional amendment to rank-and-file approval of a labor union's collective-bargaining agreement with management. See ADOPTION(5). Cf. SANCTION(1). 2. Confirmation and acceptance of a previous act, thereby making the act valid from the moment it was done <the board of directors' ratification of the president's resolution>. • This sense includes action taken by the legislature to make binding a treaty negotiated by the executive. [Cases: Estoppel 90(1). C.J.S. Estoppel §§ 68–69, 134–135.] 3. Contracts. A person's binding adoption of an act already completed but either not done in a way that originally produced a legal obligation or done by a third party having at the time no authority to act as the person's agent <an adult's ratification of a contract signed during childhood is necessary to make the contract enforceable>. [Cases: Contracts 97(2); Infants 57; Principal and Agent 163–176. C.J.S. Agency §§ 63–104, 264, 447, 500, 527, 542, 549; Contracts §§ 138, 146, 156, 172, 186, 188; Infants §§ 167, 179.]

“Ratification may take place by express words indicating an intention to confirm the contract. These words may consist of a new express promise, or such words as ‘I do ratify and confirm.’ A mere acknowledgment that the contract was in fact made and that it has not been performed is not sufficient as a ratification. It is sometimes said that a ratification is ineffective unless made with knowledge of the possession of a legal power to disaffirm, but the cases holding the contrary seem to have the better reason.” William R. Anson, *Principles of the Law of Contract* 179–80 (Arthur L. Corbin ed., 3d Am. ed. 1919).

4. Int'l law. The final establishment of consent by the parties to a treaty to be bound by it, usu. including the exchange or deposit of instruments of ratification <the ratification of the nuclear-weapons treaty>. See INSTRUMENT OF RATIFICATION. Cf. CONFIRMATION. [Cases: Treaties 3. C.J.S. Treaties § 4.] — ratify, vb. — ratifiable, adj.

#### RATIHABITIO

ratihabitio (rat-*schwa*-h*schwa*-bish-ee-oh), n. [Latin fr. *ratum habere* “to hold ratified”] Civil law. Ratification or approval, esp. by a principal of an agent's transaction. Pl. *ratihabitiones*.

#### RATING

rating. 1. Marine insurance. The determination of a vessel's state or condition as a factor of insurability. 2. INSURANCE RATING.

## RATIOCINATION

ratiocination (rash-ee-os-<<schwa>>-nay-sh<<schwa>>n), n. The process or an act of reasoning. — ratiocinative (rash-ee-os-<<schwa>>-nay-tiv), adj. — ratiocinate (rash-ee-os-<<schwa>>-nayt), vb.

## RATIO DECIDENDI

ratio decidendi (ray-shee-oh des-<<schwa>>-den-di), n.[Latin “the reason for deciding”] 1. The principle or rule of law on which a court's decision is founded <many poorly written judicial opinions do not contain a clearly ascertainable ratio decidendi>.2. The rule of law on which a later court thinks that a previous court founded its decision; a general rule without which a case must have been decided otherwise <this opinion recognizes the Supreme Court's ratio decidendi in the school desegregation cases>. — Often shortened to ratio. Pl. rationes decidendi (ray-shee-oh-nee-des-<<schwa>>-den-di). Cf. OBITER DICTUM; HOLDING(1).

“The phrase ‘the ratio decidendi of a case’ is slightly ambiguous. It may mean either (1) the rule that the judge who decided the case intended to lay down and apply to the facts, or (2) the rule that a later court concedes him to have had the power to lay down.” Glanville Williams, *Learning the Law* 75 (11th ed. 1982).

“There are ... two steps involved in the ascertainment of the ratio decidendi.... First, it is necessary to determine all the facts of the case as seen by the judge; secondly, it is necessary to discover which of those facts were treated as material by the judge.” Rupert Cross & J.W. Harris, *Precedent in English Law* 65–66 (4th ed. 1991).

## RATIO LEGIS

ratio legis (ray-shee-oh lee-j<<schwa>>s), n.[Latin] The reason or purpose for making a law <the Senator argued that the rapid spread of violent crime was a compelling ratio legis for the gun-control statute>. — Also termed ratio juris.

## RATIONABILE ESTOVERIUM

rationabile estoverium (rash-[ee]-<<schwa>>-nay-b<<schwa>>-lee es-t<<schwa>>-veer-ee-<<schwa>>m), n.[Law Latin “reasonable necessities”] Hist. Alimony.

## RATIONABILIBUS DIVISIS

rationabilibus divisus.See DE RATIONABILIBUS DIVISIS.

## RATIONABILI PARTE BONORUM

rationabili parte bonorum.See DE RATIONABILI PARTE BONORUM.

## RATIONAL-BASIS TEST

rational-basis test.Constitutional law. The criterion for judicial analysis of a statute that does not implicate a fundamental right or a suspect or quasi-suspect classification under the Due Process or Equal Protection Clause, whereby the court will uphold a law if it bears a reasonable

relationship to the attainment of a legitimate governmental objective. • Rational basis is the most deferential of the standards of review that courts use in due-process and equal-protection analysis. — Also termed rational-purpose test; rational-relationship test; minimum scrutiny; minimal scrutiny. Cf. STRICT SCRUTINY ; INTERMEDIATE SCRUTINY. [Cases: Constitutional Law 213.1(2). C.J.S. Constitutional Law §§ 714, 716, 718.]

#### RATIONAL-CHOICE THEORY

rational-choice theory. The theory that criminals engage in criminal activity when they believe that the potential benefits outweigh the risks of committing the crime. Cf. CONTROL THEORY; ROUTINE-ACTIVITIES THEORY; STRAIN THEORY .

#### RATIONAL DOUBT

rational doubt. See REASONABLE DOUBT.

#### RATIONAL INTERPRETATION

rational interpretation. See logical interpretation under INTERPRETATION.

#### RATIONAL-PURPOSE TEST

rational-purpose test. See RATIONAL-BASIS TEST.

#### RATIONAL-RELATIONSHIP TEST

rational-relationship test. See RATIONAL-BASIS TEST.

#### RATIONE

ratione (ray-shee-oh-nee or rash-ee-oh-nee). [Latin] By reason; on account.

ratione bonorum (b<<schwa>>-nor-<<schwa>>m). By reason of property.

ratione causae (kaw-zee). By reason of the nature of the case.

ratione contractus (k<<schwa>>n-trak-t<<schwa>>s). By reason of the contract.

“By entering into a contract, the contracting parties may ... render themselves amenable to the jurisdiction of a judge to whose jurisdiction they would not have been amenable had the contract not been entered into. Thus, a foreigner, for the time being domiciled in Scotland, entering into a contract there with a Scotchman ... renders himself amenable to the jurisdiction of the Scotch courts in any question arising out of the contract, for the parties ... are presumed to have had the law and the courts of Scotland in view as the forum... and a jurisdiction thus founded is said to arise *ratione contractus*.” John Trayner, *Trayner's Latin Maxims* 540 (4th ed. 1894).

ratione delicti (di-lik-ti). On account of the delict.

ratione domicilii (dom-<<schwa>>-sil-ee-I). By reason of domicile; on account of residence.

• The phrase appeared in reference to the foundation of jurisdiction in many civil cases.

ratione habita (hab-i-t<<schwa>>). Regard being had (of particular factors or circumstances).

ratione impotentiae (im-p<<schwa>>-ten-shee-ee). By reason of inability. • This was the basis for a property right in young wild animals that were unable to run or fly. See FERAE NATURAE.

ratione incidentiae (in-si-den-shee-ee). By reason of the incident.

ratione loci (loh-sI). By reason of place. • This was the basis for a property right in rabbits and hares.

ratione materiae (m<<schwa>>-teer-ee-ee). By reason of the matter involved.

ratione originis (<<schwa>>-rij-<<schwa>>-nis). By reason of one's origin.

ratione personae (p<<schwa>>r-soh-nee). By reason of the person concerned.

ratione privilegii (priv-<<schwa>>-lee-jee-I). By reason of privilege. • This was the basis for a property right in animals of warren. See WARREN.

ratione rei sitae (ree-IsI-tee). By reason of the situation of a thing.

ratione soli (soh-II). By reason of the soil. • This was the basis for a property right in bees.

ratione subjectae materiae (s<<schwa>>b-jek-tee m<<schwa>>-teer-ee-ee). On account of the subject matter.

ratione suspecti iudicis (s<<schwa>>-spek-tIjoo-di-sis). On account of the judge being suspected. • This referred to a judge's recusal in a case.

ratione tenurae (ten-y<<schwa>>-ree). By reason of tenure.

#### RATIONES

rationes (ray-shee-oh-nee-z or rash-ee-oh-nee-z), n.[Latin “reasons”] Hist. The pleadings in a suit.

#### RATIO PERTINENS

ratio pertinens.A pertinent reason (for a question).

#### RATIO SCIENTIAE

ratio scientiae (ray-shee-oh sI-en-shee-ee). [Law Latin] Hist. The ground of knowledge; esp., the basis for a witness's testimony.

#### RATIO SCRIPTA

ratio scripta (ray-shee-oh skrip-t<<schwa>>). [Latin] Roman law. Written reason.

#### RATTENING

rattening (rat-ning).Hist. The practice of taking away tools, destroying machinery, and the like in an attempt either to compel a worker to join a union or to enforce a company's compliance with union rules. • Rattening was formerly a common labor-union tactic in England, and it was a

criminal offense.

#### RAVISHMENT

ravishment,n. Archaic. 1. Forcible seizure and carrying off of another person (esp. a woman); ABDUCTION. 2.RAPE(1). • In this sense the term is widely considered inappropriate for modern usage, given its romantic connotations (in other contexts) of ecstasy and delight. In the Restatement (First) of Torts § 65a, the word was defined as including not just rape but any carnal intercourse of a criminal nature. See RAPUIT. — ravish,vb.

#### RBS

RBS.abbr. RURAL BUSINESS-COOPERATIVE SERVICE.

#### RCE

RCE.abbr. REQUEST FOR CONTINUED EXAMINATION.

#### RDNA

rDNA.abbr. RECOMBINANT DNA TECHNOLOGY.

#### RE

re (ree or ray), prep. Regarding; in the matter of; IN RE. • The term is often used as a signal or introductory title announcing the subject of business correspondence.

#### REA

REA.abbr. RURAL ELECTRIFICATION ADMINISTRATION.

rea (ree-<<schwa>>), n.[Latin] In civil and canon law, a defendant. Pl. reae.

#### REACQUIRED STOCK

reacquired stock.See treasury stock under STOCK.

#### READING

reading.Parliamentary law. The recitation aloud of a bill or other main motion, sometimes by title only, usu. in a series of three such recitations necessary before a legislative body can pass a bill. See reading clerk under CLERK(7).

#### READING CLERK

reading clerk.See CLERK(7).

#### READ INTO

read into,vb. See READ ON.

#### READJUSTMENT

readjustment,n. Voluntary reorganization of a financially troubled corporation by the

shareholders themselves, without a trustee's or a receiver's intervention. — readjust,vb.

#### READ ON

read on,vb. Patents. 1. (Of a patent claim) to contain all the same features of (a prior-art reference). • If the patent claim reads on the prior art, the claim has been anticipated and the patent will be denied. See ANTICIPATED. [Cases: Patents 72(1). C.J.S. Patents § 31.] 2. (Of a patent claim) to describe an infringing product or process. • If all the patent claims read on the other product, that product infringes the patent. — Also termed read into; recite. [Cases: Patents 226.6. C.J.S. Patents § 415.]

#### READY, WILLING, AND ABLE

ready, willing, and able.(Of a prospective buyer) legally and financially capable of consummating a purchase. [Cases: Brokers 54; Specific Performance 87. C.J.S. Brokers §§ 152–154; Specific Performance §§ 104, 106–107, 109.]

“ ‘READY, WILLING, AND ABLE’ — A phrase referring to a prospective buyer of property who is legally capable and financially able to consummate the deal. Traditionally, the broker earns a commission upon procuring a ‘ready, willing, and able’ buyer on the listing terms, regardless of whether the seller actually goes through with the sale. The ‘ready and willing’ means, generally, that the broker must in fact produce a buyer who indicates that he or she is prepared to accept the terms of the seller and is willing to enter into a contract for sale. The buyer is not ‘ready and willing’ when he or she enters into an option with the seller, but the buyer is ‘ready and willing’ when the option is exercised. The buyer is not ‘ready and willing’ when the offer is subject to any new conditions, such as making the closing date an unreasonably long period, for example, one year from the offer.... The ‘able’ requires that the buyer be financially able to comply with the terms of the sale in both initial cash payment and any necessary financing. The broker is not required to show that the purchaser has actual cash or assets to pay off the mortgage. But the broker is required to reveal the identity of the buyer if requested by the seller.” John W. Reilly, *The Language of Real Estate* 326 (4th ed. 1993).

#### REAFFIRMATION

reaffirmation,n.1. Approval of something previously decided or agreed to; renewal <the Supreme Court's reaffirmation of this principle is long overdue>.2.Bankruptcy. An agreement between the debtor and a creditor by which the debtor promises to repay a prepetition debt that would otherwise be discharged at the conclusion of the bankruptcy <the debtor negotiated a reaffirmation so that he could keep the collateral>. • There are two main requirements for a reaffirmation to be enforceable: (1) the agreement must contain a clear and conspicuous provision stating that the debtor may rescind the reaffirmation agreement anytime before discharge or within 60 days after the agreement is filed with the court; and (2) for a debtor who is not represented by counsel, the court must determine that the reaffirmation is in the debtor's best interest and does not impose an undue hardship. 11 USCA § 524(c). — Also termed (in sense 2) reaffirmation agreement. [Cases: Bankruptcy 3415. C.J.S. Bankruptcy § 350.] — reaffirm,vb.

#### REAFFIRMATION HEARING



reaffirmation hearing. Bankruptcy. A hearing at which the debtor and a creditor present a reaffirmation of a dischargeable debt for the court's approval. • The reaffirmation hearing is usually held simultaneously with the discharge hearing. See DISCHARGE HEARING. [Cases: Bankruptcy 3417. C.J.S. Bankruptcy § 350.]

**REAL**

real, adj. 1. Of or relating to things (such as lands and buildings) that are fixed or immovable <real property> <a real action>. 2. Civil law. Of, relating to, or attached to a thing (whether movable or immovable) rather than a person <a real right>. 3. Actual; genuine; true <real authority>. 4. (Of money, income, etc.) measured in terms of purchasing power rather than nominal value; adjusted for inflation <real wages>.

**REAL ACCOUNT**

real account. See ACCOUNT.

**REAL ACTION**

real action. See ACTION(4).

**REAL ASSET**

real asset. See ASSET.

**REAL AUTHORITY**

real authority. See actual authority under AUTHORITY(1).

**REAL BURDEN**

real burden. See BURDEN(4).

**REAL CHATTEL**

real chattel. See chattel real under CHATTEL.

**REAL CONTRACT**

real contract. See CONTRACT.

**REAL COVENANT**

real covenant. See covenant running with the land under COVENANT(4).

**REAL DAMAGES**

real damages. See actual damages under DAMAGES.

**REAL DEFENSE**

real defense. See DEFENSE(4).

**REAL EARNINGS**

real earnings. See EARNINGS.

#### REAL ESTATE

real estate. See real property under PROPERTY.

#### REAL-ESTATE AGENT

real-estate agent. See AGENT(2).

#### REAL-ESTATE BROKER

real-estate broker. See BROKER.

#### REAL-ESTATE INVESTMENT TRUST

real-estate investment trust. A company that invests in and manages a portfolio of real estate, with the majority of the trust's income distributed to its shareholders. • Such a trust may qualify for special income-tax treatment if it distributes 95% of its income to its shareholders. — Abbr. REIT. See investment company under COMPANY. Cf. REAL-ESTATE MORTGAGE TRUST. [Cases: Internal Revenue 3997. C.J.S. Internal Revenue § 420.]

umbrella-partnership real-estate investment trust. A REIT that controls and holds most of its properties through an umbrella limited partnership, as a result of which the trust can acquire properties in exchange for the limited-partnership interests in the umbrella while triggering no immediate tax obligations for certain sellers. • This is a structure that many REITs now use. — Abbr. UPREIT. [Cases: Internal Revenue 3997. C.J.S. Internal Revenue § 420.]

#### REAL-ESTATE-MORTGAGE INVESTMENT CONDUIT

real-estate-mortgage investment conduit. An entity that holds a fixed pool of mortgages or mortgage-backed securities (such as collateralized mortgage obligations), issues interests in itself to investors, and receives favorable tax treatment by passing its income through to those investors. • Real-estate-mortgage investment conduits were created by the Tax Reform Act of 1986. They can be organized as corporations, partnerships, or trusts. To qualify for tax-exempt status, the entity must meet two requirements: (1) almost all the entity's assets must be real-estate mortgages (though a few other cash-flow-maintaining assets are allowed); and (2) all interests in the entity must be classified as either regular interests (which entitle the holder to principal and interest income through debt or equity) or residual interests (which provide contingent income). — Abbr. REMIC.

#### REAL-ESTATE MORTGAGE TRUST

real-estate mortgage trust. A real-estate investment trust that buys and sells the mortgages on real property rather than the real property itself. — Abbr. REMT. Cf. REAL-ESTATE INVESTMENT TRUST.

#### REAL ESTATE OWNED

real estate owned. Property acquired by a lender, usu. through foreclosure, in satisfaction of a

debt. — Abbr. REO. [Cases: Mortgages 534. C.J.S. Mortgages § 897.]

#### REAL ESTATE SETTLEMENT PROCEDURES ACT

Real Estate Settlement Procedures Act. A federal law that requires lenders to provide home buyers with information about known or estimated settlement costs. 12 USCA §§ 2601–2617. — Abbr. RESPA. See REGULATION X. [Cases: Consumer Credit 30. C.J.S. Interest and Usury; Consumer Credit §§ 317–318.]

#### REAL-ESTATE SYNDICATE

real-estate syndicate. A group of investors who pool their money for the buying and selling of real property. • Most real-estate syndicates operate as limited partnerships or real-estate investment trusts.

#### REAL EVIDENCE

real evidence. See EVIDENCE.

#### REALIGNMENT

realignment (ree-<<schwa>>-lIn-m<<schwa>>nt), n. The process by which a court, usu. in determining diversity jurisdiction, identifies and rearranges the parties as plaintiffs and defendants according to their ultimate interests. [Cases: Federal Civil Procedure 101; Federal Courts 304.] — realign, vb.

#### REAL INCOME

real income. See INCOME.

#### REALIZATION

realization, n. 1. Conversion of noncash assets into cash assets. 2. Tax. An event or transaction, such as the sale or exchange of property, that substantially changes a taxpayer's economic position so that income tax may be imposed or a tax allowance granted. Cf. RECOGNITION(4). [Cases: Internal Revenue 3115, 3178; Taxation 996. C.J.S. Internal Revenue §§ 61, 110; Taxation §§ 1732–1733.] — realize, vb.

#### REALIZED GAIN

realized gain. See GAIN(3).

#### REALIZED LOSS

realized loss. See LOSS(2).

#### REAL LAW

real law. The law of real property; real-estate law.

#### REAL MONEY

real money. See MONEY.

---

**REAL PARTY IN INTEREST**

real party in interest. See PARTY(2).

**REAL-PARTY-IN-INTEREST RULE**

real-party-in-interest rule. The principle that the person entitled by law to enforce a substantive right should be the one under whose name the action is prosecuted. Fed. R. Civ. P. 17(a).

**REAL PROPERTY**

real property. See PROPERTY.

**REAL RATE**

real rate. See INTEREST RATE.

**REAL RIGHT**

real right. See RIGHT.

**REAL SECURITY**

real security. See SECURITY.

**REAL SERVITUDE**

real servitude. See servitude appurtenant under SERVITUDE(2).

**REAL STATUTE**

real statute. See STATUTE.

**REAL SURETYSHIP**

real suretyship. See SURETYSHIP.

**REAL THINGS**

real things. Property that is fixed and immovable, such as lands and buildings; real property. — Also termed things real. See real property under PROPERTY. Cf. chattel real under CHATTEL. [Cases: Property 4. C.J.S. Property §§ 14–21, 23.]

**REALTOR**

realtor (reel-t<<schwa>>r). 1. (cap.) Servicemark. A member of the National Association of Realtors. [Cases: Brokers 3. C.J.S. Brokers §§ 14–24.] 2. Loosely, any real-estate agent or broker. [Cases: Brokers 2. C.J.S. Brokers §§ 2–5.]

**REAL TREATY**

real treaty. See TREATY(1).

**REALTY**

realty. Land and anything growing on, attached to, or erected on it, that cannot be removed without injury to the land. — Also termed real property.

quasi-realty.Hist. Things that the law treats as fixed to realty, but are themselves movable, such as title deeds.

#### REALTY TRUST

realty trust.See nominee trust (2) under TRUST.

#### REAL WAGES

real wages.See WAGE.

#### REAL WARRANTICE

real warrantice.See WARRANTICE.

#### REAL WRONG

real wrong.See WRONG.

#### REAPPORTIONMENT

reapportionment,n. Realignment of a legislative district's boundaries to reflect changes in population. • The U.S. Supreme Court has required federal reapportionment. See U.S. Const. art. I, § 2, cl. 3. — Also termed redistricting. Cf. GERRYMANDERING. [Cases: Elections 12(6); States 27. C.J.S. States §§ 62–78.] — reapportion,vb.

#### REARGUMENT

reargument,n. The presentation of additional arguments, which often suggest that a controlling legal principle has been overlooked, to a court (usu. an appellate court) that has already heard initial arguments. Cf. REHEARING. [Cases: Federal Civil Procedure 928; Motions 39. C.J.S. Motions and Orders §§ 39–40.] — reargue,vb.

#### REARREST

rearrest. See ARREST.

#### REASONABLE

reasonable,adj.1. Fair, proper, or moderate under the circumstances < reasonable pay>.2. According to reason <your argument is reasonable but not convincing>.

“It is extremely difficult to state what lawyers mean when they speak of ‘reasonableness.’ In part the expression refers to ordinary ideas of natural law or natural justice, in part to logical thought, working upon the basis of the rules of law.” John Salmond, *Jurisprudence* 183 n.(u) (Glanville L. Williams ed., 10th ed. 1947).

“In one sense the word [reasonable] describes the proper use of the reasoning power, and in another it is no more than a word of assessment. Reasoning does not help much in fixing a

reasonable or fair price or a reasonable or moderate length of time, or in estimating the size of a doubt. Lawyers say a reasonable doubt, meaning a substantial one; the Court of Appeal has frowned upon the description of a reasonable doubt as one for which reasons could be given.” Patrick Devlin, *The Judge* 134 (1979).

3. (Of a person) having the faculty of reason <a reasonable person would have looked both ways before crossing the street>.4.Archaic. Human <criminal homicide is traditionally called the unlawful killing of a “reasonable person”>. — reasonableness,n.

#### REASONABLE ACCOMMODATION

reasonable accommodation. 1. An action taken to adapt or adjust for a disabled person, done in a way that does not impose an undue hardship on the party taking the action. • Under the Americans with Disabilities Act, an employer must make reasonable accommodations for an employee's disability. Examples of reasonable accommodations that have been approved by the courts include providing additional unpaid leave, modifying the employee's work schedule, and reassigning the employee to a more appropriate, vacant position. [Cases: Civil Rights 1020, 1225. C.J.S. Civil Rights §§ 4–5, 8, 13, 62–63.] 2. An action taken to adapt or adjust for an employee's religious need or practice, done in a way that does not impose an undue hardship on the employer. See HARDSHIP. [Cases: Civil Rights 1162.C.J.S. Civil Rights §§ 35, 88.]

#### REASONABLE-APPREHENSION TEST

reasonable-apprehension test.Patents. A judicial analysis to decide whether there is a justiciable controversy between a patentee and an alleged infringer. • The test has two elements: (1) the patentee must make an explicit threat or take other action that makes another person reasonably believe that an infringement suit is likely, and (2) the other person must be engaged in an activity that could constitute infringement or must be intentionally preparing to engage in possibly infringing activity. If either element is prospective or uncertain, the court will not consider the complaint. [Cases: Declaratory Judgment 233. C.J.S. Declaratory Judgments § 99.]

#### REASONABLE CARE

reasonable care.See CARE.

#### REASONABLE CAUSE

reasonable cause.See PROBABLE CAUSE.

#### REASONABLE-CONSUMER TEST

reasonable-consumer test.The prevailing test for determining whether advertisement is deceptive, determined by asking whether the reasonable consumer would believe that the claim is true. Cf. FOOL'S TEST.

#### REASONABLE-DEVELOPMENT COVENANT

reasonable-development covenant.Oil & gas. The implied promise in an oil-and-gas lease that once production is obtained the lessee will continue to develop the property as would a

reasonably prudent operator, as opposed to merely holding the lease by the production already obtained. See FURTHER-EXPLORATION COVENANT T.

#### REASONABLE DEVIATION

reasonable deviation. See DEVIATION.

#### REASONABLE DILIGENCE

reasonable diligence. See DILIGENCE.

#### REASONABLE DOUBT

reasonable doubt. The doubt that prevents one from being firmly convinced of a defendant's guilt, or the belief that there is a real possibility that a defendant is not guilty. • “Beyond a reasonable doubt” is the standard used by a jury to determine whether a criminal defendant is guilty. See Model Penal Code § 1.12. In deciding whether guilt has been proved beyond a reasonable doubt, the jury must begin with the presumption that the defendant is innocent. — Also termed rational doubt. See BURDEN OF PERSUASION. Cf. clear and convincing evidence under EVIDENCE; PREPONDERANCE OF THE EVIDENCE. [Cases: Constitutional Law 266(7); Criminal Law 561. C.J.S. Constitutional Law §§ 1028–1029, 1037; Criminal Law § 1108.]

“Reasonable doubt ... is a term often used, probably pretty well understood, but not easily defined. It is not a mere possible doubt; because every thing relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case, which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.” *Commonwealth v. Webster*, 59 Mass. (5 Cush.) 295, 320 (1850) (per Lemuel Shaw, J.).

“The gravamen of Lord Goddard's objection to the formula of ‘reasonable doubt’ seems to have been the muddle occasionally created by an impromptu effort to explain to a jury the meaning of this phrase. A simple solution would be to refrain from explaining it, relying on the common sense of the jury. As Barton J. said in an Australian case, ‘one embarks on a dangerous sea if he attempts to define with precision a term which is in ordinary use with reference to this subject-matter, and which is usually stated to a jury without embellishment as a well understood expression.’ However, some modes of embellishment seem to be unobjectionable. There is probably no harm in telling the jury, as some judges do, that a reasonable doubt is one for which a sensible reason can be supplied.” Glanville Williams, *Criminal Law* 873 (2d ed. 1961).

#### REASONABLE EXCUSE

reasonable excuse. See PROBABLE CAUSE.

#### REASONABLE-EXPECTATION DOCTRINE

reasonable-expectation doctrine. Insurance. The rule that resolves an insurance-policy ambiguity in favor of the insured's reasonable expectations. [Cases: Insurance 1817. C.J.S. Insurance § 363.]

---

**REASONABLE FORCE**

reasonable force. See FORCE.

**REASONABLE GROUNDS**

reasonable grounds. See PROBABLE CAUSE.

**REASONABLE-INFERENCE RULE**

reasonable-inference rule. An evidentiary principle providing that a jury, in deciding a case, may properly consider any reasonable inference drawn from the evidence presented at trial. Cf. PYRAMIDING INFERENCES, RULE AGAINST. [Cases: Criminal Law 559; Evidence 595. C.J.S. Criminal Law § 1096; Evidence §§ 1300, 1341.]

**REASONABLE MAN**

reasonable man. See REASONABLE PERSON.

**REASONABLE MEDICAL PROBABILITY**

reasonable medical probability. In proving the cause of an injury, a standard requiring a showing that the injury was more likely than not caused by a particular stimulus, based on the general consensus of recognized medical thought. — Also termed reasonable medical certainty. [Cases: Damages 185(1); Evidence 547.5. C.J.S. Damages §§ 308–310; Evidence §§ 609, 648, 698–699.]

**REASONABLE NOTICE**

reasonable notice. See NOTICE.

**REASONABLE PERSON**

reasonable person. 1. A hypothetical person used as a legal standard, esp. to determine whether someone acted with negligence; specif., a person who exercises the degree of attention, knowledge, intelligence, and judgment that society requires of its members for the protection of their own and of others' interests. • The reasonable person acts sensibly, does things without serious delay, and takes proper but not excessive precautions. — Also termed reasonable man; prudent person; ordinarily prudent person; reasonably prudent person; highly prudent person. See reasonable care under CARE. [Cases: Insurance 1818; Negligence 233. C.J.S. Negligence §§ 34, 118–121, 125–127, 130–131, 133.]

“The reasonable man connotes a person whose notions and standards of behaviour and responsibility correspond with those generally obtained among ordinary people in our society at the present time, who seldom allows his emotions to overbear his reason and whose habits are moderate and whose disposition is equable. He is not necessarily the same as the average man — a term which implies an amalgamation of counter-balancing extremes.” R.F.V. Heuston, *Salmond on the Law of Torts* 56 (17th ed. 1977).

2. Archaic. A human being. “In the antique phraseology which has been repeated since the



time of Lord Coke the actus reus of murder (and therefore of any criminal homicide) was declared to be unlawfully killing a reasonable person who is in being and under the King's peace, the death following within a year and a day. In this sentence the word 'reasonable' does not mean 'sane', but 'human'. In criminal law, a lunatic is a persona for all purposes of protection, even when not so treated for the assessment of liability." J.W. Cecil Turner, *Kenny's Outlines of Criminal Law* 102 (16th ed. 1952).

#### REASONABLE PROVOCATION

reasonable provocation. See adequate provocation under PROVOCATION.

#### REASONABLE ROYALTY

reasonable royalty. See ROYALTY(1).

#### REASONABLE SKILL

reasonable skill. See SKILL.

#### REASONABLE SUPPORT

reasonable support. See SUPPORT.

#### REASONABLE SUSPICION

reasonable suspicion. See SUSPICION.

#### REASONABLE TIME

reasonable time. 1. Contracts. The time needed to do what a contract requires to be done, based on subjective circumstances. • If the contracting parties do not fix a time for performance, the law will usu. presume a reasonable time. [Cases: Contracts 212. C.J.S. Contracts § 582.] 2. Commercial law. The time during which the UCC permits a party to accept an offer, inspect goods, substitute conforming goods for rejected goods, and the like. [Cases: Sales 22(5), 23(5), 166(1), 168(2), 179(6). C.J.S. Sales §§ 34, 176, 182, 186–187, 192, 194–198.]

#### REASONABLE USE

reasonable use. See USE(1).

#### REASONABLE-USE THEORY

reasonable-use theory. Property. The principle that owners of riparian land may make reasonable use of their water if this use does not affect the water available to lower riparian owners. [Cases: Waters and Water Courses 41. C.J.S. Waters § 13.]

#### REASONABLY BELIEVE

reasonably believe. See BELIEVE.

#### REASONABLY-PRUDENT-OPERATOR STANDARD

reasonably-prudent-operator standard. Oil & gas. The test generally applied to determine a

lessee's compliance with implied lease covenants by considering what a reasonable, competent operator in the oil-and-gas industry would do under the circumstances, acting in good faith and with economic motivation, and taking into account the lessor's interests as well as that of the operator. — Also termed reasonable-prudent-operator standard; prudent-operator standard.

#### REASONABLY PRUDENT PERSON

reasonably prudent person. See REASONABLE PERSON.

#### REASONABLY SUSPECT

reasonably suspect. See SUSPECT.

#### REASONS FOR ALLOWANCE

reasons for allowance. See RULE 109 STATEMENT.

#### REASON TO KNOW

reason to know. Information from which a person of ordinary intelligence — or of the superior intelligence that the person may have — would infer that the fact in question exists or that there is a substantial enough chance of its existence that, if the person exercises reasonable care, the person can assume the fact exists.

#### REASSURANCE

reassurance. See REINSURANCE.

#### REBATE

rebate, n. A return of part of a payment, serving as a discount or reduction. — rebate, vb.

#### REBELLION

rebellion. 1. Open, organized, and armed resistance to an established government or ruler. 2. Open resistance or opposition to an authority or tradition. 3. Hist. Disobedience of a legal command or summons.

#### REBUS INTEGRIS

rebus integris (ree-b<<schwa>>s in-t<<schwa>>-gris). [Latin] Scots law. Matters being complete; no performance having taken place. • For example, a contract could be rescinded if nothing had been done toward performance.

#### REBUS IPSIS ET FACTIS

rebus ipsis et factis (ree-b<<schwa>>s ip-sis et fak-tis). [Latin] Scots law. By the facts and circumstances themselves. • A marital contract was sometimes inferred rebus ipsis et factis.

#### REBUS SIC STANTIBUS

rebus sic stantibus (ree-b<<schwa>>s sik stan-ti-b<<schwa>>s). [Latin “matters so standing”] Int'l law & civil law. The principle that all agreements are concluded with the implied

condition that they are binding only as long as there are no major changes in the circumstances. See *CLAUSA REBUS SIC STANTIBUS* . [Cases: Treaties 5. C.J.S. Treaties § 10.]

#### REBUT

rebut,vb. To refute, oppose, or counteract (something) by evidence, argument, or contrary proof <rebut the opponent's expert testimony> <rebut a presumption of negligence>.

#### REBUTTABLE PRESUMPTION

rebuttable presumption.See *PRESUMPTION*.

#### REBUTTAL

rebuttal,n.1. In-court contradiction of an adverse party's evidence. 2. The time given to a party to present contradictory evidence or arguments. Cf. *CASE-IN-CHIEF*. [Cases: Criminal Law 683; Federal Civil Procedure 2015; Trial 62. C.J.S. Criminal Law § 1219; Trial § 195.]

“Rebuttal is the hardest argument to make in any court. In the Supreme Court and in most courts of appeals, petitioner has to work hard to save any time at all for rebuttal. In the Supreme Court, rebuttal time comes directly out of the 30 minutes allotted to petitioner's side and, if the justices keep asking questions that use up petitioner's time, the case is submitted without rebuttal. Many courts of appeals permit counsel to reserve time for rebuttal, either through the clerk in advance of the argument or at the beginning of the argument itself. It is the rare court of appeals panel that does not permit counsel at least one minute of rebuttal, even when counsel's time has expired.” David C. Frederick, *Supreme Court and Appellate Advocacy* § 7.3, at 178 (2003) (dealing only with oral rebuttals on appeal).

3. The arguments contained in a reply brief. See reply brief under *BRIEF*.

#### REBUTTAL EVIDENCE

rebuttal evidence.See *EVIDENCE*.

#### REBUTTAL WITNESS

rebuttal witness.See *WITNESS*.

#### REBUTTER

rebutter. 1.Common-law pleading. The defendant's answer to a plaintiff's surrejoinder; the pleading that followed the rejoinder and surrejoinder, and that might in turn be answered by the surrebutter. [Cases: Pleading 185.] 2. One who rebuts.

#### REBUTTING EVIDENCE

rebutting evidence.See rebuttal evidence under *EVIDENCE*.

#### RECALL

recall,n.1. Removal of a public official from office by popular vote. [Cases: Officers and Public Employees 70.7. C.J.S. Officers and Public Employees §§ 215–219.] 2. A manufacturer's

request to consumers for the return of defective products for repair or replacement. [Cases: Insurance 2278(24); Products Liability 12. C.J.S. Products Liability § 22.] 3. Revocation of a judgment for factual or legal reasons. — recall,vb.

#### RECALL ELECTION

recall election.See ELECTION(3).

#### RECALL EXCLUSION

recall exclusion.See sistership exclusion under EXCLUSION(3).

#### RECALL LETTER

recall letter.See LETTER OF RECALL.

#### RECALL OF MANDATE

recall of mandate.The extraordinary action by an appellate court of withdrawing the order it issued to the trial court upon deciding an appeal, usu. after the deadline has passed for the losing party to seek a rehearing. • Because this action can interfere with trial-court proceedings on remand, and also because it clouds the waters that repose (the finality of a judgment) is meant to clear, courts are reluctant to use the power. But they will use it to correct clerical errors or to remedy a fraud on the court during the appeal. It has also been used when the original mandate would result in a grave injustice. See MANDATE(1).

#### RECAANT

recant (ri-kant), vb.1. To withdraw or renounce (prior statements or testimony) formally or publicly <the prosecution hoped the eyewitness wouldn't recant her corroborating testimony on the stand>.2. To withdraw or renounce prior statements or testimony formally or publicly <under grueling cross-examination, the witness recanted>. — recantation,n.

#### RECAPITALIZATION

recapitalization,n. An adjustment or recasting of a corporation's capital structure — that is, its stocks, bonds, or other securities — through amendment of the articles of incorporation or merger with a parent or subsidiary. • An example of recapitalization is the elimination of unpaid preferred dividends and the creation of a new class of senior securities. Cf. REORGANIZATION(2). [Cases: Corporations 38, 581. C.J.S. Corporations §§ 54–61, 792–797.] — recapitalize,vb.

leveraged recapitalization.Recapitalization whereby the corporation substitutes debt for equity in the capital structure, usu. to make the corporation less attractive as a target for a hostile takeover. — Also termed leveraging up.

#### RECAPTION

recaption. 1. At common law, lawful seizure of another's property for a second time to secure the performance of a duty; a second distress. See DISTRESS. 2. Peaceful retaking, without legal process, of one's own property that has been wrongfully taken.

---

**RECAPTURE**

recapture, n. 1. The act or an instance of retaking or reacquiring; recovery. 2. The lawful taking by the government of earnings or profits exceeding a specified amount; esp., the government's recovery of a tax benefit (such as a deduction or credit) by taxing income or property that no longer qualifies for the benefit. [Cases: Internal Revenue 3089, 3138, 3531. C.J.S. Internal Revenue §§ 78, 351, 490–491.] 3. Int'l law. The retaking of a prize or booty so that the property is legally restored to its original owner. See **POSTLIMINIUM**(2). — recapture, vb.

“Upon recapture from pirates, the property is to be restored to the owner, on the allowance of a reasonable compensation to the retaker, in the nature of salvage; for it is a principle of the law of nations, that a capture by pirates does not, like a capture by an enemy in solemn war, change the title, or divest the original owner of his right to the property, and it does not require the doctrine of postliminy to restore it.” 1 James Kent, *Commentaries on American Law* \*107–08 (George Comstock ed., 11th ed. 1866).

**RECAPTURE CLAUSE**

recapture clause. 1. A contract provision that limits prices or allows for the recovery of goods if market conditions greatly differ from what the contract anticipated. 2. A commercial-lease provision that grants the landlord both a percentage of the tenant's profits above a fixed amount of rent and the right to terminate the lease — and thus recapture the property — if those profits are too low.

**RECAPTURE RULE**

recapture rule. Patents. The doctrine that a patentee cannot regain, in a reissue patent, a claim that the patentee previously abandoned in order to gain allowance of the patent application. • The rule provides a defense in an infringement action by allowing the defendant to attack the validity of a reissue patent. An attempt to recapture a strategically abandoned claim cannot meet the statutory requirement that the error be made without deceptive intent. 35 USCA § 251. [Cases: Patents 141(6). C.J.S. Patents § 249.]

**RECEDE**

recede, vb. (Of a house in a bicameral legislature) to withdraw from an amendment in which the other house has not concurred. See **CONCUR**(3).

“A vote to recede from amendments constitutes a final passage of the bill without the amendments from which the house has receded, since both houses have then agreed to the bill in its form prior to amendment.” National Conference of State Legislatures, *Mason's Manual of Legislative Procedure* § 767, at 555 (2000).

**RECEDING MARKET**

receding market. See bear market under **MARKET**.

**RECEIPT**

receipt, n. 1. The act of receiving something <my receipt of the document was delayed by two days>. 2. A written acknowledgment that something has been received <keep the receipt for the gift>.

accountable receipt. A receipt in which a person admits that goods or money were delivered to the person and that the person is obliged to deliver all or part of the goods or money to a third person.

interim receipt. The written acknowledgment of a premium paid on an insurance policy that is pending final approval. [Cases: Insurance 1746. C.J.S. Insurance §§ 266–271.]

warehouse receipt. See WAREHOUSE RECEIPT.

3. (usu. pl.) Something received; INCOME <post the daily receipts in the ledger>.

receipt, vb. 1. To acknowledge in writing the receipt of (something, esp. money) <the bill must be receipted>. 2. To give a receipt for (something, esp. money) <the bookkeeper receipted the payments>.

#### RECEIPT CLAUSE

receipt clause. In a conveyancing document, a clause that acts as a receipt for the consideration given. • This clause typically appears to avoid the necessity of a separate receipt.

#### RECEIPTOR

receiptor (ri-see-t<<schwa>>r). A person who receives from a sheriff another's property seized in garnishment and agrees to return the property upon demand or execution. [Cases: Execution 150. C.J.S. Executions §§ 130–131.]

#### RECEIVABLE

receivable, adj. 1. Capable of being admitted or accepted <receivable evidence>. 2. Awaiting receipt of payment <accounts receivable>. 3. Subject to a call for payment <a note receivable>.

receivable, n. An amount owed, esp. by a business's customer. See account receivable under ACCOUNT.

unrealized receivable. An amount earned but not yet received. • Unrealized receivables have no income-tax basis for cash-basis taxpayers. [Cases: Internal Revenue 3931, 3935.]

#### RECEIVER

receiver. 1. A disinterested person appointed by a court, or by a corporation or other person, for the protection or collection of property that is the subject of diverse claims (for example, because it belongs to a bankrupt or is otherwise being litigated). Cf. LIQUIDATOR. [Cases: Corporations 552, 621(.5); Receivers 1, 81. C.J.S. Corporations § 756; Receivers §§ 1–3, 139–146.]

ancillary receiver. One who is appointed as a receiver in a particular area to help a foreign receiver collect the assets of an insolvent corporation or other entity. [Cases: Corporations 686.

C.J.S. Corporations §§ 929–930.]

“An ancillary receiver of a corporation or unincorporated association may be appointed (a) by a competent court of a state in which there are assets of the corporation or unincorporated association at the time of the commencement of the action for the appointment of such receiver, or (b) in the case of a corporation, by a competent court of the state of incorporation.... The purpose of such an ancillary receivership is to aid the foreign primary receivership in the collection and taking charge of assets of the estate being administered.” 66 Am. Jur. 2d Receivers § 436, at 239 (1973).

general receiver. See principal receiver.

judgment receiver. A receiver who collects or diverts funds from a judgment debtor to the creditor. • A judgment receiver is usu. appointed when it is difficult to enforce a judgment in any other manner. — Also termed receiver in aid of execution.

local receiver. Conflict of laws. A receiver appointed in the state where property is located or where an act is done.

principal receiver. A receiver who is primarily responsible for the receivership estate. • A principal receiver may ordinarily (1) act outside the state of appointment, (2) sue in a foreign court, (3) exercise broad powers of assignment, and (4) handle all distributions. — Also termed primary receiver; general receiver; original receiver.

receiver in aid of execution. See judgment receiver.

statutory receiver. A receiver whose appointment is provided for in a statute.

2.Hist. An officer in the royal household who collected revenues and disbursed them in a lump sum to the treasurer, and who also acted as an attorney with the power to appear in any court in England. • The monarch and his or her consort each had a receiver, thus the full title was King's Receiver or Queen's Receiver.

#### RECEIVER GENERAL

receiver general. A public official in charge of a government's receipts and treasury. Pl. receivers general.

#### RECEIVER'S CERTIFICATE

receiver's certificate. Bankruptcy. An instrument issued by a receiver as evidence that the holder is entitled to receive payment from funds controlled by the bankruptcy court.

#### RECEIVERSHIP

receivership. 1. The state or condition of being in the control of a receiver. [Cases: Corporations 552, 621(.5); Receivers 1. C.J.S. Corporations § 756; Receivers §§ 1–3.] 2. The position or function of being a receiver appointed by a court or under a statute. 3. A proceeding in which a court appoints a receiver.

ancillary receivership. A receivership in which a further administrative proceeding is appointed in another state to help the principal receivership.

dry receivership. A receivership in which there is no equity available to pay general creditors. [Cases: Receivers 151, 163. C.J.S. Receivers §§ 299–301, 390–401.]

#### RECEIVERSHIP ESTATE

receivership estate. The totality of the interests that the receivers of an association in one or more states are appointed to protect.

#### RECEIVING

receiving, n. See RECEIVING STOLEN PROPERTY.

#### RECEIVING ORDER

receiving order. See ORDER(2).

#### RECEIVING STATE

receiving state. See STATE.

#### RECEIVING STOLEN PROPERTY

receiving stolen property. The criminal offense of acquiring or controlling property known to have been stolen by another person. • Some jurisdictions require the additional element of wrongful intent. In some jurisdictions it is a felony, but in others it is either a felony or a misdemeanor depending on the value of the property. See Model Penal Code §§ 223.1, 223.6. — Sometimes shortened to receiving. — Also termed receiving stolen goods. See FENCE(1). [Cases: Receiving Stolen Goods 1. C.J.S. Receiving or Transferring Stolen Goods and Related Offenses §§ 2, 10–12, 15–16.]

#### RECENS INSECUTIO

recens insecutio (ree-senz in-s<<schwa>>-kyoo-shee-oh). [Latin “fresh pursuit”] Hist. Pursuit of a thief immediately after discovery of the theft. See FRESH PURSUIT .

#### RECEPTATOR

receptator (ree-sep-tay-tor or -t<<schwa>>r). [Latin fr. receptare “to harbor (a criminal or the proceeds of crime)”] Scots law. 1. A harbinger of a felon. 2. A receiver of stolen property.

#### RECEPTION

reception. The adoption in whole or in part of the law of one jurisdiction by another jurisdiction. • In the legal idiom, it is most common to speak of the reception of Roman law.

“In many parts of Europe monarchs encouraged a ‘reception’ of Roman law at the expense of medieval customary systems. On the continent — in France, Holland, and Germany — the results of the reception of Roman law have tended to be permanent; the continental jurist in the twentieth century studies Roman law to grasp the jurisprudence underlying modern codes. And in the British



Isles, the law of Scotland now contains so much borrowing from Roman law that there, too the road to legal practice leads through study of the corpus of Roman civil law compiled at Justinian's direction. But a reception of Roman law never occurred in England." Arthur R. Hogue, *Origins of the Common Law* 242 (1966).

#### RECEPTITIOUS

receptitious (ree-sep-tish-<<schwa>>s), adj. Roman law. 1. (Of a dowry) returnable by agreement to the donor upon the dissolution of the marriage. 2. (Of property) retained by the wife and not included in the dowry.

#### RECEPTUS

receptus (ri-sep-t<<schwa>>s). [Latin "(a person) having been received"] Civil law. An arbitrator. • The term takes its name from the idea that the arbitrator is "received" by the parties to settle their dispute.

#### RECESS

recess (ree-ses), n.1. A brief break in judicial proceedings <the court granted a fifteen-minute recess so the attorney and plaintiff could confer>. Cf. CONTINUANCE(3). [Cases: Criminal Law 649; Trial 26.C.J.S. Criminal Law § 1155; Trial§ 113.] 2.Parliamentary law. A motion that suspends but does not end a meeting, and that usu. provides for resumption of the meeting <the meeting had a 15-minute recess>. • The motion to recess, which merely suspends the meeting, differs from the motion to adjourn, which ends the meeting. Cf. ADJOURN. [Cases: United States 18. C.J.S. United States §§ 29, 31.] 3.Parliamentary law. The interval between such a motion's adoption and the meeting's reconvening < Congress took a monthlong recess>. — recess (ri-ses), vb.

#### RECESSION

recession. A period characterized by a sharp slowdown in economic activity, declining employment, and a decrease in investment and consumer spending. Cf. DEPRESSION.

#### RECESSUS MARIS

recessus maris (ri-ses-<<schwa>>s mair-<<schwa>>s). [Latin] A going back or retreat of the sea. See RELICTION.

#### RECHARACTERIZATION

recharacterization. A court's determination that an insider's loan to an entity in liquidation (such as a corporation or partnership) should be treated as a capital contribution, not as a loan, thereby entitling the insider to only part of the liquidation proceeds payable after all the business's debts have been discharged. • Factors influencing this determination include the amount of capital initially available, the ability of the entity to obtain loans from outside sources, how long the entity has existed, the treatment of the loan in the entity's business records, and past treatment of similar transactions made to that entity by an insider.

## RECHT

Recht (rekt). [German "right"] 1. Law generally. 2. A body of law. 3. A right or claim.

## RECHTSBESITZ

Rechtsbesitz (rekts-be-zits). See possession of a right under POSSESSION.

## RECHTSPHILOSOPHIE

Rechtsphilosophie (rekts-f<<schwa>>-los-<<schwa>>-fee). See ethical jurisprudence under JURISPRUDENCE.

## RECIDIVATE

recidivate (ri-sid-<<schwa>>-vayt), vb. To return to a habit of criminal behavior; to relapse into crime. [Cases: Sentencing and Punishment 1202. C.J.S. Criminal Law §§ 1643, 1650, 1652.]

## RECIDIVATION

recidivation. Archaic. See RECIDIVISM.

## RECIDIVISM

recidivism (ri-sid-<<schwa>>-viz-<<schwa>>m), n. A tendency to relapse into a habit of criminal activity or behavior. — Also termed (archaically) recidivation. — recidivous, recidivist, adj.

## RECIDIVIST

recidivist (ri-sid-<<schwa>>-vist), n. One who has been convicted of multiple criminal offenses, usu. similar in nature; a repeat offender <proponents of prison reform argue that prisons don't cure the recidivist>. — Also termed habitual offender; habitual criminal; repeater; career criminal. [Cases: Sentencing and Punishment 1200. C.J.S. Criminal Law §§ 1638–1639, 1641.]

## RECIPROCAL

reciprocal (ri-sip-r<<schwa>>-k<<schwa>>l), adj. 1. Directed by each toward the other or others; MUTUAL <reciprocal trusts>. 2. BILATERAL <a reciprocal contract>. 3. Corresponding; equivalent <reciprocal discovery>.

## RECIPROCAL CONTRACT

reciprocal contract. See bilateral contract under CONTRACT.

## RECIPROCAL DEALING

reciprocal dealing. A business arrangement in which a buyer having greater economic power than a seller agrees to buy something from the seller only if the seller buys something in return. • Reciprocal dealing usu. violates antitrust laws. — Also termed reciprocal-dealing arrangement. Cf. TYING ARRANGEMENT .

---

**RECIPROCAL DISCOVERY**

reciprocal discovery. See reverse Jencks material under JENCKS MATERIAL.

**RECIPROCAL EXCHANGE**

reciprocal exchange. An association whose members exchange contracts and pay premiums through an attorney-in-fact for the purpose of insuring themselves and each other. • A reciprocal exchange can consist of individuals, partnerships, trustees, or corporations, but the exchange itself is unincorporated. — Also termed interinsurance exchange; reciprocal insurance exchange; reciprocal interinsurance exchange. See reciprocal insurance under INSURANCE; EXCHANGE(5). [Cases: Insurance 1204. C.J.S. Insurance §§ 1712, 1720.]

**RECIPROCAL INSURANCE**

reciprocal insurance. See INSURANCE.

**RECIPROCAL INSURANCE EXCHANGE**

reciprocal insurance exchange. See RECIPROCAL EXCHANGE.

**RECIPROCAL INTERINSURANCE EXCHANGE**

reciprocal interinsurance exchange. See RECIPROCAL EXCHANGE.

**RECIPROCAL NEGATIVE EASEMENT**

reciprocal negative easement. See EASEMENT.

**RECIPROCAL TRADE AGREEMENT**

reciprocal trade agreement. An agreement between two countries providing for the exchange of goods between them at lower tariffs and better terms than exist between one of the countries and other countries.

**RECIPROCAL TRUST**

reciprocal trust. See TRUST.

**RECIPROCAL WILL**

reciprocal will. See mutual will under WILL.

**RECIPROCITY**

reciprocity (res-*<<schwa>>-pros-i-tee*). 1. Mutual or bilateral action *<the Arthurs stopped receiving social invitations from friends because of their lack of reciprocity>*. 2. The mutual concession of advantages or privileges for purposes of commercial or diplomatic relations *<Texas and Louisiana grant reciprocity to each other's citizens in qualifying for in-state tuition rates>*. — Also termed mutuality of benefits; quid pro quo; equivalence of advantages. [Cases: Colleges and Universities 9.20(2). C.J.S. Colleges and Universities § 32.] 3. Intellectual property. The recognition by one country of a foreign national's intellectual-property rights only if and only to

the extent that the other nation would recognize those same rights for the first country's citizens. • Reciprocity is the most restrictive approach to international intellectual-property-law rights. Cf. NATIONAL TREATMENT ; UNIVERSALITY.

“It has become common when introducing new categories of rights for them to be granted on the basis of reciprocity. The advantages of reciprocity are twofold. First, reciprocity benefits rights owners by providing incentives for non-conforming countries to change their laws. Secondly, it saves users in one country (A) from paying royalties for foreign authors from countries that do not pay royalties to the authors of country A.” Lionel Bently & Brad Sherman, *Intellectual Property Law* 101 (2001).

#### RECISION

recision. See RESCISSION.

#### RECISSION

recission. See RESCISSION.

#### RECITAL

recital. 1. An account or description of some fact or thing <the recital of the events leading up to the accident>. 2. A preliminary statement in a contract or deed explaining the reasons for entering into it or the background of the transaction, or showing the existence of particular facts <the recitals in the settlement agreement should describe the underlying dispute>. • Traditionally, each recital begins with the word *whereas*. — Also termed (in sense 2) *whereas clause*. — *recite*, vb.

“The parties may wish to begin the agreement with a statement of their intentions. Often they do this through recitals, which were traditionally introduced by ‘*whereas*,’ but can simply state the background without this formality.” Scott J. Burnham, *Contract Drafting Guidebook* § 8.4, at 158 (2d ed. 1992).

introductory recital.(usu. pl.) A recital explaining how and why the existing state of affairs is to be altered.

narrative recital.(usu. pl.) A recital dealing with matters such as how the buyer and the seller came together.

particular recital.A recital that states a fact definitely.

#### RECITE

recite,vb. See READ ON.

#### RECKLESS

reckless,adj. Characterized by the creation of a substantial and unjustifiable risk of harm to others and by a conscious (and sometimes deliberate) disregard for or indifference to that risk; heedless; rash. • Reckless conduct is much more than mere negligence: it is a gross deviation from

what a reasonable person would do. See RECKLESSNESS. Cf. CARELESS; WANTON. [Cases: Automobiles 330; Negligence 274. C.J.S. Motor Vehicles §§ 1354–1362; Negligence §§ 104–105, 109.] — recklessly,adv.

“Intention cannot exist without foresight, but foresight can exist without intention. For a man may foresee the possible or even probable consequences of his conduct and yet not desire them to occur; none the less if he persists on his course he knowingly runs the risk of bringing about the unwished result. To describe this state of mind the word ‘reckless’ is the most appropriate. The words ‘rash’ and ‘rashness’ have also been used to indicate this same attitude.” J.W. Cecil Turner, *Kenny's Outlines of Criminal Law* 28 (16th ed. 1952).

#### RECKLESS DISREGARD

reckless disregard.See DISREGARD.

#### RECKLESS DRIVING

reckless driving.The criminal offense of operating a motor vehicle in a manner that shows conscious indifference to the safety of others. [Cases: Automobiles 330. C.J.S. Motor Vehicles §§ 1354–1362.]

#### RECKLESS ENDANGERMENT

reckless endangerment.The criminal offense of putting another person at substantial risk of death or serious injury. • This is a statutory, not a common-law, offense. [Cases: Assault and Battery 48. C.J.S. Assault and Battery §§ 2–3, 62, 64–66, 81.]

#### RECKLESS HOMICIDE

reckless homicide.See HOMICIDE.

#### RECKLESS KNOWLEDGE

reckless knowledge.See KNOWLEDGE.

#### RECKLESS NEGLIGENCE

reckless negligence.See gross negligence under NEGLIGENCE.

#### RECKLESSNESS

recklessness,n.1. Conduct whereby the actor does not desire harmful consequence but nonetheless foresees the possibility and consciously takes the risk. • Recklessness involves a greater degree of fault than negligence but a lesser degree of fault than intentional wrongdoing. [Cases: Negligence 274. C.J.S. Negligence §§ 104–105, 109.] 2. The state of mind in which a person does not care about the consequences of his or her actions. — Also termed heedlessness. Cf. WANTONNESS. [Cases: Negligence 274. C.J.S. Negligence §§ 104–105, 109.]

“The ordinary meaning of the word [recklessness] is a high degree of carelessness. It is the doing of something which in fact involves a grave risk to others, whether the doer realises it or not. The test is therefore objective and not subjective.” R.F.V. Heuston, *Salmond on the Law of Torts*

194 (17th ed. 1977).

“An abiding difficulty in discussing the legal meaning of recklessness is that the term has been given several different shades of meaning by the courts over the years. In the law of manslaughter, ‘reckless’ was long regarded as the most appropriate adjective to express the degree of negligence needed for a conviction: in this sense, it meant a high degree of carelessness. In the late 1950s the courts adopted a different meaning of recklessness in the context of mens rea, referring to D’s actual awareness of the risk of the prohibited consequence occurring: we shall call this ‘common-law recklessness.’ Controversy was introduced into this area in the early 1980s, when the House of Lords purported to broaden the meaning of recklessness so as to include those who failed to give thought to an obvious risk that the consequence would occur ....” Andrew Ashworth, *Principles of Criminal Law* 154 (1991).

#### RECLAMATION

reclamation (rek-l<<schwa>>-may-sh<<schwa>>n), n.1. The act or an instance of improving the value of economically useless land by physically changing the land, such as irrigating a desert. [Cases: Waters and Water Courses 222. C.J.S. Waters §§ 763–765.] 2. Commercial law. A seller’s limited right to retrieve goods delivered to a buyer when the buyer is insolvent. UCC § 2-702(2). [Cases: Sales 316. C.J.S. Sales §§ 325–326, 339–343.] 3. The act or an instance of obtaining valuable materials from waste materials. — reclaim, vb.

#### RECLUSION

reclusion (ri-kloo-zh<<schwa>>n). Civil law. Incarceration as punishment for a crime; esp. solitary confinement or confinement at hard labor in a penitentiary.

#### RECOGNITION

recognition, n.1. Confirmation that an act done by another person was authorized. See RATIFICATION. [Cases: Principal and Agent 170(2). C.J.S. Agency § 88.] 2. The formal admission that a person, entity, or thing has a particular status; esp. a nation’s act in formally acknowledging the existence of another nation or national government. 3. Parliamentary law. The chair’s acknowledgment that a member is entitled to the floor <the chair recognizes the delegate from Minnesota>. See PRECEDENCE(4).

“When any member desires to speak or deliver any matter to the house, that person should rise and respectfully address the presiding officer. When the presiding officer recognizes the member by calling the member by name or by indicating recognition, that person is entitled to the floor and may address the body or present a matter of business, but may not yield the floor to any other member.” National Conference of State Legislatures, *Mason’s Manual of Legislative Procedure* § 91, at 76–77 (2000).

4. Tax. The act or an instance of accounting for a taxpayer’s realized gain or loss for the purpose of income-tax reporting. Cf. NONRECOGNITION PROVISION; REALIZATION(2). [Cases: Internal Revenue 3115, 3178; Taxation 996. C.J.S. Internal Revenue §§ 61, 110; Taxation §§ 1732–1733.] 5. An employer’s acknowledgment that a union has the right to act as a

bargaining agent for employees. [Cases: Labor Relations 191. C.J.S. Labor Relations § 162.] 6.Int'l law. Official action by a country acknowledging, expressly or by implication, de jure or de facto, the existence of a government or a country, or a situation such as a change of territorial sovereignty. Cf. NONRECOGNITION. [Cases: International Law 4. C.J.S. International Law §§ 9–11.] 7.RULE OF RECOGNITION. — recognize,vb.

#### RECOGNITION CLAUSE

recognition clause.Real estate. A clause providing that, when a tract of land has been subdivided for development, the ultimate buyers of individual lots are protected if the developer defaults on the mortgage. • Such a clause is typically found in a blanket mortgage or a contract for deed.

#### RECOGNITION PICKETING

recognition picketing.See organizational picketing under PICKETING.

#### RECOGNITION STRIKE

recognition strike.See STRIKE.

#### RECOGNITOR

recognitor (ri-kog-n<<schwa>>-t<<schwa>>r), n.1.Hist. A member of a jury impaneled on an assize or inquest. See RECOGNITION(1), (2).2.Rare. RECOGNIZOR.

#### RECOGNIZANCE

recognizance (ri-kog-n<<schwa>>-z<<schwa>>nts).1. A bond or obligation, made in court, by which a person promises to perform some act or observe some condition, such as to appear when called, to pay a debt, or to keep the peace; specif., an in-court acknowledgment of an obligation in a penal sum, conditioned on the performance or nonperformance of a particular act. • Most commonly, a recognizance takes the form of a bail bond that guarantees an unjailed criminal defendant's return for a court date <the defendant was released on his own recognizance>. See RELEASE ON RECOGNIZANCE. [Cases: Bail 54, 63; Recognizances 1. C.J.S. Bail; Release and Detention Pending Proceedings §§ 93, 106–107, 109; Recognizances §§ 2–4, 8.]

“Recognizances are aptly described as ‘contracts made with the Crown in its judicial capacity.’ A recognizance is a writing acknowledged by the party to it before a judge or officer having authority for the purpose, and enrolled in a court of record. It usually takes the form of a promise, with penalties for the breach of it, to keep the peace, to be of good behavior, or to appear at the assizes.” William R. Anson, *Principles of the Law of Contract* 80–81 (Arthur L. Corbin ed., 3d Am. ed. 1919).

“A recognizance is an acknowledgment of an obligation in court by the recognizer binding him to make a certain payment subject to the condition that on the performance of a specified act the obligation shall be discharged.” 1 Samuel Williston, *A Treatise on the Law of Contracts* § 6, at 18 (Walter H.E. Jaeger ed., 3d ed. 1957).

personal recognizance. The release of a defendant in a criminal case in which the court takes the defendant's word that he or she will appear for a scheduled matter or when told to appear. • This type of release dispenses with the necessity of the person's posting money or having a surety sign a bond with the court. [Cases: Bail 40. C.J.S. Bail; Release and Detention Pending Proceedings § 8.]

2. See bail bond under BOND(2).

#### RECOGNIZED GAIN

recognized gain. See GAIN(3).

#### RECOGNIZED LOSS

recognized loss. See LOSS.

#### RECOGNIZED MARKET

recognized market. See MARKET.

#### RECOGNIZEE

recognizee (ri-kog-n<<schwa>>-zee). A person in whose favor a recognizance is made; one to whom someone is bound by a recognizance.

#### RECOGNIZOR

recognizor (ri-kog-n<<schwa>>-zor). A person who is obligated under a recognizance; one who is bound by a recognizance. — Also termed recognitor.

“A recognizance is an acknowledgment upon record of a former debt, and he who so acknowledges such debt to be due is termed the recognizor, and he to whom or for whose benefit he makes such acknowledgment is termed the recognizee.” John Indermaur, *Principles of the Common Law* 8 (Edmund H. Bennett ed., 1st Am. ed. 1878).

#### RECOLLECTION

recollection, n. 1. The action of recalling something to the mind, esp. through conscious effort. 2. Something recalled to the mind. See PAST RECOLLECTION RECORDED ; PRESENT RECOLLECTION REFRESHED. — recollect, vb.

#### RECOMBINANT

recombinant (ri-kom-b<<schwa>>-n<<schwa>>nt), adj. Patents. Of, relating to, or describing the introduction of DNA from one living organism into another.

#### RECOMBINANT DNA TECHNOLOGY

recombinant DNA technology. Patents. The science of mutating organisms by splicing sections of one organism's DNA onto that of another. — Abbr. rDNA.

#### RECOMMIT



recommit.Parliamentary law. To refer (a motion) back to a committee that has considered it. • The motion is called “recommit” rather than “re-refer” for the sake of euphony. See REFER. Cf. re-refer under REFER. — recommit,n.

#### RECOMPENSABLE

recompensable. See COMPENSABLE.

#### RECOMPENSATION

recompensation.Scots law. In an action for debt, a plaintiff's allegation that money owed to a defendant has already been paid and should not be considered as a setoff against an award to the plaintiff.

#### RECOMPENSE

recompense (rek-<<schwa>>m-pents), n. Repayment, compensation, or retribution for something, esp. an injury or loss. — recompense,vb.

#### RECONCILIATION

reconciliation (rek-<<schwa>>n-sil-ee-ay-sh<<schwa>>n), n.1. Restoration of harmony between persons or things that had been in conflict <a reconciliation between the plaintiff and the defendant is unlikely even if the lawsuit settles before trial>.2.Family law. Voluntary resumption, after a separation, of full marital relations between spouses <the court dismissed the divorce petition after the parties' reconciliation>. Cf. CONDONATION (2). [Cases: Husband and Wife 279(3).] 3.Accounting. An adjustment of accounts so that they agree, esp. by allowing for outstanding items < reconciliation of the checking account and the bank statement>. — reconcile (rek-<<schwa>>n-sil), vb.

#### RECONCILIATION AGREEMENT

reconciliation agreement.Family law. A contract between spouses who have had marital difficulties but who now wish to save the marital relationship, usu. by specifying certain economic actions that might ameliorate pressures on the marriage. • This type of agreement serves a limited purpose. In fact, many states have statutes prohibiting enforcement of contracts for domestic services, so if the agreement governs anything other than economic behavior, it may be unenforceable.

#### RECONCILIATION STATEMENT

reconciliation statement.An accounting or financial statement in which discrepancies are adjusted.

#### RECONDUCTION

reconduction,n.1.Civil law. The renewal of a lease. — Also termed relocation. See TACIT RELOCATION. [Cases: Landlord and Tenant 90.C.J.S. Landlord and Tenant § 73.] 2.Int'l law. The forcible return of aliens (esp. illegal aliens, destitute or diseased aliens, or alien criminals who have served their punishment) to their country of origin. — Also termed (in sense 2) renvoi. —

reconduct,vb.

### RECONSIDER

reconsider,vb. To discuss or take up (a matter) again <legislators voted to reconsider the bill>.

• Under parliamentary law, a motion to reconsider sets aside a certain vote already taken and restores the motion on which the vote is being reconsidered to its status immediately before the vote occurred. Making a motion to reconsider suspends a vote already taken until the assembly decides whether to reconsider it. — reconsideration,n.

“The motion to reconsider is a distinctively American motion (it was first made the subject of a rule in the U. S. House of Representatives in 1802).

“This motion was unknown to the early British Parliament. When Parliament (the British Congress) passed an act, that act then stood as the judgment of the body until another law or supplementary act was afterward passed explaining or amending the previous act — a slow-moving and time-consuming process in the estimation of American lawmakers.“Consequently, the American love for celerity invented the motion to reconsider, and cleverly made it a mere procedural or restoratory motion. As a result, the motion to reconsider now makes possible immediate reconsideration of a question, even on the same day.” George Demeter, *Demeter's Manual of Parliamentary Law and Procedure* 154 (1969).reconsider and enter on the minutes.Parliamentary law. To make a motion to reconsider for the purpose of suspending a vote already taken and bringing it back up at the next meeting. — Also termed reconsider and enter; reconsider and have it entered on the minutes.

### RECONSIGNMENT

reconsignment. A change in the terms of a consignment while the goods are in transit. See CONSIGNMENT. [Cases: Carriers 73, 178. C.J.S. Carriers §§ 407, 463.]

### RECONSTRUCTION

reconstruction. 1. The act or process of rebuilding, re-creating, or reorganizing something <an expert in accident reconstruction>.2.Patents. A rebuilding of a broken, worn-out, or otherwise inoperative patented article in such a way that a new article is created, thus resulting in an infringement <the replacement of the machine's essential parts was an infringing reconstruction rather than a permissible repair>. Cf. REPAIR DOCTRINE . [Cases: Patents 255. C.J.S. Patents § 405.] 3. (cap.) The process by which the Southern states that had seceded during the Civil War were readmitted into the Union during the years following the war (i.e., from 1865 to 1877) <the 13th, 14th, and 15th Amendments to the U.S. Constitution are a lasting legacy of Reconstruction>.

### RECONTINUANCE

recontinuance.Hist. 1. Resumption or renewal. 2. The recovery of an incorporeal hereditament that had been wrongfully deprived.

### RECONVENTION

reconvention.Civil law. The act or process of making a counterclaim. See COUNTERCLAIM. [Cases: Set-off and Counterclaim 6. C.J.S. Set-off and Counterclaim §§ 2, 11.]

#### RECONVENTIONAL DEMAND

reconventional demand.See DEMAND(1).

#### RECONVENTIONE

reconventione (ree-k<<schwa>>n-ven-shee-oh-nee). [Law Latin] Hist. By reconvention. See RECONVENTION.

#### RECONVERSION

reconversion. The notional or imaginary process by which an earlier constructive conversion (a change of personal into real property or vice versa) is annulled and the converted property restored to its original character. See equitable conversion under CONVERSION(1). [Cases: Conversion 22. C.J.S. Conversion § 32.]

#### RECONVEYANCE

reconveyance,n. The restoration or return of something (esp. an estate or title) to a former owner or holder. — reconvey,vb.

#### RECORD

record,n.1. A documentary account of past events, usu. designed to memorialize those events. 2. Information that is inscribed on a tangible medium or that, having been stored in an electronic or other medium, is retrievable in perceivable form. UCC § 5-102(14). 3.MINUTES(2).4. The official report of the proceedings in a case, including the filed papers, a verbatim transcript of the trial or hearing (if any), and tangible exhibits. — Also termed (in some jurisdictions) clerk's record; (in BrE) bundle. See DOCKET(1). [Cases: Administrative Law and Procedure 676; Appeal and Error 493–717. C.J.S. Appeal and Error §§ 440–460, 476–577, 727; Justices of the Peace § 236; Public Administrative Law and Procedure §§ 197–198, 218–219.]

defective record. 1. A trial record that fails to conform to requirements of appellate rules. [Cases: Appeal and Error 634–645; Criminal Law 1109; Federal Courts 698. C.J.S. Appeal and Error §§ 535–538, 540–541, 548.] 2. A flawed real-estate title resulting from a defect on the property's record in the registry of deeds. [Cases: Vendor and Purchaser 231(6). C.J.S. Vendor and Purchaser §§ 503–504.]

public record.A record that a governmental unit is required by law to keep, such as land deeds kept at a county courthouse. • Public records are generally open to view by the public. Cf. public document under DOCUMENT. [Cases: Records 1, 30, 54. C.J.S. Records §§ 2, 60, 62–63, 65, 93, 95, 99–100, 103–104.]

reporter's record.In some jurisdictions, a trial transcript. — Also termed stenographer's record.

silent record.Criminal procedure. A record that fails to disclose that a defendant voluntarily

and knowingly entered a plea, waived a right to counsel, or took any other action affecting his or her rights. [Cases: Criminal Law 1144.1–1144.20.]

stenographer's record. See reporter's record.

#### RECORDA

recorda (ri-kor-d<<schwa>>). Hist. In England, records that contained the judgments and pleadings in actions tried before the barons of the Exchequer. Cf. ORIGINALIA.

#### RECORD AGENT

record agent. See INSURANCE AGENT.

#### RECORDAL

recordal. See RECORDATION.

#### RECORDARE

recordare (ree-kor-dair-ee), n. [Law Latin] See RECORDARI.

#### RECORDARI

recordari (ree-kor-dair-I). A writ to bring up for review, as a substitute for an appeal, a judgment of a justice of the peace or other court not of record. • Writs of recordari are most common in North Carolina but are used infrequently in other states. — Also spelled recordare.

#### RECORDARI FACIAS LOQUELAM

recordari            facias            loquelam            (ree-kor-dair-Ifay-shee-<<schwa>>s  
l<<schwa>>-kwee-l<<schwa>>m), n. [Law Latin “you cause the plaint to be recorded”] Hist. In England, a writ by which a suit or plaint in replevin could be removed from a county court to a superior court (esp. to one of the courts of Westminster Hall). — Abbr. re. fa. lo. See PLAINT(1).

#### RECORDATION

recordation (rek-<<schwa>>r-day-sh<<schwa>>n), n. The act or process of recording an instrument, such as a deed or mortgage, in a public registry. • Recordation generally perfects a person's interest in the property against later purchasers (including later mortgagees), but the effect of recordation depends on the type of recording act in effect. — Also termed recordal. [Cases: Records 6. C.J.S. Records §§ 9–14, 17–18.]

#### RECORDATUR

recordatur (ri-kor-d<<schwa>>-tuur). Hist. An order to record the verdict returned in a nisi prius case.

#### RECORD DATE

record date. See DATE.

#### RECORDED RECOLLECTION

recorded recollection. See PAST RECOLLECTION RECORDED.

#### RECORDER

recorder. 1. Hist. A magistrate with criminal jurisdiction in some British cities or boroughs. 2. A municipal judge with the criminal jurisdiction of a magistrate or a police judge and sometimes also with limited civil jurisdiction. 3. A municipal or county officer who keeps public records such as deeds, liens, and judgments.

court recorder. A court official who records court activities using electronic recording equipment, usu. for the purpose of preparing a verbatim transcript. Cf. COURT REPORTER(1). [Cases: Courts 55. C.J.S. Courts §§ 107–109.]

recorder of deeds. See register of deeds under REGISTER.

4. SECRETARY(3).

#### RECORDER'S COURT

recorder's court. See COURT.

#### RECORDING ACT

recording act. A law that establishes the requirements for recording a deed or other property interest and the standards for determining priorities between persons claiming interests in the same property (usu. real property). • Recording acts — the three main types of which are the notice statute, the race statute, and the race-notice statute — are designed to protect bona fide purchasers from earlier unrecorded interests. — Also termed recording statute. See NOTICE STATUTE; RACE STATUTE; RACE-NOTICE STATUTE. [Cases: Deeds 83; Records 9; Vendor and Purchaser 231. C.J.S. Deeds § 158; Registers of Deeds §§ 2–71; Vendor and Purchaser § 496.]

#### RECORDING AGENT

recording agent. See INSURANCE AGENT.

#### RECORDING OFFICER

recording officer. See SECRETARY(3).

#### RECORDING SECRETARY

recording secretary. See SECRETARY(3).

#### RECORDING STATUTE

recording statute. See RECORDING ACT.

#### RECORD NOTICE

record notice. See NOTICE.

#### RECORDO ET PROCESSU MITTENDIS

recordo et processu mittendis.See DE RECORDO ET PROCESSU MITTENDIS.

#### RECORD ON APPEAL

record on appeal.The record of a trial-court proceeding as presented to the appellate court for review. — Also termed appellate record. See RECORD(4). [Cases: Appeal and Error 493–717. C.J.S. Appeal and Error §§ 440–460, 476–577, 727; Justices of the Peace § 236.]

#### RECORD OWNER

record owner.See OWNER.

#### RECORD TITLE

record title.See TITLE(2).

#### RECORDUM

recordum (ri-kor-d<<schwa>>m). [Law Latin] Hist. A record, esp. a judicial one.

#### RECOUPMENT

recoupment (ri-koop-m<<schwa>>nt), n.1. The recovery or regaining of something, esp. expenses. 2. The withholding, for equitable reasons, of all or part of something that is due. See EQUITABLE RECOUPMENT(1), (2).3. Reduction of a plaintiff's damages because of a demand by the defendant arising out of the same transaction. See EQUITABLE RECOUPMENT(3). Cf. SETOFF(2). [Cases: Set-off and Counterclaim 6. C.J.S. Set-off and Counterclaim §§ 2, 11.] 4. The right of a defendant to have the plaintiff's claim reduced or eliminated because of the plaintiff's breach of contract or duty in the same transaction. 5. An affirmative defense alleging such a breach. 6.Archaic. A counterclaim arising out of the same transaction or occurrence as the one on which the original action is based. • In modern practice, the recoupment has been replaced by the compulsory counterclaim. — recoup,vb.

#### RECOURSE

recourse (ree-kors or ri-kors).1. The act of seeking help or advice. 2. Enforcement of, or a method for enforcing, a right. 3. The right of a holder of a negotiable instrument to demand payment from the drawer or indorser if the instrument is dishonored. See WITH RECOURSE; WITHOUT RECOURSE. 4. The right to repayment of a loan from the borrower's personal assets, not just from the collateral that secured the loan.

#### RECOURSE LOAN

recourse loan.See LOAN.

#### RECOURSE NOTE

recourse note.See NOTE(1).

#### RECOVER

recover,vb.1. To get back or regain in full or in equivalence <the landlord recovered higher

operating costs by raising rent>.2. To obtain by a judgment or other legal process <the plaintiff recovered punitive damages in the lawsuit>.3. To obtain (a judgment) in one's favor <the plaintiff recovered a judgment against the defendant>.4. To obtain damages or other relief; to succeed in a lawsuit or other legal proceeding <the defendant argued that the plaintiff should not be allowed to recover for his own negligence>.

#### RECOVERABLE

recoverable,adj. Capable of being recovered, esp. as a matter of law <court costs and attorney's fees are recoverable under the statute>. — recoverability,n.

#### RECOVERED-MEMORY SYNDROME

recovered-memory syndrome.See REPRESSED-MEMORY SYNDROME.

#### RECOVEREE

recoveree.Hist. The party against whom a judgment is obtained in a common recovery. See COMMON RECOVERY.

#### RECOVEROR

recoveror.Hist. The demandant who obtains a judgment in a common recovery. See COMMON RECOVERY.

#### RECOVERY

recovery. 1. The regaining or restoration of something lost or taken away. 2. The obtainment of a right to something (esp. damages) by a judgment or decree. 3. An amount awarded in or collected from a judgment or decree.

double recovery. 1. A judgment that erroneously awards damages twice for the same loss, based on two different theories of recovery. [Cases: Damages 15. C.J.S. Damages §§ 21–22.] 2. Recovery by a party of more than the maximum recoverable loss that the party has sustained.

#### RECRIMINATION

recrimination (ri-krim-i-nay-sh<<schwa>>n), n.1.Family law. Archaic. In a divorce suit, a countercharge that the complainant has been guilty of an offense constituting a ground for divorce. • When both parties to the marriage have committed marital misconduct that would be grounds for divorce, neither may obtain a fault divorce. Recriminations are now virtually obsolete because of the prevalence of no-fault divorce. See COMPARATIVE RECTITUDE. Cf. COLLUSION(2); CONNIVANCE(2); CONDONATION(2).2.Criminal law. An accused person's counteraccusation against the accuser. • The accusation may be for the same or a different offense. — recriminatory,adj.

#### REXCROSS-EXAMINATION

recross-examination. A second cross-examination, after redirect examination. — Often shortened to recross. See CROSS-EXAMINATION. [Cases: Witnesses 291. C.J.S. Witnesses §

511.]

## RECTA GUBERNATIO

recta gubernatio (rek-t<<schwa>> g[y]oo-b<<schwa>>r-nay-shee-oh), n.[Latin “right government”] A government in which the highest power, however strong and unified, is neither arbitrary nor irresponsible, and derives from a law that is superior to itself. — Also termed legitima gubernatio.

## RECTIFICATION

rectification (rek-t<<schwa>>-fi-kay-sh<<schwa>>n), n.1. A court's equitable correction of a contractual term that is misstated; the judicial alteration of a written contract to make it conform to the true intention of the parties when, in its original form, it did not reflect this intention. • As an equitable remedy, the court alters the terms as written so as to express the true intention of the parties. The court might do this when the rent is wrongly recorded in a lease or when the area of land is incorrectly cited in a deed. [Cases: Reformation of Instruments 1. C.J.S. Reformation of Instruments §§ 2–5, 12, 16.] 2. A court's slight modification of words of a statute as a means of carrying out what the court is convinced must have been the legislative intent. • For example, courts engage in rectification when they read and as or or shall as may, as they frequently must do because of unfastidious drafting. See REFORMATION. — rectify,vb.

## RECTIFICATION OF BOUNDARIES

rectification of boundaries.Hist. An action to determine or correct the boundaries between two adjoining pieces of land. [Cases: Boundaries 27. C.J.S. Boundaries § 107.]

## RECTIFICATION OF REGISTER

rectification of register.Hist. A process by which a person whose name was wrongly entered in or omitted from a record can compel the recorder to correct the error.

## RECTITUDO

rectitudo (rek-t<<schwa>>-t[y]oo-doh). [Law Latin] A right or legal due; a tribute or payment.

## RECTO DE ADVOCATIONE

recto de advocacione.See DE RECTO DE ADVOCATIONE.

## RECTO DE RATIONABILI PARTE

recto de rationabili parte.See DE RECTO DE RATIONABILI PARTE.

## RECTO PATENS

recto patens.See DE RECTO PATENS.

## RECTOR

rector (rek-t<<schwa>>r).1.Eccles. law. The spiritual head and presiding officer of a parish.



— Also termed parson. Cf. VICAR.

impropriate rector. A lay rector as opposed to a clerical rector.

rector sinecure (sI-nee-kyoor-ee). A rector who does not have the cure of souls.

2. Roman law. A governor or ruler.

rector provinciae (pr<<schwa>>-vin-shee-ee). A governor of a province.

#### RECTUM

rectum (rek-t<<schwa>>m). [Latin] 1. Right. 2. A trial or accusation.

#### RECTUS

rectus (rek-t<<schwa>>s). [Latin “right”] Hist. (Of a line of descent) straight; direct. Cf. OBLIQUUS.

#### RECTUS IN CURIA

rectus in curia (rek-t<<schwa>>s in kyoor-ee-<<schwa>>), adj. [Latin “right in the court”] Hist. Free from charge or offense; competent to appear in court and entitled to the benefit of law. See LEGALIS HOMO.

#### RECUPERATIO

recuperatio (ri-k[y]oo-p<<schwa>>-ray-shee-oh), n. [Latin “recovery”] Hist. Judicial restitution of something that has been wrongfully taken or denied.

#### RECUPERATOR

recuperator (ri-k[y]oo-p<<schwa>>-ray-tor), n. [Latin “assessor”] Roman law. 1. A member of a mixed body of commissioners, appointed by a convention between two states for the purpose of adjusting any claims or disputes that might arise between the members of those states. 2. One of a bank of judges, instead of a single judex, appointed to hear civil cases that had a public-interest element. Pl. recuperatores (ri-k[y]oo-p<<schwa>>-r<<schwa>>-tor-eez).

#### RECURRENT NUISANCE

recurrent nuisance. See NUISANCE.

#### RECUSABLE

recusable (ri-kyoo-z<<schwa>>-b<<schwa>>l), adj. 1. (Of an obligation) arising from a party's voluntary act and that can be avoided. Cf. IRRECUSABLE. 2. (Of a judge) capable of being disqualified from sitting on a case. [Cases: Judges 39–56. C.J.S. Judges §§ 62, 98–160.] 3. (Of a fact) providing a basis for disqualifying a judge from sitting on a case.

#### RECUSAL

recusal (ri-kyoo-z<<schwa>>l), n. Removal of oneself as judge or policy-maker in a particular matter, esp. because of a conflict of interest. — Also termed recusation; recusement. Cf.

DISQUALIFICATION. [Cases: Administrative Law and Procedure 314; Judges 39–56. C.J.S. Judges §§ 62, 98–160; Public Administrative Law and Procedure §§ 61, 138.]

#### RECUSANT

recusant (rek-y<<schwa>>-z<<schwa>>nt or ri-kyoo-z<<schwa>>nt), adj. Refusing to submit to an authority or comply with a command <a recusant witness>.

recusant (rek-y<<schwa>>-z<<schwa>>nt or ri-kyoo-z<<schwa>>nt), n.1.Eccles. law. A person (esp. a Roman Catholic) who refuses to attend the services of the established Church of England. 2. A person who refuses to submit to an authority or comply with a command.

#### RECUSATIO JUDICIS

recusatio judicis (reh-kyoo-zay-shee-oh joo-dish-is), n. [Latin] Eccles. law. The procedure and grounds by which a judge may be challenged and removed from hearing a case. • The grounds for disqualification traditionally include great friendship or enmity with a party, close kinship to a party, acceptance of a bribe, previously giving counsel to a party, or demonstrated ignorance of the law. A panel of three arbiters, chosen by the challenging party and the judge, decides whether the party's complaint has merit.

#### RECUSATION

recusation (rek-y<<schwa>>-zay-sh<<schwa>>n).1.Civil law. An objection, exception, or appeal; esp. an objection alleging a judge's prejudice or conflict of interest. [Cases: Judges 39–56. C.J.S. Judges §§ 62, 98–160.] 2.RECUSAL.

#### RECUSE

recuse (ri-kyooz), vb.1. To remove (oneself) as a judge in a particular case because of prejudice or conflict of interest <the judge recused himself from the trial>. [Cases: Judges 39–56. C.J.S. Judges §§ 62, 98–160.] 2. To challenge or object to (a judge) as being disqualified from hearing a case because of prejudice or a conflict of interest <the defendant filed a motion to recuse the trial judge>.

#### RECUSEMENT

recusement. See RECUSAL.

#### REDACTION

redaction (ri-dak-sh<<schwa>>n), n.1. The careful editing of a document, esp. to remove confidential references or offensive material. [Cases: Criminal Law 663; Federal Civil Procedure 2011; Trial 39. C.J.S. Criminal Law §§ 1210–1211; Trial §§ 148–153.] 2. A revised or edited document. — redactional,adj. — redact,vb.

#### REDDENDO

reddendo (ri-den-doh).Scots law. 1. A clause in a charter specifying a duty, rent, or service due from a vassal to a superior. 2. The duty or service specified in this clause; feu duty.

---

**REDDENDO SINGULA SINGULIS**

reddendo singula singulis (ri-den-doh sing-gy<<schwa>>-l<<schwa>> sing-gy<<schwa>>-lis). [Latin “by rendering each to each”] Assigning or distributing separate things to separate persons, or separate words to separate subjects. • This was used as a rule of construction designed to give effect to the intention of the parties who drafted the instrument. — Also termed referendo singula singulis.

**REDDENDUM**

reddendum (ri-den-d<<schwa>>m). [Latin “that must be given back or yielded”] A clause in a deed by which the grantor reserves some new thing (esp. rent) out of what had been previously granted. [Cases: Deeds 141–143. C.J.S. Deeds §§ 279–284, 286–288, 290–303.]

**REDDIDIT SE**

reddidit se (red-<<schwa>>-dit see). [Latin “he has rendered himself”] Hist. A person who has personally appeared in order to discharge bail.

**REDDITION**

reddition (ri-dish-<<schwa>>n).Hist. An acknowledgment in court that one is not the owner of certain property being demanded, and that it in fact belongs to the demandant.

**REDDITUS**

redditus. See REDITUS.

**REDEEMABLE BOND**

redeemable bond.See BOND(3).

**REDEEMABLE GROUND RENT**

redeemable ground rent.See ground rent (1) under RENT(1).

**REDEEMABLE SECURITY**

redeemable security.See SECURITY.

**REDEEMABLE STOCK**

redeemable stock.See STOCK.

**REDELIVERY**

redelivery. An act or instance of giving back or returning something; restitution.

**REDELIVERY BOND**

redelivery bond.See replevin bond under BOND(2).

**REDEMISE**

redemise,n. An act or instance of conveying or transferring back (an estate) already demised. See DEMISE. — redemise,vb.

### REDEMPTION

redemption,n.1. The act or an instance of reclaiming or regaining possession by paying a specific price. [Cases: Secured Transactions 241.C.J.S. Secured Transactions § 184.]  
 2.Bankruptcy. A debtor's right to repurchase property from a buyer who obtained the property at a forced sale initiated by a creditor. [Cases: Bankruptcy 3034. C.J.S. Bankruptcy §§ 111–112.]  
 3.Securities. The reacquisition of a security by the issuer. • Redemption usu. refers to the repurchase of a bond before maturity, but it may also refer to the repurchase of stock and mutual-fund shares. — Also termed (in reference to stock) stock redemption; stock repurchase. [Cases: Corporations 82, 376, 468.1. C.J.S. Corporations §§ 180–181, 193–195, 561–563.]  
 4.Property. The payment of a defaulted mortgage debt by a borrower who does not want to lose the property. See EQUITY OF REDEMPTION. [Cases: Mortgages 591–624. C.J.S. Mortgages §§ 57–61, 66–67, 565, 991–1090, 1092–1093.] — redeemable, redemptive, redemptionaladj. — redeem,vb.

statutory redemption.The statutory right of a defaulting mortgagor to recover property, within a specified period, after a foreclosure or tax sale, by paying the outstanding debt or charges. • The purpose is to protect against the sale of property at a price far less than its value. See REDEMPTION PERIOD. [Cases: Mortgages 592. C.J.S. Mortgages §§ 1001–1002.]

tax redemption.A taxpayer's recovery of property taken for nonpayment of taxes, accomplished by paying the delinquent taxes and any interest, costs, and penalties. [Cases: Taxation 695, 725. C.J.S. Taxation §§ 1242, 1346–1351.]

### REDEMPTIONER

redemptioner. A person who redeems; esp. one who redeems real property under the equity of redemption or the right of redemption. See EQUITY OF REDEMPTION ; STATUTORY RIGHT OF REDEMPTION.

### REDEMPTION PERIOD

redemption period.The statutory period during which a defaulting mortgagor may recover property after a foreclosure or tax sale by paying the outstanding debt or charges. [Cases: Mortgages 599; Taxation 699. C.J.S. Mortgages §§ 1034–1037, 1039; Taxation §§ 1258–1264.]

### REDEMPTION PRICE

redemption price.See PRICE.

### REDEMPTIO OPERIS

redemptio operis (ri-demp-shee-oh op-<<schwa>>-ris), n.[Latin “redemption of work”] Civil law. A contract in which a worker agrees to perform labor or services for a specified price. Cf. locatio operarum under LOCATIO.

**REDEMPTOR**

redemptor (ri-demp-t<<schwa>>r), n. Roman law. A contractor. See CONDUCTOR(1).

**REDEUNDO**

redeundo (ree-dee-<<schwa>>n-doh). [Latin] Returning; in returning; while returning.

**REDEVANCE**

redavance (ruu-d<<schwa>>-vahns). [French] Hist. Dues payable by a tenant to the lord, not necessarily in money.

**RED HERRING**

red herring. 1. An irrelevant legal or factual issue, usu. intended to distract or mislead <law students should avoid discussing the red herrings that professors raise in exams>.2. See preliminary prospectus under PROSPECTUS.

**RED-HERRING PROSPECTUS**

red-herring prospectus. See preliminary prospectus under PROSPECTUS.

**REDHIBERE**

redhibere (red-hi-beer-ee), vb. [Latin] Civil law. 1. To return (a defective purchase) to the seller. 2. (Of a seller) to take back (a defective purchase).

**REDHIBITION**

redhibition (red-[h]i-bish-<<schwa>>n), n. Civil law. The voidance of a sale as the result of an action brought on account of some defect in a thing sold, on grounds that the defect renders the thing either useless or so imperfect that the buyer would not have originally purchased it. La. Civ. Code art. 2531. [Cases: Sales 119. C.J.S. Sales §§ 194, 199–202.] — redhibitory (red-hib-<<schwa>>-tor-ee), adj.

**REDHIBITORY ACTION**

redhibitory action. See ACTION(4).

**REDHIBITORY DEFECT**

redhibitory defect. Civil law. A fault or imperfection in something sold, as a result of which the buyer may return the item and demand back the purchase price. La. Civ. Code art. 2520. — Also termed redhibitory vice. [Cases: Sales 119. C.J.S. Sales §§ 194, 199–202.]

**REDIMERE**

redimere (ri-dim-<<schwa>>-ree), vb. [Latin] 1. To buy back; repurchase. 2. To obtain the release of by payment; ransom.

**REDIRECT EXAMINATION**

redirect examination. A second direct examination, after cross-examination, the scope ordinarily being limited to matters covered during cross-examination. — Often shortened to redirect. — Also termed (in England) reexamination. See DIRECT EXAMINATION. [Cases: Witnesses 285.C.J.S. Witnesses § 508.]

#### REDISCOUNT

rediscount, n. 1. The act or process of discounting a negotiable instrument that has already been discounted, as by a bank. 2. (usu. pl.) A negotiable instrument that has been discounted a second time. See DISCOUNT. — rediscount, vb.

#### REDISCOUNT RATE

rediscount rate. See INTEREST RATE.

#### REDISSEISIN

redisseisin (ree-dis-see-zin), n. 1. A disseisin by one who has already dispossessed the same person of the same estate. 2. A writ to recover an estate that has been dispossessed by redisseisin. — Also spelled redisseizin. See DISSEISIN. — redisseise (ree-dis-seez), vb.

#### REDISSEISINA

redisseisina. See DE REDISSEISINA.

#### REDISTRIBUTION

redistribution. The act or process of distributing something again or anew < redistribution of wealth>.

#### REDISTRICHT

redistrict, vb. To organize into new districts, esp. legislative ones; reapportion. [Cases: States 27; United States 10. C.J.S. States §§ 62–78; United States § 19.]

#### REDISTRICHTING

redistricting. See REAPPORTIONMENT.

#### REDITUS

reditus (red-<<schwa>>-t<<schwa>>s), n. [Latin “return”] A revenue or return; esp. rent. — Also spelled redditus.

reditus albi (al-bI). [Latin “white return”] Rent payable in silver or other money.

reditus capitales (kap-<<schwa>>-tay-leez). [Latin “capital return”] Chief rent paid by a freeholder to go quit of all other services. See QUIT RENT.

reditus nigri (nig-tI). [Latin “black return”] Rent payable in goods or labor rather than in money.

reditus quieti (kwI-ee-tI). [Latin “quiet return”] See QUIT RENT.

reditus siccus (sik-<<schwa>>s). [Latin "dry return"] Rent seck. See rent seck under RENT(2).

#### RED-LIGHT ABATEMENT LAWS

red-light abatement laws. An ordinance or statute intended to eliminate and prohibit sex-oriented businesses, usu. on grounds that they are public nuisances. • Brothels were once typically identified by a red light displayed in a window or in the front yard.

#### REDLINING

redlining, n.1. Credit discrimination (usu. unlawful discrimination) by an institution that refuses to provide loans or insurance on properties in areas that are deemed to be poor financial risks or to the people who live in those areas. [Cases: Civil Rights 1041, 1079; Consumer Credit 31. C.J.S. Civil Rights §§ 2–3, 14–17, 21, 23; Interest and Usury; Consumer Credit §§ 345–347.] 2. The process, usu. automated, of creating, for an existing document, an interim version that shows, through strike-outs and other typographical features, all deletions and insertions made in the most recent revision. — redline, vb.

#### REDRAFT

redraft, n. A second negotiable instrument offered by the drawer after the first instrument has been dishonored. — redraft, vb.

#### REDRESS

redress (ri-dressorree-dres), n.1. Relief; remedy <money damages, as opposed to equitable relief, is the only redress available>. [Cases: Damages 1, 3. C.J.S. Damages §§ 1–2, 4–7.] 2. A means of seeking relief or remedy <if the statute of limitations has run, the plaintiff is without redress>. — redressable, adj. — redress (ri-dres), vb.

penal redress. A form of penal liability requiring full compensation of the injured person as an instrument for punishing the offender; compensation paid to the injured person for the full value of the loss (an amount that may far exceed the wrongdoer's benefit). See RESTITUTION(4).

restitutionary redress. Money paid to one who has been injured, the amount being the pecuniary value of the benefit to the wrongdoer. See RESTITUTION(2).

#### RED TAPE

red tape. A bureaucratic procedure required to be followed before official action can be taken; esp. rigid adherence to time-consuming rules and regulations; excessive bureaucracy. • The phrase originally referred to the red ribbons that lawyers and government officials once used to tie their papers together.

#### REDUBBER

redubber. Hist. One who buys stolen cloth and redyes it or makes it into something so that the cloth is unrecognizable.

---

**REDUCTIO AD ABSURDUM**

reductio ad absurdum (ri-d<<schwa>>k-shee-oh or ri-d<<schwa>>k-tee-oh ad ab-s<<schwa>>r-d<<schwa>>m). [Latin “reduction to the absurd”] In logic, disproof of an argument by showing that it leads to a ridiculous conclusion.

**REDUCTION IMPROBATION**

reduction improbation. See IMPROBATION.

**REDUCTION IN FORCE**

reduction in force. See LAYOFF.

**REDUCTION TO PRACTICE**

reduction to practice. Patents. The embodiment of the concept of an invention, either by physical construction and operation or by filing a patent application with a disclosure adequate to teach a person reasonably skilled in the art how to make and work the invention without undue experimentation. • The date of reduction to practice is critical in determining priority between inventors competing for a patent on the same invention. See INVENTION. [Cases: Patents 90(5). C.J.S. Patents § 123.]

actual reduction to practice. The empirical demonstration that an invention performs its intended purpose and is therefore complete for patent purposes; the use of an idea or invention — as by testing it — to establish that the idea or invention will perform its intended purpose. *Brunswick Corp. v. U.S.*, 34 Fed. Cl. 532, 584 (1995).

constructive reduction to practice. The documented demonstration that an invention will perform its intended purpose, contained in a patent application that provides enough detail that a person skilled in the art could make and test the invention; the filing of a patent application for an invention or design. *Brunswick Corp. v. U.S.*, 34 Fed. Cl. 532, 584 (1995). [Cases: Patents 90(5). C.J.S. Patents § 123.]

vicarious reduction to practice. A doctrine that treats one party's actual reduction to practice of an invention as the opposing (usu. complaining) party's actual reduction to practice. • In a two-party interference, proof of derivation is usu. sufficient; showing an actual reduction to practice is unnecessary. The doctrine is more important in a three-party interference. [Cases: Patents 90(5). C.J.S. Patents § 123.]

**REENACTMENT RULE**

reenactment rule. In statutory construction, the principle that when reenacting a law, the legislature implicitly adopts well-settled judicial or administrative interpretations of the law. [Cases: Statutes 223.5. C.J.S. Statutes §§ 356–357.]

**REENTRY**

reentry, n. 1. The act or an instance of retaking possession of land by someone who formerly held the land and who reserved the right to retake it when the new holder let it go. 2. A landlord's



resumption of possession of leased premises upon the tenant's default under the lease. See POWER OF TERMINATION . [Cases: Landlord and Tenant 277. C.J.S. Landlord and Tenant §§ 716, 718–719, 724, 726.] — reenter,vb.

#### REEVE

reeve (reev).Hist. 1. A ministerial officer of high rank having local jurisdiction; the chief magistrate of a hundred. • The reeve executed process, kept the peace, and enforced the law by holding court within the hundred. 2. A minor officer serving the Crown at the hundred level; a bailiff or deputy-sheriff. 3. An overseer of a manor, parish, or the like. — Also spelled reve. — Also termed greve.

“All the freeholders, unless relieved by special exemption, ‘owed suit’ at the hundred-moot, and the reeve of the hundred presided over it. In Anglo-Saxon times, the reeve was an independent official, and the hundred-moot was not a preliminary stage to the shire-moot at all.... But after the Conquest the hundred assembly, now called a court as all the others were, lost its importance very quickly. Pleas of land were taken from it, and its criminal jurisdiction limited to one of holding suspects in temporary detention. The reeve of the hundred became the deputy of the sheriff, and the chief purpose of holding the hundred court was to enable the sheriff to hold his tourn and to permit a ‘view of frankpledge,’ i.e., an inspection of the person who ought to belong to the frankpledge system.” Max Radin, *Handbook of Anglo-American Legal History* 174–75 (1936).

borough reeve.Hist. In England, the head of an unincorporated municipality.

shire-reeve. The reeve of a shire. • The shire-reeve was a forerunner of the sheriff. — Also spelled shire-reve. — Also termed shire-gerefa.

#### REEXAMINATION

reexamination,n.1.REDIRECT EXAMINATION <the attorney focused on the defendant's alibi during reexamination>.2.Patents. A proceeding by the U.S. Patent and Trademark Office to determine whether prior art renders one or more claims of an already-issued patent invalid; specif., an administrative procedure by which a party can seek review of a patent on the basis of prior art by the PTO <the alleged infringer, hoping to avoid liability, sought reexamination of the patent to narrow its scope>. • A reexamination may be sought by anyone, even the patentee or an anonymous informant, at any time during the life of a patent. Only patents and publications may be considered as prior art. 35 USCA §§ 301–305. [Cases: Patents 134, 140.C.J.S. Patents §§ 237–238, 251.] — reexamine,vb.

ex parte reexamination.A reexamination procedure, created in the early 1980s, that allows a challenger to initiate a review by producing prior art and responding to a patentee's statements regarding the new prior art, but that excludes the challenger from further participation in the examination process. • Ex parte reexamination does not employ discovery mechanisms, and witnesses are not examined. The challenger also has no right to participate in an appeal. See 35 USCA §§ 302–307. Cf. inter partes reexamination.

inter partes reexamination.A reexamination procedure, created in 1999, that allows a

challenger to initiate a review by producing prior art, to respond to a patentee's statements regarding the new prior art, to address the patentee's responses to any office actions, and to request a hearing. • Both parties must serve each other with documents filed in the proceeding, but there is no discovery and witnesses are not examined. Either party may appeal the PTO's final decision on patentability. Inter partes reexamination is available to patents that issue from original applications that were filed on or after November 29, 1999. See 35 USCA §§ 311–318. Cf. ex parte reexamination. [Cases: Patents 140. C.J.S. Patents § 251.]

#### REEXAMINATION CERTIFICATE

reexamination certificate. Patents. A certificate issued by the U.S. Patent and Trademark Office at the conclusion of a reexamination proceeding, confirming that a patent has been reexamined and the claims have been found to be patentable, confirming that claims determined to be unpatentable have been canceled, or incorporating into the patent any amended or new claims determined to be patentable.

#### REEXCHANGE

reexchange, n. 1. A second or new exchange. 2. The process of recovering the expenses that resulted from the dishonor of a bill of exchange in a foreign country. 3. The expenses themselves.

#### REEXECUTION

reexecution. The equitable remedy by which a lost or destroyed deed or other instrument is replaced. • Equity compels the party or parties to execute a new deed or instrument if a claimant properly proves a right under one that has been lost or destroyed. [Cases: Lost Instruments 12.]

#### REEXPORT

reexport, n. 1. The act of exporting again something imported. 2. A good or commodity that is exported again. — reexport, vb.

#### REEXTENT

reextent. Hist. A second extent made upon complaint that the earlier extent was improper. See EXTENT.

#### RE. FA. LO.

re. fa. lo. abbr. RECORDARI FACIAS LOQUELAM.

#### REFARE

refare (ri-fair-ee), vb. [Latin] To bereave; rob; take away.

#### REFECTION

refection. Civil law. Repair or restoration, as of a building.

#### REFER

refer. Parliamentary law. To send (a motion) to a committee for its consideration or

investigation, with a view to a report from the committee back to the referring body. — Also termed commit. Cf. RECOMMIT; DISCHARGE (9).

re-refer. (Of the U.S. House of Representatives) to refer a bill to a different committee from the one it was originally referred to.

#### REFEREE

referee. 1. A type of master appointed by a court to assist with certain proceedings. • In some jurisdictions, referees take testimony before reporting to the court. See MASTER(2). [Cases: Federal Civil Procedure 1890; Reference 35–77. C.J.S. References §§ 40–72, 141–148.] 2. See judicial officer (3) under OFFICER.

referee in bankruptcy. A federal judicial officer who administers bankruptcy proceedings. • Abolished by the Bankruptcy Reform Act of 1978, these referees were replaced by bankruptcy judges. — Also termed register in bankruptcy. See bankruptcy judge under JUDGE. [Cases: Bankruptcy 2123. C.J.S. Bankruptcy § 7.]

#### REFERENCE

reference, n. 1. The act of sending or directing to another for information, service, consideration, or decision; specif., the act of sending a case to a master or referee for information or decision. [Cases: Federal Civil Procedure 1871; Reference 1. C.J.S. References §§ 2–3.]

general reference. A court's reference of a case to a referee, usu. with all parties' consent, to decide all issues of fact and law. • The referee's decision stands as the judgment of the court. [Cases: Reference 5. C.J.S. References § 8.]

special reference. A court's reference of a case to a referee for decisions on specific questions of fact. • The special referee makes findings and reports them to the trial judge, who treats them as advisory only and not as binding decisions. [Cases: Reference 12. C.J.S. References § 20.]

2. An order sending a case to a master or referee for information or decision. [Cases: Federal Civil Procedure 1888; Reference 29. C.J.S. References § 33.] 3. Mention or citation of one document or source in another document or source. [Cases: Contracts 166. C.J.S. Contracts §§ 315–316.] 4. Patents. Information — such as that contained in a publication, another patent, or another patent application — that a patent examiner considers to be anticipatory prior art or proof of unpredictability in the art that forms a basis for one or more of an applicant's claims to be rejected. See CITATION(4). [Cases: Patents 57.1. C.J.S. Patents § 57.] — refer, vb.

#### REFERENCE COMMITTEE

reference committee. See resolutions committee under COMMITTEE.

#### REFERENCE STATUTE

reference statute. See STATUTE.

#### REFERENDARIUS

referendarius (ref-<<schwa>>-ren-dair-ee-<<schwa>>s), n. [Law Latin] Roman law. An officer who received petitions to the emperor and who delivered answers to the petitioners. See APOCRISARIUS.

#### REFERENDO SINGULA SINGULIS

referendo singula singulis. See REDDENDO SINGULA SINGULIS.

#### REFERENDUM

referendum. 1. The process of referring a state legislative act, a state constitutional amendment, or an important public issue to the people for final approval by popular vote. [Cases: Constitutional Law 9; Statutes 341–367. C.J.S. Constitutional Law §§ 7, 11–12, 14; Statutes §§ 108–113, 115–126, 128–138, 140–144.] 2. A vote taken by this method. 3. Int'l law. An ambassador's request for instructions on subject matter that the ambassador does not have sufficient power to address. Pl. referendums, referenda. Cf. INITIATIVE.

#### REFERRAL

referral. The act or an instance of sending or directing to another for information, service, consideration, or decision <referral of the client to an employment-law specialist> <referral of the question to the board of directors>.

#### REFERRAL SALES CONTRACT

referral sales contract. A dual agreement consisting of an agreement by the consumer to purchase goods or services (usu. at an inflated price) and an agreement by the seller to compensate the consumer for each customer (or potential customer) referred to the seller. — Also termed referral sales agreement. Cf. PYRAMID SCHEME. [Cases: Consumer Protection 12. C.J.S. Credit Reporting Agencies; Consumer Protection §§ 56–58.]

“The problem inherent in a referral sales contract is the problem inherent in a chain letter — the success of the arrangement depends on an inexhaustible supply of customers. For example, if each buyer submits 25 names and each of these ‘referrals’ becomes a buyer under a similar agreement, the completion of the seventh round of referrals requires 6.1 trillion persons.... Both courts and legislatures have acted against referral sales.... The Uniform Consumer Credit Code prohibits the use of referral sales schemes in which the rebate is conditioned on ‘the occurrence of an event after the time the consumer agrees to buy or lease.’ In other words, a referral scheme keyed to the consumer merely furnishing names is not affected; a referral scheme keyed to the consumer furnishing names of people who actually become customers is prohibited.” David G. Epstein & Steve H. Nickles, *Consumer Law in a Nutshell* 39 (2d ed. 1981).

#### REFINANCING

refinancing, n. An exchange of an old debt for a new debt, as by negotiating a different interest rate or term or by repaying the existing loan with money acquired from a new loan. — refinance, vb.

#### REFORMATION

reformation (ref-*<<schwa>>r-may-sh<<schwa>>n*), n. An equitable remedy by which a court will modify a written agreement to reflect the actual intent of the parties, usu. to correct fraud or mutual mistake in the writing, such as an incomplete property description in a deed. • In cases of mutual mistake, the actual intended agreement must usu. be established by clear and convincing evidence. In cases of fraud, there must be clear evidence of what the agreement would have been but for the fraud. See RECTIFICATION. [Cases: Reformation of Instruments 1. C.J.S. Reformation of Instruments §§ 2–5, 12, 16.] — reform, vb.

“The standard explanation of reformation is that the parties had an actual agreement, and that the writing does not reflect that agreement.... If the parties made a mistake about the premises of their agreement, about some fact in the world outside their word-processing machines, reformation is not a solution. The court cannot reform the contract because it cannot know what the parties would have agreed to but for the mistake.” Douglas Laycock, *Modern American Remedies* 39 (3d ed. 2002).

#### REFORMATION CONDITION

reformation condition. See conditional bequest under BEQUEST.

#### REFORMATIVE PUNISHMENT

reformative punishment. See PUNISHMENT.

#### REFORMATORY

reformatory, n. A penal institution for young offenders, esp. minors. — Also termed reform school. [Cases: Infants 271. C.J.S. Infants § 271.]

#### REFOULEMENT

refoulement (*ri-fowl-m<<schwa>>nt*). [French] Expulsion or return of a refugee from one state to another. Cf. NONREFOULEMENT.

#### REFRESHING MEMORY

refreshing memory. See PRESENT RECOLLECTION REFRESHED.

#### REFRESHING RECOLLECTION

refreshing recollection. See PRESENT RECOLLECTION REFRESHED.

#### REFUGEE

refugee. A person who flees or is expelled from a country, esp. because of persecution, and seeks haven in another country. [Cases: Aliens 53.10(3). C.J.S. Aliens §§ 85, 92, 97, 205, 218.]

#### REFUGEEISM

refugeeism. The state of being a refugee.

#### REFUND

refund, n. 1. The return of money to a person who overpaid, such as a taxpayer who overestimated tax liability or whose employer withheld too much tax from earnings. [Cases: Internal Revenue 4950; Taxation 535, 1097. C.J.S. Internal Revenue § 780; Social Security and Public Welfare § 207; Taxation §§ 910–914, 919, 1679, 1690, 1764.] 2. The money returned to a person who overpaid. 3. The act of refinancing, esp. by replacing outstanding securities with a new issue of securities. — refund, vb.

#### REFUND ANNUITY

refund annuity. See ANNUITY.

#### REFUNDING

refunding. See FUNDING(2).

#### REFUNDING BOND

refunding bond. See BOND(2).

#### RE-FUNDING BOND

re-funding bond. See BOND(3).

#### REFUSAL

refusal. 1. The denial or rejection of something offered or demanded <the lawyer's refusal to answer questions was based on the attorney–client privilege>. 2. An opportunity to accept or reject something before it is offered to others; the right or privilege of having this opportunity <she promised her friend the first refusal on her house>. See RIGHT OF FIRST REFUSAL. [Cases: Contracts 16; Sales 24; Vendor and Purchaser 18(.5). C.J.S. Contracts §§ 37–41, 44, 46, 55–56, 58; Sales §§ 41–42; Vendor and Purchaser §§ 98–100, 103–106, 115–116.]

#### REFUSAL TO DEAL

refusal to deal. A company's decision not to do business with another company. • A business has the right to refuse to deal only if it is not accompanied by an illegal restraint of trade. [Cases: Monopolies 17(2.1).]

#### REFUSAL TO PAY

refusal to pay. See VEXATIOUS DELAY.

#### REFUS DE JUSTICE

refus de justice (ruu-foo d<<schwa>> zhoos-tees). See DENIAL OF JUSTICE.

#### REFUTANTIA

refutantia (ref-yoo-tan-shee-<<schwa>>), n. [Law Latin] Hist. An acquittance or an acknowledgment renouncing all future claims.

#### REFUTE

refute,vb.1. To prove (a statement) to be false. 2. To prove (a person) to be wrong. Cf. REBUT.

REG.

Reg.abbr.1.REGULATION. 2.REGISTER.

REG

reg.n. (usu. pl.) Slang. REGULATION(3) <review not only the tax code but also the accompanying regs>.

REGALE EPISCOPORUM

regale episcoporum (ri-gay-lee <<schwa>>-pis-k<<schwa>>-por-<<schwa>>m).Eccles. law. The temporal rights and privileges of a bishop.

REGALEM HABENS DIGNITATEM

regalem habens dignitatem (ri-gay-l<<schwa>>m hay-benz dig-ni-tay-t<<schwa>>m). [Law Latin] Hist. Having royal dignity.

REGALIA

regalia (ri-gay-lee-<<schwa>>).1.Hist. Rights held by the Crown under feudal law. • Regalia is a shortened form of jura regalia.

regalia majora (m<<schwa>>-jor-<<schwa>>). [Latin “greater rights”] The Crown's greater rights; the Crown's dignity, power, and royal prerogatives, as distinguished from the Crown's rights to revenues.

regalia minora (mi-nor-<<schwa>>). [Latin “lesser rights”] The Crown's lesser rights; the Crown's lesser prerogatives (such as the rights of revenue), as distinguished from its royal prerogatives.

2.Hist. Feudal rights usu. associated with royalty, but held by the nobility.“Counties palatine are so called a palatio; because the owners thereof, the earl of Chester, the bishop of Durham, and the duke of Lancaster, had in those counties jura regalia, as fully as the king hath in his palace ....” 1 William Blackstone, Commentaries on the Laws of England 113 (1765).

3. Emblems of royal authority, such as a crown or scepter, given to the monarch at coronation.  
4. Loosely, finery or special dress, esp. caps and gowns worn at academic ceremonies.

REGARD

regard,n.1. Attention, care, or consideration <without regard for the consequences>.2.Hist. In England, an official inspection of a forest to determine whether any trespasses have been committed. 3.Hist. The office or position of a person appointed to make such an inspection.

REGARDANT

regardant (ri-gahr-d<<schwa>>nt), adj. Hist. Attached or annexed to a particular manor <a

villein regardant>. See VILLEIN.

#### REGARDER

regarder. An official who inspects a forest to determine whether any trespasses have been committed. — Also termed *regarder of the forest*.

#### REG. BREV.

reg. brev.abbr.REGISTRUM BREVIUM.

#### REGE INCONSULTO

rege inconsulto (ree-jee in-k<<schwa>>n-s<<schwa>>l-toh). [Latin] Hist. A writ issued by a sovereign directing one or more judges not to proceed, until advised to do so, in a case that might prejudice the Crown.

#### REGENCY

regency. 1. The office or jurisdiction of a regent or body of regents. 2. A government or authority by regents. 3. The period during which a regent or body of regents governs.

#### REGENT

regent. 1. A person who exercises the ruling power in a kingdom during the minority, absence, or other disability of the sovereign. 2. A governor or ruler. 3. A member of the governing board of an academic institution, esp. a state university. 4.Eccles. law. A master or professor of a college.

#### REG. FD

Reg. FD. See REGULATION FAIR DISCLOSURE.

#### REG. GEN.

reg. gen.abbr.REGULA GENERALIS.

#### REGIAM MAJESTATEM

Regiam Majestatem (ree-jee-<<schwa>>m maj-<<schwa>>-stay-t<<schwa>>m). [Latin “the (books of the) Royal Majesty”] Scots law. An ancient collection of Scottish laws, so called from its opening words. • The four-book collection is generally believed to be genuine, although its origins are widely disputed. It was partly copied from Glanville's treatise *De Legibus et Consuetudinibus Angliae*, as appears from the works' similarities and the fact that the Glanville treatise opens with the words *Regiam potestatem*. It was at one time believed to have been compiled by David I, but this supposition is unfounded. Still others believed that Edward I was responsible for the compilation as part of his efforts to take over Scotland and assimilate the laws of that country and England, but modern scholars reject this view. It was probably compiled by an unknown cleric shortly before 1320.

#### REGICIDE

regicide (rej-<<schwa>>-sId).1. The killing or murder of a king. 2. One who kills or murders



a king, esp. to whom one is subject. — regicidal,adj.

#### REGIME

regime (r<<schwa>>-zheemor ray-zheem).1. A system of rules, regulations, or government <the community-property regime>.2. A particular administration or government, esp. an authoritarian one. — Also spelled régime.

international regime.A set of norms of behavior and rules and policies that cover international issues and that facilitate substantive or procedural arrangements among countries.

legal regime.A set of rules, policies, and norms of behavior that cover any legal issue and that facilitate substantive or procedural arrangements for deciding that issue.

régime dotal (ray-zheem doh-tahl).Hist. Civil law. The right and power of a husband to administer his wife's dotal property, the property being returned to the wife when the marriage is dissolved by death or divorce. See dotal property under PROPERTY.

régime en communauté (ray-zheem on koh-moo-noh-tayor kom-yoo-).Hist. Civil law. The community of property between husband and wife arising automatically upon their marriage, unless excluded by marriage contract.

#### REGINA

regina (ri-jI-n<<schwa>>). (usu. cap.) 1. A queen. 2. The official title of a queen. 3. In a monarchy ruled by a queen, the prosecution side in criminal proceedings. — Abbr. R. Cf. REX.

#### REGIO ASSENSU

regio assensu (ree-jee-oh <<schwa>>-sen-s[y]oo). [Latin] Eccles. law. A writ by which a sovereign assents to the election of a bishop.

#### REGIONAL FUND

regional fund.See MUTUAL FUND.

#### REGIONAL SECURITIES EXCHANGE

regional securities exchange.See SECURITIES EXCHANGE.

#### REGISTER

register,n.1. A governmental officer who keeps official records <each county employs a register of deeds and wills>. Cf. REGISTRAR. [Cases: Registers of Deeds 1. C.J.S. Registers of Deeds §§ 2–4.]

probate register.One who serves as the clerk of a probate court and, in some jurisdictions, as a quasi-judicial officer in probating estates.

register of deeds.A public official who records deeds, mortgages, and other instruments affecting real property. — Also termed registrar of deeds; recorder of deeds.

register of land office.Hist. A federal officer appointed for each federal land district to take charge of the local records and to administer the sale, preemption, or other disposition of public lands within the district. [Cases: Public Lands 95. C.J.S. Public Lands § 167.]

register of wills.A public official who records probated wills, issues letters testamentary and letters of administration, and serves generally as clerk of the probate court. • The register of wills exists only in some states. [Cases: Executors and Administrators 8. C.J.S. Executors and Administrators §§ 12–13.]

2. See probate judge under JUDGE. 3. A book in which all docket entries are kept for the various cases pending in a court. — Also termed (in sense 3) register of actions. 4.Eccles. law. A record book of significant events occurring in a parish, including marriages, births, christenings, and burials. • Registers became required in England around 1530. — Abbr. Reg.

register,vb.1. To enter in a public registry <register a new car>. [Cases: Records 9. C.J.S. Registers of Deeds §§ 2–71.] 2. To enroll formally <five voters registered yesterday>. [Cases: Elections 95–119. C.J.S. Elections §§ 7(3), 36–38, 40(1), 41, 46–47, 51–52.] 3. To make a record of <counsel registered three objections>.4. (Of a lawyer, party, or witness) to check in with the clerk of court before a judicial proceeding <please register at the clerk's office before entering the courtroom>.5. To file (a new security issue) with the Securities and Exchange Commission or a similar state agency <the company hopes to register its securities before the end of the year>. [Cases: Securities Regulation 11.10–11.50. C.J.S. Securities Regulation §§ 8, 35–49, 63, 69–72.]

#### REGISTERED AGENT

registered agent.See AGENT(2).

#### REGISTERED BOND

registered bond.1.BOND(2).2.BOND(3).

#### REGISTERED BROKER

registered broker.See BROKER.

#### REGISTERED CHECK

registered check.See CHECK.

#### REGISTERED CORPORATION

registered corporation.See CORPORATION.

#### REGISTERED DEALER

registered dealer.See DEALER.

#### REGISTERED MAIL

registered mail.See MAIL.

#### REGISTERED MARK

registered mark. See registered trademark under TRADEMARK.

**REGISTERED OFFERING**

registered offering. See OFFERING.

**REGISTERED ORGANIZATION**

registered organization. An organization created under state or federal law, for which the state or federal government must maintain a public record showing that the organization has been duly organized. UCC § 9-102(a)(70).

**REGISTERED PATENT AGENT**

registered patent agent. See patent agent under AGENT(2).

**REGISTERED PUBLIC OFFERING**

registered public offering. See registered offering under OFFERING.

**REGISTERED REPRESENTATIVE**

registered representative. See REPRESENTATIVE.

**REGISTERED SECURITY**

registered security. See SECURITY.

**REGISTERED STOCK**

registered stock. See registered security under SECURITY.

**REGISTERED TONNAGE**

registered tonnage. See REGISTER TONNAGE.

**REGISTERED TRADEMARK**

registered trademark. See TRADEMARK.

**REGISTERED VOTER**

registered voter. See VOTER.

**REGISTER IN BANKRUPTCY**

register in bankruptcy. See referee in bankruptcy under REFEREE.

**REGISTER OF ACTIONS**

register of actions. See REGISTER(3).

**REGISTER OF COPYRIGHTS**

Register of Copyrights. The federal official who is in charge of the U.S. Copyright Office, which issues regulations and processes applications for copyright registration. — Also termed

(erroneously) Registrar of Copyrights. [Cases: Copyrights and Intellectual Property 50.30. C.J.S. Copyrights and Intellectual Property §§ 7, 74.]

#### REGISTER OF DEEDS

register of deeds.See REGISTER.

#### REGISTER OF LAND OFFICE

register of land office.See REGISTER.

#### REGISTER OF SHIPS

register of ships.Maritime law. A record kept by a customs collector containing the names and owners of commercial vessels and other key information about the vessels. • When a ship logs in with customs, it receives a certificate of registry. Cf. REGISTRY(2). [Cases: Shipping 5. C.J.S. Shipping § 16.]

#### REGISTER OF THE TREASURY

Register of the Treasury.An officer of the U.S. Treasury whose duty is to keep accounts of receipts and expenditures of public money, to record public debts, to preserve adjusted accounts with vouchers and certificates, to record warrants drawn on the Treasury, to sign and issue government securities, and to supervise the registry of vessels under federal law. 31 USCA § 161.

#### REGISTER OF WILLS

register of wills.See REGISTER.

#### REGISTER'S COURT

register's court.See COURT.

#### REGISTER TONNAGE

register tonnage.The volume of a vessel available for commercial use, officially measured and entered in a record for purposes of taxation. — Also termed registered tonnage.

#### REGISTRANT

registrant. One who registers; esp., one who registers something for the purpose of securing a right or privilege granted by law upon official registration.

#### REGISTRAR

registrar. A person who keeps official records; esp., a school official who maintains academic and enrollment records. Cf. REGISTER(1).

#### REGISTRARIII LIBER

registrarii liber (rej-<<schwa>>-strair-ee-III-b<<schwa>>r). [Latin] Hist. The register's book in chancery, containing all decrees. — Abbr. reg. lib.

---

**REGISTRARIUS**

registrarius (rej-*<<schwa>>*-strair-ee-*<<schwa>>*s). [Latin] Hist. A registrar or register; a notary.

**REGISTRAR OF COPYRIGHTS**

Registrar of Copyrights. See REGISTER OF COPYRIGHTS.

**REGISTRAR OF DEEDS**

registrar of deeds. See register of deeds under REGISTER.

**REGISTRATION**

registration, n. 1. The act of recording or enrolling <the county clerk handles registration of voters>. [Cases: Elections 95–119. C.J.S. Elections §§ 7(3), 36–38, 40(1), 41, 46–47, 51–52.]

criminal registration. The requirement in some communities that any felon who spends any time in the community must register his or her name with the police. • Since the late 1980s, many states have adopted strict registration laws for convicted sex offenders. See MEGAN'S LAW. [Cases: Criminal Law 1222.1.]

special registration. Voter registration for a particular election only.

2. Securities. The complete process of preparing to sell a newly issued security to the public <the security is currently in registration>. [Cases: Securities Regulation 11.10–11.50. C.J.S. Securities Regulation §§ 8, 35–49, 63, 69–72.] — register, vb.

shelf registration. Registration with the SEC of securities to be sold over time, the purpose being to avoid the delays and market uncertainties of individual registration.

“It is generally contemplated that the entire allotment of securities covered by a registered offering will be made available for purchase on the effective date. This is not always the case, however. For example, insiders, promoters or underwriters might receive securities directly from the issuer with an intent to resell at a later date.... [I]t may be desirable to get a debt offering all ready to go but wait for a propitious moment to release it. These and other delayed offerings have led to what is known as shelf registration. In a shelf registration the registration statement is filed but the securities are put on the shelf until the manner and date of the offering are determined.” Thomas Lee Hazen, *The Law of Securities Regulation* § 3.8, at 119 (2d ed. 1994).

**REGISTRATION AND COMMUNITY-NOTIFICATION LAW**

registration and community-notification law. See MEGAN'S LAW.

**REGISTRATION-BASED QUORUM**

registration-based quorum. See QUORUM.

**REGISTRATION STATEMENT**

registration statement. A document containing detailed information required by the SEC for

the public sale of corporate securities. • The statement includes the prospectus to be supplied to prospective buyers. See PROSPECTUS. [Cases: Securities Regulation 25.10–25.35. C.J.S. Securities Regulation §§ 82–91.]

#### REGISTRATION SYSTEM

registration system. Patents. A patent system in which an invention is given patent protection when it is registered, without being subjected to official examination. • The United States operated under a registration system from 1790 until 1793. Cf. EXAMINATION SYSTEM.

#### REGISTRUM BREVIUM

registrum brevium (ri-jis-tr<<schwa>>m bree-vee-<<schwa>>m). [Latin] Hist. The register of writs. — Abbr. reg. brev.

#### REGISTRUM JUDICALE

registrum judicale (ri-jis-tr<<schwa>>m joo-di-kay-lee). [Latin] Hist. The register of judicial writs. — Abbr. reg. jud.

#### REGISTRUM ORIGINALE

registrum originale (ri-jis-tr<<schwa>>m <<schwa>>-rij-<<schwa>>-nay-lee). [Latin] Hist. The register of original writs. — Abbr. reg. orig.

#### REGISTRY

registry. 1. See probate judge under JUDGE. 2. Maritime law. The list or record of ships subject to a particular country's maritime regulations. • A ship is listed under the nationality of the flag it flies. See CERTIFICATE OF REGISTRY . Cf. REGISTER OF SHIPS; enrollment of vessels under ENROLLMENT. [Cases: Shipping 5. C.J.S. Shipping § 16.]

#### REG. JUD.

reg. jud. abbr. REGISTRUM JUDICALE.

#### REG. LIB.

reg. lib. abbr. REGISTRARI LIBER.

#### REGNAL

regnal (reg-n<<schwa>>l), adj. Of or relating to a monarch's reign <Queen Elizabeth II is in her 47th regnal year since her accession to the throne in 1952>.

#### REGNAL YEAR

regnal year. A year of a monarch's reign, marked from the date or anniversary of the monarch's accession. • Before 1962, British statutes were cited by the regnal years in which they were enacted. Since 1962, British statutes have been cited by calendar year rather than regnal year. (A table of British regnal years is listed in Appendix G of this book.)

## REGNANT

regnant (reg-n<<schwa>>nt), adj. Exercising rule, authority, or influence; reigning <a queen regnant>.

## REG. ORIG.

reg. orig.abbr.REGISTRUM ORIGINALE.

## REG. PL.

reg. pl.abbr.See regula placitandi under REGULA.

## REGRANT

regrant,n. The act or an instance of granting something again; the renewal of a grant (as of property). — regrant,vb.

## REGRATING

regrating,n. Hist. 1.The purchase of market commodities (esp. necessary provisions) for the purpose of reselling them in or near the same market at a higher price. 2. The resale of commodities so purchased. • In England, regrating was a criminal offense. — regrater,n. — regrade,vb.

“Regrating is described by [5 & 6 Edw. 6, ch. 14] to be the buying of corn, or other dead victual, in any market, and selling them again in the same market, or within four miles of the place. For this also enhances the price of the provisions, as every successive seller must have a successive profit.” 4 William Blackstone, Commentaries on the Laws of England 158 (1769).

## REGRESS

regress,n.1. The act or an instance of going or coming back; return or reentry <free entry, egress, and regress>.2. The right or liberty of going back; reentry. Cf. EGRESS; INGRESS. 3.Hist. The right to repayment or compensation; recourse. — regress (ri-gres), vb.

## REGRESSIVE TAX

regressive tax.See TAX.

## REGULA

regula (reg-y<<schwa>>-l<<schwa>>). [Latin] A rule.

regula generalis (reg-y<<schwa>>-l<<schwa>> jen-<<schwa>>-ray-lis). [Latin] A general rule, esp. of a court. — Abbr. reg. gen.; r.g. Pl. regulae generales.

regula placitandi (reg-y<<schwa>>-l<<schwa>> plas-<<schwa>>-tan-di). [Latin] Hist. A rule of pleading. — Abbr. reg. pl.

regula regulans (reg-y<<schwa>>-l<<schwa>> reg-y<<schwa>>-lanz). [Law Latin] Hist. The governing rule.

---

**REGULA CATONIANA**

regula Catoniana (reg-y<<schwa>>-l<<schwa>> kay-toh-nee-ay-n<<schwa>> or k<<schwa>>-toh-). [Latin "rule attributed to Cato"] Roman law. The principle that the lapse of time does not cure something void at the outset. • This principle, named for the Roman legal scholar Cato, was ordinarily used to set aside a bequest when the testator did not have the capacity to make the bequest. — Also termed Catoniana regula.

**REGULAR ARMY**

regular army. See ARMY.

**REGULAR COURSE OF BUSINESS**

regular course of business. See COURSE OF BUSINESS.

**REGULAR ELECTION**

regular election. See general election (1) under ELECTION(3).

**REGULAR INCOME**

regular income. See INCOME.

**REGULAR LIFE POLICY**

regular life policy. See life policy under INSURANCE POLICY.

**REGULAR MEETING**

regular meeting. See MEETING.

**REGULAR PROCESS**

regular process. See PROCESS.

**REGULAR SESSION**

regular session. See SESSION(1).

**REGULAR TERM**

regular term. See TERM(5).

**REGULAR USE**

regular use. See USE(1).

**REGULATION**

regulation, n. 1. The act or process of controlling by rule or restriction <the federal regulation of the airline industry>. 2. BYLAW(1) <the CEO referred to the corporate regulation>. 3. A rule or order, having legal force, usu. issued by an administrative agency <Treasury regulations explain and interpret the Internal Revenue Code>. — Abbr. reg; Reg. — Also termed (in sense 3) agency



regulation; subordinate legislation; delegated legislation. See MERIT REGULATION. [Cases: Administrative Law and Procedure 381–427. C.J.S. Public Administrative Law and Procedure §§ 87–114.] — regulatory, regulable,adj. — regulate,vb.

proposed regulation.A draft administrative regulation that is circulated among interested parties for comment. — Abbr. prop. reg. [Cases: Administrative Law and Procedure 392. C.J.S. Public Administrative Law and Procedure §§ 103, 105.]

#### REGULATION A

Regulation A. An SEC regulation that exempts stock offerings of up to \$5 million from certain registration requirements. [Cases: Securities Regulation 18.18. C.J.S. Securities Regulation § 69.]

#### REGULATION D

Regulation D. An SEC regulation that exempts certain stock offerings (such as those offered by private sale) from registration under the Securities Act of 1933. [Cases: Securities Regulation 18.11. C.J.S. Securities Regulation § 64.]

#### REGULATION FAIR DISCLOSURE

Regulation Fair Disclosure.An October 2000 SEC rule requiring companies to disclose material information to all investors at the same time. • The regulation is intended to prevent some investors from receiving advance information about earnings, mergers and acquisitions, product discoveries, changes in auditors, and any other information that a reasonable investor would consider in making an investment decision. — Often shortened to Regulation FD; Reg. FD.

#### REGULATION FD

Regulation FD. See REGULATION FAIR DISCLOSURE.

#### REGULATION J

Regulation J. A Federal Reserve Board regulation that governs the collection of checks by and the transfer of funds through member banks. [Cases: Banks and Banking 188.5, 356. C.J.S. Banks and Banking §§ 445–451, 656–659.]

#### REGULATION Q

Regulation Q. A Federal Reserve Board regulation that sets interest-rate ceilings and regulates advertising of interest on savings accounts. • The Banking Act of 1933 is the basis of this regulation, which applies to all commercial banks. [Cases: Banks and Banking 359. C.J.S. Banks and Banking §§ 661–662.]

#### REGULATION T

Regulation T. A Federal Reserve Board regulation that limits the amount of credit that a securities broker or dealer may extend to a customer, and that sets initial margin requirements and payment rules for securities transactions. • The credit limit and margin rules usu. require the

customer to provide between 40 and 60% of the purchase price. [Cases: Securities Regulation 45.11.]

#### REGULATION U

Regulation U. A Federal Reserve Board regulation that limits the amount of credit that a bank may extend to a customer who buys or carries securities on margin. [Cases: Securities Regulation 45.26. C.J.S. Securities Regulation § 118.]

#### REGULATION X

Regulation X. A HUD regulation that implements the provisions of the Real Estate Settlement Procedures Act. See REAL ESTATE SETTLEMENT PROCEDURES ACT. [Cases: Consumer Credit 50. C.J.S. Interest and Usury; Consumer Credit § 326.]

#### REGULATION Z

Regulation Z. A Federal Reserve Board regulation that implements the provisions of the federal Consumer Credit Protection Act for member banks. See CONSUMER CREDIT PROTECTION ACT . [Cases: Consumer Credit 32. C.J.S. Interest and Usury; Consumer Credit § 318.]

#### REGULATORY AGENCY

regulatory agency. See AGENCY(3).

#### REGULATORY OFFENSE

regulatory offense. See OFFENSE(1).

#### REGULATORY-OUT CLAUSE

regulatory-out clause. See FERC-OUT CLAUSE.

#### REGULATORY SEARCH

regulatory search. See administrative search under SEARCH.

#### REHABERE FACIAS SEISINAM

rehabere facias seisinam. See HABERE FACIAS SEISINAM.

#### REHABILITATION

rehabilitation, n. 1. Criminal law. The process of seeking to improve a criminal's character and outlook so that he or she can function in society without committing other crimes <rehabilitation is a traditional theory of criminal punishment, along with deterrence and retribution>. Cf. DETERRENCE; RETRIBUTION(1). [Cases: Sentencing and Punishment 45. C.J.S. Criminal Law §§ 1458, 1472, 1479, 1492–1495, 1530.] 2. Evidence. The restoration of a witness's credibility after the witness has been impeached <the inconsistencies were explained away during the prosecution's rehabilitation of the witness>. [Cases: Witnesses 410–416. C.J.S. Witnesses §§ 776–787.] 3. Bankruptcy. The process of reorganizing a debtor's financial affairs — under Chapter

11, 12, or 13 of the Bankruptcy Code — so that the debtor may continue to exist as a financial entity, with creditors satisfying their claims from the debtor's future earnings <the corporation's rehabilitation was successful>. — Also termed debtor rehabilitation. Cf. LIQUIDATION(4). [Cases: Bankruptcy 3501, 3671, 3701. C.J.S. Bankruptcy §§ 368, 416, 433.] — rehabilitative,adj. — rehabilitate,vb.

#### REHABILITATIVE ALIMONY

rehabilitative alimony.See ALIMONY.

#### REHEARING

rehearing. A second or subsequent hearing of a case or an appeal, usu. held to consider an alleged error or omission in the court's judgment or opinion <the appellant, dissatisfied with the appellate court's ruling, filed a motion for rehearing>. — Abbr. reh'g. Cf. REARGUMENT. [Cases: Administrative Law and Procedure 480; Federal Civil Procedure 928; Motions 39.C.J.S. Motions and Orders §§ 39–40; Public Administrative Law and Procedure §§ 161–162.]

#### REH'G

reh'g.abbr.REHEARING.

#### REI

rei (ree-I).pl.REUS.

#### REIF

reif (reef).Scots law. Robbery.

#### REIFICATION

reification (ree-*<<schwa>>*-fi-kay-sh*<<schwa>>*n), n.1. Mental conversion of an abstract concept into a material thing. 2.Civil procedure. Identification of the disputed thing in a nonpersonal action and attribution of an in-state situs to it for jurisdictional purposes. 3.Commercial law. Embodiment of a right to payment in a writing (such as a negotiable instrument) so that a transfer of the writing also transfers the right. — reify (ree-*<<schwa>>*-f*lorray*-), vb.

#### REI INTERITUS

rei interitus (ree-I in-ter-*<<schwa>>*-t*<<schwa>>*s). [Latin] Hist. The destruction of a thing.

#### REI INTERVENTUS

rei interventus (ree-I in-t*<<schwa>>*r-ven-t*<<schwa>>*s), n.[Latin “things intervening”] Actions or efforts by one party to a contract with the consent of the other party, so that the one party has made a partial performance and the other cannot repudiate without being in breach.

#### REIMBURSEMENT

reimbursement,n.1. Repayment. 2. Indemnification. — reimburse,vb.

---

**REIMBURSEMENT ALIMONY**

reimbursement alimony. See ALIMONY.

**RE INFECTA**

re infecta (ree in-fek-t<<schwa>>). [Latin] Hist. The thing not having been done; the performance having failed.

**REINSCRIPTION**

reinscription, n. Civil law. A second or renewed recordation of a mortgage or other title document. [Cases: Mortgages 96.] — reinscribe, vb.

**REINSTATE**

reinstate, vb. To place again in a former state or position; to restore <the judge reinstated the judgment that had been vacated>. — reinstatement, n.

**REINSURANCE**

reinsurance. Insurance of all or part of one insurer's risk by a second insurer, who accepts the risk in exchange for a percentage of the original premium. — Also termed reinsurance. [Cases: Insurance 3593.]

“The term ‘reinsurance’ has been used by courts, attorneys, and textwriters with so little discrimination that much confusion has arisen as to what that term actually connotes. Thus, it has so often been used in connection with transferred risks, assumed risks, consolidations and mergers, excess insurance, and in other connections that it now lacks a clean-cut field of operation. Reinsurance, to an insurance lawyer, means one thing only — the ceding by one insurance company to another of all or a portion of its risks for a stipulated portion of the premium, in which the liability of the reinsurer is solely to the reinsured, which is the ceding company, and in which contract the ceding company retains all contact with the original insured, and handles all matters prior to and subsequent to loss.” 13A John Alan Appleman & Jean Appleman, *Insurance Law and Practice* § 7681, at 479–80 (1976).

“The laying off of risk by means of reinsurance traditionally serves three basic purposes. First, reinsurance can increase the capacity of the insurer to accept risk. The insurer may be enabled to take on larger individual risks, or a large number of smaller risks, or a combination of both.... Secondly, reinsurance can promote financial stability by ameliorating the adverse consequences of an unexpected accumulation of losses or of single catastrophic losses, because these will, at least in part, be absorbed by reinsurers. Thirdly, reinsurance can strengthen the solvency of an insurer from the point of view of any regulations under which the insurer must operate which provide for a minimum ‘solvency margin,’ generally expressed as a ratio of net premium income over capital and free reserves.” P.T. O'Neill & J.W. Woloniecki, *The Law of Reinsurance in England and Bermuda* 4 (1998).

excess reinsurance. Reinsurance in which a reinsurer assumes liability only for an amount of insurance that exceeds a specified sum. See excess insurance under INSURANCE.

facultative reinsurance. Reinsurance of an individual risk at the option (the "faculty") of the reinsurer. [Cases: Insurance 3593.]

flat reinsurance. Reinsurance (esp. of marine insurance) that cannot be canceled or modified.

treaty reinsurance. Reinsurance under a broad agreement of all risks in a given class as soon as they are insured by the direct insurer. [Cases: Insurance 3593.]

#### REINSURANCE TREATY

reinsurance treaty. A contract of reinsurance (usu. long-term) covering different classes or lines of business of the reinsured (such as professional liability, property, etc.) and obligating the reinsurer in advance to accept the cession of covered risks. • Rather than receive individual notice of each specific claim covered, the treaty reinsurer will generally receive periodic reports providing basic information on the losses paid. — Also termed treaty of reinsurance. See BORDEREAU. Cf. FACULTATIVE CERTIFICATE. [Cases: Insurance 3593.]

#### REINSURED

reinsured, n. An insurer that transfers all or part of a risk it underwrites to a reinsurer, usu. along with a percentage of the original premium. — Also termed cedent; cedant. [Cases: Insurance 3593.]

#### REINSURER

reinsurer. An insurer that assumes all or part of a risk underwritten by another insurer, usu. in exchange for a percentage of the original premium. [Cases: Insurance 3593.]

#### REINVESTED DIVIDEND

reinvested dividend. See DIVIDEND.

#### REINVESTMENT

reinvestment. 1. The addition of interest earned on a monetary investment to the principal sum. 2. A second, additional, or repeated investment; esp., the application of dividends or other distributions toward the purchase of additional shares (as of a stock or a mutual fund).

#### REISSUABLE ERROR

reissuable error. Patents. A type of nondeceptive mistake in a patent that may be corrected in a reissue patent. 35USCA § 252. [Cases: Patents 136. C.J.S. Patents § 238.]

#### REISSUABLE NOTE

reissuable note. See NOTE(1).

#### REISSUE

reissue. 1. An abstractor's certificate attesting to the correctness of an abstract. • A reissue is an important precaution when the abstract comprises an original abstract brought down to a certain date and then several later continuations or extensions. [Cases: Abstracts of Title 3. C.J.S.

Abstracts of Title §§ 6–20.] 2. See reissue patent under PATENT(3).

#### REISSUE PATENT

reissue patent. See PATENT(3).

#### REI SUAE PROVIDUS

rei suae providus (ree-Is[y]oo-ee pr<<schwa>>-vI-d<<schwa>>s). [Latin] Hist. Careful of one's property.

“Interdiction, whether voluntary or judicial, can only be recalled or removed by an interlocutor of Court, and it affords a good ground on which to apply for the removal of the restraint imposed by interdiction that the interdicted has become rei suae providus.” John Trayner, Trayner's Latin Maxims 546–47 (4th ed. 1894).

#### REIT

REIT (reet).abbr.REAL-ESTATE INVESTMENT TRUST.

#### REJECT, ASSUME OR

reject, assume or. See ASSUME OR REJECT.

#### REJECTING

rejecting,n. A parent's or caregiver's pattern of refusing to acknowledge a child's worth or legitimate needs. Cf. ISOLATING; IGNORING.

#### REJECTION

rejection. 1. A refusal to accept a contractual offer. [Cases: Contracts 21.] 2. A refusal to accept tendered goods as contractual performance. • Under the UCC, a buyer's rejection of nonconforming goods must be made within a reasonable time after tender or delivery, and notice of the rejection must be given to the seller. UCC § 2-602. [Cases: Sales 168(4), 179(6).C.J.S. Sales §§ 192, 194–198.] Cf. REPUDIATION(2); RESCISSION; REVOCATION(1).3.Parliamentary law. Failure of adoption or ratification. See LOST(3).4.Patents. A patent examiner's finding in an office action that a claim in an application is unpatentable. Cf. OBJECTION(4); RESTRICTION(4). [Cases: Patents 108. C.J.S. Patents §§ 144, 148–151.] — reject,vb.

aggregation rejection.Rejection of a patent claim on the ground that it is a list of unrelated elements that, taken together, do not assert a claim. [Cases: Patents 25. C.J.S. Patents § 86.]

alternativeness rejection.Rejection of a patent claim on the ground that it seeks a broad monopoly on the invention as disclosed and on other unspecified variations. • For example, a claim using a phrase such as “and similar materials” would probably be too broad to be allowed. [Cases: Patents 124. C.J.S. Patents § 210.]

duplicate-claiming rejection.The nonart rejection of a patent claim because it is not substantially different from another claim.

exhausted-combination rejection. See old-combination rejection.

failure-to-disclose-best-mode rejection. Rejection of a patent application on the ground that the inventor has not disclosed the best way to use the invention. • To warrant rejection, the examiner must find deliberate concealment or a description so poorly drafted as to amount to concealment. [Cases: Patents 98. C.J.S. Patents §§ 137–139.]

final rejection. A patent examiner's finding, in a second or subsequent office action, that a claim in an application is unpatentable on the merits. • A final rejection is made in the final office action. Despite the misleading name, a final rejection need not end the prosecution. The rejection can be appealed, or the application can be reexamined or continued in another application. A rejection may also be appealed to the Board of Patent Appeals and Interferences. A decision of that Board may be reviewed by the U.S. District Court for the District of Columbia or appealed to the U.S. Court of Appeals for the Federal Circuit. 35 USCA §§ 141–145. [Cases: Patents 108. C.J.S. Patents §§ 144, 148–151.]

formal rejection. Rejection of a patent claim because of an error in format rather than substance. • A formal rejection is actually an objection rather than a rejection, since it requires no substantive change in the claim. — Also termed nonart rejection. [Cases: Patents 104. C.J.S. Patents §§ 145–147, 149–151, 173–175.]

functional rejection. Rejection of a patent claim on the grounds that it broadly claims a function but does not disclose enough structure to account for achieving that function. See FUNCTIONAL LIMITATION. [Cases: Patents 101(8).]

inaccuracy rejection. Rejection of a patent claim on the ground that it is not consistent with the description.

incompleteness rejection. Rejection of a patent application on the ground that an element of the device or a step in the process has been left out.

interference-estoppel rejection. Rejection of a patent claim on the ground that the applicant failed to bring the claim into a previous interference contest in which its priority could have been determined. [Cases: Patents 112.4.]

judicially created double-patenting rejection. Rejection of a patent application on the ground that the invention is an obvious variation of another patented invention by the same inventor. — Also termed obviousness-type double-patenting rejection. [Cases: Patents 120.]

lack-of-antecedent-basis rejection. Rejection of a patent application on the ground that a reference either in the specification or in the claim is missing.

lack-of-enablement rejection. See nonenablement rejection.

lack-of-utility rejection. Rejection of a patent claim on the ground that the invention is inoperative, frivolous, fraudulent, or against the public interest. • The classic examples are perpetual-motion machines (inoperative), cures for the common cold (frivolous because believed impossible, and also probably fraudulent), and gambling devices (formerly seen as against the

---

public interest). [Cases: Patents 46. C.J.S. Patents § 59.]

new-matter rejection.Rejection of a patent claim on the ground that an amendment contains new matter. [Cases: Patents 109. C.J.S. Patents §§ 152–155.]

nonart rejection.See formal rejection.

nonenablement rejection.Rejection of a patent claim on the ground that its specification does not teach enough to enable a person skilled in the art to make and use the invention. — Also termed lack-of-enablement rejection. [Cases: Patents 99. C.J.S. Patents § 139.]

obviousness-type double-patenting rejection.See judicially created double-patenting rejection.

old-combination rejection.Rejection of a patent claim on the ground that, despite the fact that one or more elements perform in a different way, all the elements perform the same function as a previously patented invention. • The improved element may be patentable, but the combination may not be. — Also termed exhausted-combination rejection. [Cases: Patents 26(1.1).]

prolixity rejection.Rejection of a patent application on the ground that the language is so wordy and tedious that it tends more to hide than to disclose the invention.

rejection on issues of interference.Rejection of a patent claim on the ground that the applicant has lost a final judgment of priority regarding the claim in an interference contest. [Cases: Patents 112.4.]

same-invention double-patenting rejection.See statutory double-patenting rejection.

Section 101 rejection.Rejection of a patent application on the ground that it is based on nonstatutory subject matter. 35 USCA § 101.

Section 102 rejection.Rejection of a patent application for lack of novelty. 35 USCA § 102. [Cases: Patents 37. C.J.S. Patents §§ 29–30.]

Section 103 rejection.Rejection of a patent application for obviousness. 35 USCA § 103. [Cases: Patents 16.1. C.J.S. Patents § 64.]

Section 112 rejection.See vague-and-indefinite rejection.

shotgun rejection.Slang. Denial of all or almost all claims in a patent application by the U.S. Patent and Trademark Office, esp. in the first office action.

statutory double-patenting rejection.Rejection of a patent application on the ground that the invention is the same subject matter as an already-patented invention by the same inventor. • This rejection is based on 35 USCA § 101. — Also termed same-invention double-patenting rejection. [Cases: Patents 120.]

undue-breadth rejection.Rejection of a patent claim on the ground that it seeks a patent monopoly on more than the invention. • For instance, a functional claim is too broad if it purports to include every other possible way of accomplishing a function. A claim on a chemical is more



likely to be rejected for undue breadth than a claim on a machine, because future discoveries are less predictable. [Cases: Patents 124. C.J.S. Patents § 210.]

undue-multiplicity-of-claims rejection.Rejection of a patent application on the ground that it makes an unreasonable number of claims. See AGGREGATION OF CLAIMS.

vague-and-indefinite rejection.Rejection of a patent claim on the ground that a person of ordinary skill in the art could not clearly understand it. • For example, terms used in more than one sense could make the meaning unclear. — Also termed Section 112 rejection. [Cases: Patents 101(6).]

#### REJOINDER

rejoinder,n. Common-law pleading. The defendant's answer to the plaintiff's reply (or replication). [Cases: Pleading 183. C.J.S. Pleading § 229.] — rejoin,vb.

#### RELATED GOOD

related good.Trademarks. A good that infringes a trademark because it appears to come from the same source as the marked good, despite not competing with the marked good. • For example, a cutting tool named “McKnife” might infringe the “McDonald's” trademark as a related good.

#### RELATED PROCEEDING

related proceeding.Bankruptcy. A proceeding that involves a claim that will affect the administration of the debtor's estate (such as a tort action between the debtor and a third party), but that does not arise under bankruptcy law and could be adjudicated in a state court. • A related proceeding must be adjudicated in federal district court unless the parties consent to bankruptcy-court jurisdiction or unless the district court refers the matter to the bankruptcy court or to state court. — Also termed noncore proceeding. Cf. CORE PROCEEDING(1). [Cases: Bankruptcy 2043–2063.C.J.S. Bankruptcy §§ 5, 9–12, 14–15, 17–18, 22.]

#### RELATED RIGHT

related right.See NEIGHBORING RIGHT.

#### RELATION

relation. See RELATIVE.

#### RELATION BACK

relation back,n.1. The doctrine that an act done at a later time is, under certain circumstances, treated as though it occurred at an earlier time. • In federal civil procedure, an amended pleading may relate back, for purposes of the statute of limitations, to the time when the original pleading was filed. Fed. R. Civ. P. 15(c). [Cases: Limitation of Actions 127.C.J.S. Limitations of Actions § 235.] 2. A judicial application of that doctrine. — Also termed doctrine of relation back. Cf. NUNC PRO TUNC. — relate back,vb.

#### RELATIONSHIP

relationship. The nature of the association between two or more people; esp., a legally recognized association that makes a difference in the participants' legal rights and duties of care.

attorney–client relationship. The formal legal representation of a person by a lawyer. • An attorney–client relationship may be found, for disciplinary purposes, without any formal agreement.

confidential relationship. 1. See fiduciary relationship. 2. Trade secrets. A relationship in which one person has a duty to the other not to disclose proprietary information. • A confidential relationship can be expressly established, as by the terms of an employment contract. It can also be implied when one person knows or should know that the information is confidential, and the other person reasonably believes that the first person has consented to keep the information confidential. A confidential relationship might be implied, for instance, between two people negotiating the sale of a business.

doctor–patient relationship. The association between a medical provider and one who is being diagnosed or treated. • The relationship imposes a duty on the doctor to ensure that the patient gives informed consent for treatment.

employer–employee relationship. The association between a person employed to perform services in the affairs of another, who in turn has the right to control the person's physical conduct in the course of that service. • At common law, the relationship was termed “master-servant.” That term is still used often, but “employer–employee” dominates in modern legal usage.

fiducial relationship. See trust relationship.

fiduciary relationship. A relationship in which one person is under a duty to act for the benefit of another on matters within the scope of the relationship. • Fiduciary relationships — such as trustee–beneficiary, guardian–ward, principal–agent, and attorney–client — require an unusually high degree of care. Fiduciary relationships usu. arise in one of four situations: (1) when one person places trust in the faithful integrity of another, who as a result gains superiority or influence over the first, (2) when one person assumes control and responsibility over another, (3) when one person has a duty to act for or give advice to another on matters falling within the scope of the relationship, or (4) when there is a specific relationship that has traditionally been recognized as involving fiduciary duties, as with a lawyer and a client or a stockbroker and a customer. — Also termed fiduciary relation; confidential relationship. Cf. special relationship

master–servant relationship. The association between one in authority and a subordinate, esp. between an employer and an employee. • At common law, this term also designated the husband–wife relationship for purposes of analyzing loss of consortium, but that usage is now obsolete. — Also termed employer–employee relationship. See MASTER AND SERVANT.

parent–child relationship. The association between an adult and a minor in the adult's care, esp. an offspring or an adoptee. • The relationship imposes a high duty of care on the adult, including the duties to support, to rescue, to supervise and control, and to educate.

professional relationship. An association that involves one person's reliance on the other

person's specialized training. • Examples include one's relationship with a lawyer, doctor, insurer, banker, and the like.

special relationship. A nonfiduciary relationship having an element of trust, arising esp. when one person trusts another to exercise a reasonable degree of care and the other knows or ought to know about the reliance. Cf. fiduciary relationship. [Cases: Master and Servant 30(1.15); Torts 12. C.J.S. Employer–Employee Relationship § 60; Torts §§ 54, 59–65.]

trust relationship. An association based on one person's reliance on the other person's specialized training. — Also termed fiducial relationship.

#### RELATIONSHIP RAPE

relationship rape. See RAPE.

#### RELATIVE

relative, n. A person connected with another by blood or affinity; a person who is kin with another. — Also termed relation; kinsman. Cf. NEXT OF KIN(1).

blood relative. One who shares an ancestor with another.

collateral relative. A relative who is not in the direct line of descent, such as a cousin. [Cases: Descent and Distribution 32–41. C.J.S. Descent and Distribution §§ 29, 38–49.]

relative by affinity. A person who is related not by marriage or by blood or by adoption, but solely as the result of a marriage. • A person is a relative by affinity (1) to any blood or adopted relative of his or her spouse, and (2) to any spouse of his or her blood and adopted relatives. Based on the theory that marriage makes two people one, the relatives of each spouse become the other spouse's relatives by affinity. See AFFINITY.

relative of the half blood. A collateral relative who shares one common ancestor. • A half brother, for example, is a relative of the half blood. See half blood under BLOOD.

#### RELATIVE CONFESSION

relative confession. See CONFESSION.

#### RELATIVE-CONVENIENCE DOCTRINE

relative-convenience doctrine. The principle that an injunction or other equitable relief may be denied if granting it would cause one party great inconvenience but denying it would cause the other party little or no inconvenience. [Cases: Injunction 23. C.J.S. Injunctions § 35.]

#### RELATIVE FACT

relative fact. See FACT.

#### RELATIVE NULLITY

relative nullity. See NULLITY.

---

**RELATIVE POWER**

relative power. See POWER(5).

**RELATIVE-RESPONSIBILITY STATUTE**

relative-responsibility statute. A law requiring adult children to support or provide basic necessities for their indigent elderly parents.

**RELATIVE RIGHT**

relative right. See RIGHT.

**RELATIVE SIMULATED CONTRACT**

relative simulated contract. See CONTRACT.

**RELATOR**

relator. 1. The real party in interest in whose name a state or an attorney general brings a lawsuit. See EX REL. [Cases: Attorney General 9. C.J.S. Attorney General §§ 11, 15.] 2. The applicant for a writ, esp. a writ of mandamus, prohibition, or quo warranto. [Cases: Mandamus 144; Prohibition 19; Quo Warranto 30. C.J.S. Mandamus §§ 278, 280, 287–288; Prohibition §§ 10, 33; Quo Warranto § 57.] 3. A person who furnishes information on which a civil or criminal case is based; an informer.

**RELATRIX**

relatrix (ri-lay-triks). Archaic. A female relator.

**RELAXATIO**

relaxatio (ree-lak-say-shee-oh). [Law Latin] Hist. An instrument by which one relinquishes a right or claim to another; a release.

**RELEASE**

release, n. 1. Liberation from an obligation, duty, or demand; the act of giving up a right or claim to the person against whom it could have been enforced <the employee asked for a release from the noncompete agreement>. — Also termed discharge; surrender. 2. The relinquishment or concession of a right, title, or claim <Benson's effective release of the claim against Thompson's estate precluded his filing a lawsuit>. [Cases: Release 1. C.J.S. Release §§ 2–3, 5–8, 19.] 3. A written discharge, acquittance, or receipt; specif., a writing — either under seal or supported by sufficient consideration — stating that one or more of the worker's contractual or compensatory rights are discharged <Jones signed the release before accepting the cash from Hawkins>. • Beneficiaries of an estate are routinely required to sign a release discharging the estate from further liability before the executor or administrator distributes the property. 4. A written authorization or permission for publication <the newspaper obtained a release from the witness before printing his picture on the front page>. 5. The act of conveying an estate or right to another, or of legally disposing of it <the release of the easement on February 14>. 6. A deed or document

effecting a conveyance <the legal description in the release was defective>. See deed of release under DEED. [Cases: Deeds 23.] 7. The action of freeing or the fact of being freed from restraint or confinement <he became a model citizen after his release from prison>. 8. A document giving formal discharge from custody <after the sheriff signed the release, the prisoner was free to go>. — release, vb.

conditional release. 1. A discharge from an obligation based on some condition, the failure of which defeats the release. 2. An early discharge of a prison inmate, who is then subject to the rules and regulations of parole. [Cases: Prisons 15(6). C.J.S. Prisons and Rights of Prisoners § 154.]

mutual release. A simultaneous exchange of releases of legal claims held by two or more parties against each other.

partial release. A release of a portion of a creditor's claims against property; esp., a mortgagee's release of specified parcels covered by a blanket mortgage. [Cases: Mortgages 310. C.J.S. Mortgages § 488.]

study release. A program that allows a prisoner to be released for a few hours at a time to attend classes at a nearby college or technical institution. — Also termed study furlough.

unconditional release. The final discharge of a prison inmate from custody.

#### RELEASE CLAUSE

release clause. Real estate. 1. A blanket-mortgage provision that enables the mortgagor to obtain a release from the mortgage of a specific portion of the property upon paying a specific (usu. more than pro rata) portion of the loan. • Mortgagees commonly include a clause that disallows a partial release if the mortgagor is in default on any part of the mortgage. [Cases: Mortgages 310. C.J.S. Mortgages § 488.] 2. A purchase-agreement provision that allows a seller who has accepted an offer containing a contingency to continue to market the property and accept other offers. • If the seller accepts another buyer's offer, the original buyer typically has a specified time (such as 72 hours) to waive the contingency (such as the sale of the buyer's present house) or to release the seller from the agreement. [Cases: Vendor and Purchaser 79. C.J.S. Vendor and Purchaser §§ 125, 141.]

#### RELEASE DEED

release deed. See DEED.

#### RELEASEE

releasee. 1. One who is released, either physically or by contractual discharge. [Cases: Release 26. C.J.S. Release § 49.] 2. One to whom an estate is released.

#### RELEASE OF MORTGAGE

release of mortgage. A written document that discharges a mortgage upon full payment by the borrower and that is publicly recorded to show that the borrower has full equity in the property. [Cases: Mortgages 309, 314. C.J.S. Mortgages §§ 451, 465–466, 477–479, 488.]

---

**RELEASE ON RECOGNIZANCE**

release on recognizance. The pretrial release of an arrested person who promises, usu. in writing but without supplying a surety or posting bond, to appear for trial at a later date. — Abbr. ROR. — Also termed release on own recognizance. See RECOGNIZANCE. [Cases: Bail 40. C.J.S. Bail; Release and Detention Pending Proceedings § 8.]

**RELEASER**

releaser. See RELEASOR.

**RELEASE TO USES**

release to uses. Conveyance of property, by deed of release, by one party to another for the benefit of the grantor or a third party. See deed of release under DEED; STATUTE OF USES; USE(4). [Cases: Deeds 23.]

**RELEASOR**

releasor. One who releases property or a claim to another. — Also spelled releaser. [Cases: Release 1. C.J.S. Release §§ 2–3, 5–8, 19.]

**RELEGATIO**

relegatio (rel-<<schwa>>-gay-shee-oh), n. [fr. Latin relegare “to send away”] Roman law. Temporary or permanent banishment of a condemned criminal from Rome and the criminal's native province, without loss of citizenship or forfeiture of all the criminal's property. Cf. DEPORTATIO.

“Relegatio. The expulsion of a citizen ordered either by an administrative act of a magistrate or by judgment in a criminal trial. In the latter case the relegatio was sometimes combined with additional punishments, such as confiscation of the whole or of a part of the property of the condemned person, loss of Roman citizenship, confinement in a certain place. A milder form of relegatio was the exclusion of the wrongdoer from residence in a specified territory. Illicit return was punished with the death penalty.” Adolf Berger, *Encyclopedic Dictionary of Roman Law* 673 (1953).

**RELEGATION**

relegation, n. 1. Banishment or exile, esp. a temporary one. 2. Assignment or delegation. — relegate, vb.

**RELEVANCE**

relevance. The fact, quality, or state of being relevant; relation or pertinence to the issue at hand. — Also termed relevancy. [Cases: Criminal Law 338; Evidence 99. C.J.S. Criminal Law §§ 710, 730; Evidence §§ 2–5, 197–199, 204, 206.]

**RELEVANCY**

relevancy. See RELEVANCE.

---

**RELEVANT**

relevant,adj. Logically connected and tending to prove or disprove a matter in issue; having appreciable probative value — that is, rationally tending to persuade people of the probability or possibility of some alleged fact. Cf. MATERIAL(2), (3). [Cases: Criminal Law 338; Evidence 99.C.J.S. Criminal Law §§ 710, 730; Evidence §§ 2–5, 197–199, 204, 206.]

“The word ‘relevant’ means that any two facts to which it is applied are so related to each other that according to the common course of events one either taken by itself or in connection with other facts proves or renders probable the past, present, or future existence or non-existence of the other.” James Fitzjames Stephen, *A Digest of the Law of Evidence* 2 (4th ed. 1881).

**RELEVANT ART**

relevant art. See ART.

**RELEVANT EVIDENCE**

relevant evidence. See EVIDENCE.

**RELEVANT MARKET**

relevant market. See MARKET.

**RELIANCE**

reliance,n. Dependence or trust by a person, esp. when combined with action based on that dependence or trust. — rely,vb.

detrimental reliance. Reliance by one party on the acts or representations of another, causing a worsening of the first party's position. • Detrimental reliance may serve as a substitute for consideration and thus make a promise enforceable as a contract. See promissory estoppel under ESTOPPEL. [Cases: Estoppel 55, 85, 87. C.J.S. Estoppel §§ 85–86, 90, 92–93.]

**RELIANCE DAMAGES**

reliance damages. See DAMAGES.

**RELIANCE INTEREST**

reliance interest. See INTEREST(2).

**RELIANCE-LOSS DAMAGES**

reliance-loss damages. See DAMAGES.

**RELIANCE MATERIALS**

reliance materials. See EXPERT-RELIANCE MATERIALS.

**RELICT**

relict (rel-ikt). Archaic. 1. A widow. 2. A surviving spouse.

## RELICTA VERIFICATIONE

relicta verificatione (ri-lik-t<<schwa>> ver-<<schwa>>-fi-kay-shee-oh-nee). [Latin “his pleading being abandoned”] Hist. A confession of judgment accompanied by a withdrawal of the plea. See COGNOVIT ACTIONEM.

## RELICION

relicion (ri-lik-sh<<schwa>>n).1. A process by which a river or stream shifts its location, causing the recession of water from its bank. [Cases: Navigable Waters 44; Waters and Water Courses 93. C.J.S. Navigable Waters § 94; Waters §§ 177–182, 184–185.] 2. The alteration of a boundary line because of the gradual removal of land by a river or stream. See ACCRETION; DERELICTION(2). [Cases: Navigable Waters 44; Waters and Water Courses 93. C.J.S. Navigable Waters § 94; Waters §§ 177–182, 184–185.]

## RELIEF

relief. 1. A payment made by an heir of a feudal tenant to the feudal lord for the privilege of succeeding to the ancestor's tenancy.

“A mesne lord could, upon the death of his tenant, accept the tenant's heir as tenant; but he was not required to do so. When he did accept his deceased tenant's heir as tenant, it was typically because the heir had paid the mesne lord a substantial sum (known as a relief) for the re-grant of the tenancy.” Thomas F. Bergin & Paul G. Haskell, Preface to *Estates in Land and Future Interests* 8 (2d ed. 1984).

2. Aid or assistance given to those in need, esp., financial aid provided by the state. [Cases: Social Security and Public Welfare 4. C.J.S. Social Security and Public Welfare §§ 6, 10, 17.] 3. The redress or benefit, esp. equitable in nature (such as an injunction or specific performance), that a party asks of a court. — Also termed remedy. Cf. REMEDY.

affirmative relief.The relief sought by a defendant by raising a counterclaim or cross-claim that could have been maintained independently of the plaintiff's action.

alternative relief.Judicial relief that is mutually exclusive with another form of judicial relief. • In pleading, a party may request alternative relief, as by asking for both specific performance and damages that would be averted by specific performance. Fed. R. Civ. P. 8(a). Cf. ELECTION OF REMEDIES. [Cases: Specific Performance 127. C.J.S. Specific Performance §§ 194–196, 198–199.]

coercive relief.Judicial relief, either legal or equitable, in the form of a personal command to the defendant that is enforceable by physical restraint.

interim relief.Relief that is granted on a preliminary basis before an order finally disposing of a request for relief.

therapeutic relief.The relief, esp. in a settlement, that requires the defendant to take remedial measures as opposed to paying damages. • An example is a defendant-corporation (in an employment-discrimination suit) that agrees to undergo sensitivity training. — Often shortened to



therapeutics.

## RELIGION

religion. A system of faith and worship usu. involving belief in a supreme being and usu. containing a moral or ethical code; esp., such a system recognized and practiced by a particular church, sect, or denomination. • In construing the protections under the Establishment Clause and the Free Exercise Clause, courts have interpreted the term religion quite broadly to include a wide variety of theistic and nontheistic beliefs. [Cases: Religious Societies 1. C.J.S. Religious Societies §§ 2–5, 7–13.]

state religion. A religion promoted, taught, or enforced by a government's acts to the exclusion of other religions.

## RELIGION, FREEDOM OF

religion, freedom of. See FREEDOM OF RELIGION.

## RELIGION CLAUSE

Religion Clause. In the Bill of Rights, the provision stating that “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.” U.S. Const. amend. I. • Some writers use the plural form, “Religion Clauses,” to mean both the Establishment Clause and the Free Exercise Clause, thus emphasizing the asserted common purpose of the two provisions. [Cases: Constitutional Law 84. C.J.S. Constitutional Law §§ 513–517.]

## RELIGIOUS CORPORATION

religious corporation. See CORPORATION.

## RELIGIOUS-EXEMPTION STATUTE

religious-exemption statute. See FAITH-HEALING EXEMPTION.

## RELIGIOUS LIBERTY

religious liberty. See LIBERTY.

## RELIGIOUS TEST CLAUSE

Religious Test Clause. The clause of the U.S. Constitution that prohibits the use of a religious test as a qualification to serve in any office or public trust. U.S. Const. art. VI, par. 3, cl. 2. — Also termed No Religious Test Clause.

## RELINQUISHMENT

relinquishment, n. The abandonment of a right or thing. — relinquish, vb.

## RELIQUA

reliqua (rel-*<<schwa>>*-kw*<<schwa>>*). [Latin] Civil law. The remainder of a debt after balancing or liquidating an account; money left unpaid.

---

**RELITIGATE**

relitigate,vb. To litigate (a case or matter) again or anew <relitigate the issue in federal court>.  
— relitigation,n.

**RELOCATIO**

relocatio (ree-loh-kay-shee-oh). [Latin] Civil law. The renewal of a lease;  
**RECONDUCTION**(1).

**RELOCATION**

relocation. 1. Removal and establishment of someone or something in a new place. 2.Mining law. Appropriation of a new tract of land for a mining claim, as by an owner who wishes to change the boundaries of the original tract or by a stranger who wishes to claim an abandoned or forfeited tract. [Cases: Mines and Minerals 26. C.J.S. Mines and Minerals §§ 101–107.] 3.Civil law.  
**RECONDUCTION**(1).

**REM**

rem. See **IN REM**.

**REMAINDER**

remainder.Property. 1. A future interest arising in a third person — that is, someone other than the estate's creator, its initial holder, or the heirs of either — who is intended to take after the natural termination of the preceding estate. • For example, if a grant is “to A for life, and then to B,” B's future interest is a remainder. If there is only one preceding estate and the remainder vests on that estate's expiration, the remainder is also termed an executed estate. — Also termed remainder estate; estate in remainder. Cf. **EXECUTORY INTEREST**; **REVERSION**; **POSSIBILITY OF REVERTER**. [Cases: Remainders 1. C.J.S. Estates §§ 70–71, 77, 79, 81–82.]

“Whether a remainder is vested or contingent depends upon the language employed. If the conditional element is incorporated into the description of, or the gift to the remainder-man, then the remainder is contingent; but if, after words giving a vested interest, a clause is added divesting it, the remainder is vested. Thus, on a devise to A. for life, remainder to his children, but if any child dies in the lifetime of A. his share to go to those who survive, the share of each child is vested, subject to be divested by his death. But on a devise to A. for life, remainder to such of his children as survive him, the remainder is contingent.” John Chipman Gray, *The Rule Against Perpetuities* 66 (1886).

“Under the names of ‘remainders' and ‘executory limitations,’ various classes of interests in land could be created in expectancy, either at the Common Law or under the Statute of Uses. The differences between the two classes were highly technical; and the learning involved in acquiring a knowledge of the rules of determining them [is] quite out of proportion to the value obtained.” Edward Jenks, *The Book of English Law* 263 (P.B. Fairest ed., 6th ed. 1967).

accelerated remainder.A remainder that has passed to the remainderman, as when the gift to the preceding beneficiary fails. [Cases: Remainders 5. C.J.S. Estates §§ 77, 80.]

alternative remainder. A remainder in which the disposition of property is to take effect only if another disposition does not take effect.

charitable remainder. A remainder, usu. from a life estate, that is given to a charity; for example, "to Jane for life, and then to the American Red Cross." [Cases: Internal Revenue 4172(3); Taxation 876. C.J.S. Internal Revenue § 532; Taxation §§ 1876–1878.]

contingent remainder. A remainder that is either given to an unascertained person or made subject to a condition precedent. • An example is "to A for life, and then, if B has married before A dies, to B." — Also termed executory remainder; remainder subject to a condition precedent. [Cases: Remainders 1, 4. C.J.S. Estates §§ 70–77, 79, 81–82, 88.]

"Unlike a vested remainder, a contingent remainder is either subject to a condition precedent (in addition to the natural expiration of a prior estate), or owned by unascertainable persons, or both. But the contingent remainder, like the vested remainder, 'waits patiently' for possession. It is so created that it can become a present estate (if ever it does) immediately upon, and no sooner than, the natural expiration of particular estates that stand in front of it and were created simultaneously with it." Thomas F. Bergin & Paul G. Haskell, Preface to *Estates in Land and Future Interests* 73 (2d ed. 1984).

cross-remainder. A future interest that results when particular estates are given to two or more persons in different parcels of land, or in the same land in undivided shares, and the remainders of all the estates are made to vest in the survivor or survivors. • Two examples of devises giving rise to cross-remainders are (1) "to A and B for life, with the remainder to the survivor and her heirs," and (2) "Blackacre to A and Whiteacre to B, with the remainder of A's estate to B on A's failure of issue, and the remainder of B's estate to A on B's failure of issue." • If no tenants or issue survive, the remainder vests in a third party (sometimes known as the ulterior remainderman). Each tenant in common has a reciprocal, or cross, remainder in the share of the others. This type of remainder could not be created by deed unless expressly stated. It could, however, be implied in a will. [Cases: Remainders 1. C.J.S. Estates §§ 70–71, 77, 79, 81–82.]

"By a will also an estate may pass by mere implication, without any express words to direct its course.... So also, where a devise of black-acre to A and of white-acre to B in tail, and if they both die without issue, then to C in fee: here A and B have cross remainders by implication, and on the failure of either's issue, the other or his issue shall take the whole; and C's remainder over shall be postponed till the issue of both shall fail." 2 William Blackstone, *Commentaries on the Laws of England* 381 (1766).

defeasible remainder. A vested remainder that will be destroyed if a condition subsequent occurs. • An example is "to A for life, and then to B, but if B ever sells liquor on the land, then to C." — Also termed remainder subject to divestment. [Cases: Remainders 10. C.J.S. Estates §§ 88–89, 91–92.]

executed remainder. See vested remainder.

executory remainder. See contingent remainder.

**indefeasible remainder.**A vested remainder that is not subject to a condition subsequent; specif., a remainder in which the remainderman is certain to acquire a present interest sometime in the future and will be entitled to retain the interest permanently. — Also termed indefeasibly vested remainder; remainder indefeasibly vested.

remainder subject to a condition precedent. See contingent remainder.

remainder subject to divestment. See defeasible remainder.

**remainder subject to open.**A vested remainder that is given to a class of persons whose numbers may change over time and that is to be shared equally by each member of the class. • An example is “to A for life, and then equally to all of B's children.” The class must have at least one member, but more can be added over time. — Also termed remainder subject to partial divestment; remainder vested subject to open.

**vested remainder.**A remainder that is given to an ascertained person and that is not subject to a condition precedent. • An example is “to A for life, and then to B.” — Also termed executed remainder. [Cases: Remainders 1. C.J.S. Estates §§ 70–71, 77, 79, 81–82.]

2. The property in a decedent's estate that is not otherwise specifically devised or bequeathed in a will. See residuary estate under ESTATE(3). [Cases: Wills 586. C.J.S. Wills §§ 1176–1179, 1184.]

#### REMAINDER BEQUEST

remainder bequest. See residuary bequest under BEQUEST.

#### REMAINDERER

remainderer. See REMAINDERMAN.

#### REMAINDER ESTATE

remainder estate. See REMAINDER(1).

#### REMAINDER INDEFEASIBLY VESTED

remainder indefeasibly vested. See indefeasible remainder under REMAINDER.

#### REMAINDER INTEREST

remainder interest. The property that passes to a beneficiary after the expiration of an intervening income interest. • For example, if a grantor places real estate in trust with income to A for life and remainder to B upon A's death, then B has a remainder interest.

#### REMAINDERMAN

remainderman. A person who holds or is entitled to receive a remainder. — Also termed remainderer; remainderperson; remainor. [Cases: Remainders 1. C.J.S. Estates §§ 70–71, 77, 79, 81–82.]

ulterior remainderman. A third party whose future interest in a property vests only if all the

---

preceding reciprocal interests expire. See cross-remainder under REMAINDER.

#### REMAINDER SUBJECT TO PARTIAL DIVESTMENT

remainder subject to partial divestment. See remainder subject to open under REMAINDER.

#### REMAINDER VESTED SUBJECT TO OPEN

remainder vested subject to open. See remainder subject to open under REMAINDER.

#### REMAINOR

remainor, n. See REMAINDERMAN.

#### REMAKE RIGHTS

remake rights. Copyright. The rights to produce one or more additional movies or screenplays based on what is substantially the same story as is contained in the original movie or screenplay for which the rights have been granted. [Cases: Copyrights and Intellectual Property 38. C.J.S. Copyrights and Intellectual Property §§ 20, 40, 59.]

#### REMANCIPATE

remancipate, vb. To mancipate (a thing or person) again.

#### REMAND

remand (ri-mandalsoree-mand), n. 1. The act or an instance of sending something (such as a case, claim, or person) back for further action. 2. An order remanding a case, claim, or person.

fourth-sentence remand. In a claim for social-security benefits, a court's decision affirming, reversing, or modifying the decision of the Commissioner of Social Security. • This type of remand is called a fourth-sentence remand because it is based on the fourth sentence of 42 USCA § 405(g): "The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." See *Melkonyan v. Sullivan*, 501 U.S. 89, 111 S.Ct. 2157 (1991). [Cases: Social Security and Public Welfare 149. C.J.S. Social Security and Public Welfare §§ 82–83.]

sixth-sentence remand. In a claim for social-security benefits, a court's decision that the claim should be reheard by the Commissioner of Social Security because new evidence is available, which was not available before, that might change the outcome of the proceeding. • This type of remand is called a sixth-sentence remand because it is based on the sixth sentence of 42 USCA § 405(g): "The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security, and it may at any time order additional evidence to be taken before the Commissioner of Social Security, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding ...." See *Melkonyan v. Sullivan*, 501 U.S. 89, 111 S.Ct. 2157 (1991). [Cases: Social Security and Public

Welfare 149. C.J.S. Social Security and Public Welfare §§ 82–83.]

remand (ri-mand), vb.1. To send (a case or claim) back to the court or tribunal from which it came for some further action <the appellate court reversed the trial court's opinion and remanded the case for new trial>. Cf. REMOVAL(2). [Cases: Administrative Law and Procedure 817; Appeal and Error 1186–1216; Federal Courts 937, 943; Removal of Cases 107(8). C.J.S. Appeal and Error §§ 968–1010; Public Administrative Law and Procedure §§ 254–255; Removal of Causes§ 192.] 2. To recommit (an accused person) to custody after a preliminary examination <the magistrate, after denying bail, remanded the defendant to custody>.

#### REMANENTIA

remanentia (rem-*<<schwa>>-nen-shee-<<schwa>>*). [Law Latin] Hist. A remainder or perpetuity.

#### REMANENT PRO DEFECTU EMPTORUM

remanent pro defectu emptorum (rem-*<<schwa>>-n<<schwa>>nt* proh di-fek-t[y]oo emp-tor-*<<schwa>>m*). [Latin] Hist. Remains unsold for want of buyers. • This language was used in a return of a writ of execution when the sheriff could not sell the seized property. [Cases: Execution 334. C.J.S. Executions §§ 324–325.]

#### REMANET

remanet (rem-*<<schwa>>-net*).1. A case or proceeding whose hearing has been postponed. 2. A remainder or remnant.

#### REMARGINING

remargining,n. Securities. The act or process of depositing additional cash or collateral with a broker when the equity in a margin account falls to an insufficient level. See margin account under ACCOUNT. — remargin,vb.

#### REMARRY

remarry,vb. To marry a second or later time, after a divorce or the death of one's spouse.

#### REMEDIAL

remediable,adj. Capable of being remedied, esp. by law <remediable wrongs>. — remediability,n.

#### REMEDIAL

remedial,adj.1. Affording or providing a remedy; providing the means of obtaining redress <a remedial action>.2. Intended to correct, remove, or lessen a wrong, fault, or defect <a remedial statute>.3. Of or relating to a means of enforcing an existing substantive right <a remedial right>.

#### REMEDIAL ACTION

remedial action. 1.Environmental law. An action intended to bring about or restore long-term

environmental quality; esp., under CERCLA, a measure intended to permanently alleviate pollution when a hazardous substance has been released or might be released into the environment, so as to prevent or minimize any further release of hazardous substances and thereby minimize the risk to public health or to the environment. 42 USCA § 9601(24); 40 CFR § 300.6. — Also termed remedy. See CERCLA. Cf. REMOVAL ACTION. [Cases: Environmental Law 441.] 2. See personal action (1) under ACTION(4).

#### REMEDIAL ENFORCEMENT

remedial enforcement. See secondary right under RIGHT.

#### REMEDIAL LAW

remedial law. 1. A law providing a means to enforce rights or redress injuries. 2. A law passed to correct or modify an existing law; esp., a law that gives a party a new or different remedy when the existing remedy, if any, is inadequate. [Cases: Statutes 236. C.J.S. Statutes § 377.]

#### REMEDIAL LIABILITY

remedial liability. See LIABILITY.

#### REMEDIAL PROMISE

remedial promise. See PROMISE.

#### REMEDIAL RIGHT

remedial right. See RIGHT.

#### REMEDIAL STATUTE

remedial statute. See STATUTE.

#### REMEDIAL TRUST

remedial trust. See constructive trust under TRUST.

#### REMEDIATION

remediation. Environmental law. The restoration of polluted land, water, or air to its former state, or as nearly so as is practical.

#### REMEDIES

remedies, n. The field of law dealing with the means of enforcing rights and redressing wrongs.

#### REMEDIIS PRAETORIIS

remediis praetoriis (ri-mee-dee-is pri-tor-ee-is). [Latin] Hist. By praetorian remedies.

#### REMEDIUM EXTRAORDINARIUM

remedium extraordinarium (ri-mee-dee-ek-stror-di-nair-ee-m or

ek-str<<schwa>>-or-). [Latin] Hist. An extraordinary remedy.

## REMEDY

remedy,n.1. The means of enforcing a right or preventing or redressing a wrong; legal or equitable relief. — Also termed civil remedy. 2.REMEDIAL ACTION . Cf. RELIEF. — Also termed (in both senses) law of remedy. — remedy,vb.

“A remedy is anything a court can do for a litigant who has been wronged or is about to be wronged. The two most common remedies are judgments that plaintiffs are entitled to collect sums of money from defendants and orders to defendants to refrain from their wrongful conduct or to undo its consequences. The court decides whether the litigant has been wronged under the substantive law; it conducts its inquiry in accordance with the procedural law. The law of remedies falls somewhere between substance and procedure, distinct from both but overlapping with both.” Douglas Laycock, *Modern American Remedies* 1 (3d ed. 2002).

adequate remedy at law.A legal remedy (such as an award of damages) that provides sufficient relief to the petitioning party, thus preventing the party from obtaining equitable relief. See IRREPARABLE INJURY RULE. [Cases: Specific Performance 5. C.J.S. Specific Performance § 8.]

administrative remedy.A nonjudicial remedy provided by an administrative agency. • Ordinarily, if an administrative remedy is available, it must be exhausted before a court will hear the case. See EXHAUSTION OF REMEDIES. [Cases: Administrative Law and Procedure 229. C.J.S. Public Administrative Law and Procedure §§ 38–42.]

civil remedy.See REMEDY(1).

concurrent remedy.One of two or more legal or equitable actions available to redress a wrong.

cumulative remedy.A remedy available to a party in addition to another remedy that still remains in force.

equitable remedy.A remedy, usu. a nonmonetary one such as an injunction or specific performance, obtained when available legal remedies, usu. monetary damages, cannot adequately redress the injury. • Historically, an equitable remedy was available only from a court of equity. — Also termed equitable relief. See IRREPARABLE-INJURY RULE. [Cases: Injunction 17; Specific Performance 1. C.J.S. Injunctions § 31; Specific Performance §§ 2, 5–6.]

extrajudicial remedy.A remedy not obtained from a court, such as repossession. — Also termed self-help remedy.

extraordinary remedy.A remedy — such as a writ of mandamus or habeas corpus — not available to a party unless necessary to preserve a right that cannot be protected by a standard legal or equitable remedy. • Because there is no agreed list of extraordinary remedies, some standard remedies — such as preliminary and permanent injunctions — are sometimes described as extraordinary. [Cases: Mandamus 3(1)–3(2.1).C.J.S. Mandamus §§ 18–19, 21–23, 31.]



---

judicial remedy. A remedy granted by a court.

legal remedy. A remedy historically available in a court of law, as distinguished from a remedy historically available only in equity. • After the merger of law and equity, this distinction remained relevant in some ways, such as in determining the right to jury trial and the choice between alternate remedies. [Cases: Action 21. C.J.S. Actions § 124.]

provisional remedy. A temporary remedy awarded before judgment and pending the action's disposition, such as a temporary restraining order, a preliminary injunction, a prejudgment receivership, or an attachment. • Such a remedy is intended to maintain the status quo by protecting a person's safety or preserving property. [Cases: Attachment 1; Indemnity 20. C.J.S. Attachment §§ 2–4, 7; Subrogation §§ 2–15, 19, 91.]

remedy over. A remedy that arises from a right of indemnification or subrogation. • For example, if a city is liable for injuries caused by a defect in a street, the city has a “remedy over” against the person whose act or negligence caused the defect. [Cases: Injunction 1. C.J.S. Injunctions §§ 2–4, 12, 14, 22, 24, 166.]

self-help remedy. See extrajudicial remedy.

specific remedy. A remedy whereby the injured party is awarded the very performance that was contractually promised or whereby the injury threatened or caused by a tort is prevented or repaired. • A court awards a specific remedy by ordering a defaulting seller of goods to deliver the specified goods to the buyer (as opposed to paying damages). [Cases: Specific Performance 126. C.J.S. Specific Performance §§ 189–193.]

speedy remedy. A remedy that, under the circumstances, can be pursued expeditiously before the aggrieved party has incurred substantial detriment. • “Speedy remedy” is an informal expression with no fixed meaning — that is, what is considered speedy in one context may not be considered speedy in other contexts. For example, the Federal Tax Injunction Act requires a “plain, speedy, and efficient remedy” in state courts. But the Act does not require preliminary or injunctive relief — or even interest for delay. [Cases: Injunction 1. C.J.S. Injunctions §§ 2–4, 12, 14, 22, 24, 166.]

“ ‘Speedy’ is perforce a relative concept, and we must assess the 2-year delay against the usual time for similar litigation.” *Rosewell v. LaSalle Nat'l Bank*, 450 U.S. 503, 518 (1981).

substitutional remedy. A remedy intended to give the promisee something as a replacement for the promised performance or to give the plaintiff something in lieu of preventing or repairing an injury. • A court awards a substitutional remedy by ordering a defaulting seller of goods to pay the buyer damages (as opposed to delivering the promised goods). — Also termed substitutionary remedy. [Cases: Contracts 324(1). C.J.S. Architects §§ 39, 47, 51; Contracts § 600.]

“With substitutionary remedies, plaintiff suffers harm and receives a sum of money. Specific remedies seek to avoid this exchange. They seek to prevent harm, or undo it, rather than let it happen and compensate for it... [Money damages] are substitutionary both in the sense that the sum of money is substituted for plaintiff's original entitlement, and in the less obvious sense that

the fact finder's valuation of the loss is substituted for plaintiff's valuation. Specific relief seeks to avoid both these substitutions, giving plaintiff the very thing he lost if that is what he wants." Douglas Laycock, *The Death of the Irreparable Injury Rule* 13 (1991).

#### REMEDY, MUTUALITY OF

remedy, mutuality of. See MUTUALITY OF REMEDY.

#### RÉMÉRÉ

réméré (ray-may-ray), n. [French] The right of repurchase.

#### REMIC

REMIC (rem-ik orree-mik). abbr. REAL-ESTATE-MORTGAGE INVESTMENT CONDUIT.

#### REMISE

remise (ri-mIz), vb. To give up, surrender, or release (a right, interest, etc.) <the quitclaim deed provides that the grantor remises any rights in the property>.

#### REMISSIO INJURIAE

remissio injuriae (ri-mis[h]-ee-oh in-joor-ee-ee). [Latin] Hist. Forgiveness of the offense.

#### REMISSION

remission. 1. A cancellation or extinguishment of all or part of a financial obligation; a release of a debt or claim. [Cases: Release 1. C.J.S. Release §§ 2–3, 5–8, 19.]

conventional remission. Civil law. A remission expressly granted to a debtor by a creditor having capacity to alienate. La. Civ. Code art. 1840.

tacit remission. Civil law. A remission arising by operation of law, as when a creditor surrenders an original title to the debtor. La. Civ. Code art. 1888.

2. A pardon granted for an offense. 3. Relief from a forfeiture or penalty. [Cases: Controlled Substances 189; Forfeitures 9; Penalties 11. C.J.S. Penalties § 22; RICO (Racketeer Influenced and Corrupt Organizations) § 32.] 4. A diminution or abatement of the symptoms of a disease.

#### REMIT

remit, vb. 1. To pardon or forgive <the wife could not remit her husband's infidelity>. 2. To abate or slacken; to mitigate <the receipt of money damages remitted the embarrassment of being fired>. 3. To refer (a matter for decision) to some authority, esp. to send back (a case) to a lower court <the appellate court remitted the case to the trial court for further factual determinations>. See REMAND. [Cases: Administrative Law and Procedure 817; Appeal and Error 1106, 1178; Criminal Law 1181.5; Federal Courts 943.1. C.J.S. Appeal and Error §§ 864–865, 945–946, 951–952; Public Administrative Law and Procedure §§ 254–255.] 4. To send or put back to a previous condition or position <a landlord's breach of a lease does not justify the tenant's refusal to

pay rent; instead, the tenant is remitted to the right to recover damages>.5. To transmit (as money) <upon receiving the demand letter, she promptly remitted the amount due>. — remissible (for senses 1–4), adj. — remittable (for sense 5), adj.

#### REMITTANCE

remittance. 1. A sum of money sent to another as payment for goods or services. 2. An instrument (such as a check) used for sending money. 3. The action or process of sending money to another person or place.

#### REMITTANCE ADVICE

remittance advice. See ADVICE.

#### REMITTEE

remittee. One to whom payment is sent.

#### REMITTER

remitter. 1. The principle by which a person having two titles to an estate, and entering on it by the later or more defective title, is deemed to hold the estate by the earlier or more valid title. 2. The act of sending back a case to a lower court. 3. One who sends payment to someone else. — Also spelled (in sense 3) remittor.

#### REMITTING BANK

remitting bank. See BANK.

#### REMITTIT DAMNA

remittit damna (ri-mit-it dam-n<<schwa>>). [Latin] Hist. An entry on the record by which a plaintiff declares that he or she remits part of the damages that have been awarded. — Also termed remittitur damna; remittitur damnum.

#### REMITTITUR

remittitur (ri-mit-i-t<<schwa>>r). 1. An order awarding a new trial, or a damages amount lower than that awarded by the jury, and requiring the plaintiff to choose between those alternatives <the defendant sought a remittitur of the \$100 million judgment>. 2. The process by which a court requires either that the case be retried, or that the damages awarded by the jury be reduced. Cf. ADDITUR. [Cases: Federal Civil Procedure 2377; New Trial 162. C.J.S. New Trial § 271.]

#### REMITTITUR DAMNA

remittitur damna. See REMITTIT DAMNA.

#### REMITTITUR DAMNUM

remittitur damnum. See REMITTIT DAMNA.

---

**REMITTITUR OF RECORD**

remittitur of record. The action of sending the transcript of a case back from an appellate court to a trial court; the notice for doing so.

**REMITTOR**

remittor. See **REMITTER**(3).

**REMNANTS AND SURPLUSES**

remnants and surpluses. Maritime law. The proceeds remaining from the sale of a ship after claims for seamen's wages, bottomry bonds, salvage services, and supplies have been paid.

**REMONETIZATION**

remonetization, n. The restoration of a precious metal (such as gold or silver) to its former use as legal tender. — remonetize, vb.

**REMONSTRANCE**

remonstrance (ri-mon-str<<schwa>>nts), n. 1. A presentation of reasons for opposition or grievance. 2. A formal document stating reasons for opposition or grievance. 3. A formal protest against governmental policy, actions, or officials. — remonstrate (ri-mon-strayt), vb.

**REMOTE**

remote, adj. 1. Far removed or separated in time, space, or relation. 2. Slight. 3. Property. Beyond the 21 years after some life in being by which a devise must vest. See **RULE AGAINST PERPETUITIES**. [Cases: Perpetuities 4(3). C.J.S. Perpetuities §§ 16–17.]

**REMOTE CAUSE**

remote cause. See **CAUSE**(1).

**REMOTE DAMAGES**

remote damages. See speculative damages (1) under **DAMAGES**.

**RE MOTENESS OF CONSEQUENCE**

remoteness of consequence. Torts. The lack of proximate causation with respect to an alleged act by a defendant. • Even if the plaintiff proves every other element for tortious liability, the defendant will not be liable if the harm that the plaintiff has suffered is too far removed from the defendant's conduct. — Also termed remoteness of damage.

**REMOTE POSSIBILITY**

remote possibility. See **POSSIBILITY**.

**REMOTIS TESTIBUS**

remotis testibus (ri-moh-tis tes-ti-b<<schwa>>s). [Latin] Hist. The witnesses being absent.

## REMOVAL

removal,n.1. The transfer or moving of a person or thing from one location, position, or residence to another. 2. The transfer of an action from state to federal court. • In removing a case to federal court, a litigant must timely file the removal papers and must show a valid basis for federal-court jurisdiction. 28 USCA § 1441. Cf. REMAND(1). [Cases: Removal of Cases 16. C.J.S. Removal of Causes § 2.] — remove,vb.

civil-rights removal.Removal of a case from state to federal court for any of these reasons: (1) because a person has been denied or cannot enforce a civil right in the state court, (2) because a person is being sued for performing an act under color of authority derived from a law providing for equal rights, or (3) because a person is being sued for refusing to perform an act that would be inconsistent with equal rights. [Cases: Removal of Cases 70. C.J.S. Removal of Causes §§ 67–70.]

## REMOVAL ACTION

removal action.Environmental law. An action, esp. under CERCLA, intended to bring about the short-term abatement and cleanup of pollution (as by removing and disposing of toxic materials). See CERCLA. Cf. REMEDIAL ACTION. [Cases: Environmental Law 441.]

## REMOVAL BOND

removal bond.See BOND(2).

## REM PUPILLI SALVAM FORE

rem pupilli salvam fore (rem pyoo-pil-Isal-v<<schwa>>m for-ee). [Latin] Roman law. The guarantee required of a guardian that the estate of the person under puberty will be safe.

## REMT

REMT.abbr.REAL-ESTATE MORTGAGE TRUST.

## REMUNERATION

remuneration (ri-myoo-n<<schwa>>-ray-sh<<schwa>>n), n.1. Payment; compensation. 2. The act of paying or compensating. — remunerative,adj. — remunerate,vb.

## REMUNERATIVE DONATION

remunerative donation.See DONATION.

## RENCOUNTER

rencounter (ren-kown-t<<schwa>>r). A hostile meeting or contest; a battle or combat. — Also spelled rencontre (ren-kon-t<<schwa>>r).

## RENDER

render,n. Hist. 1.A payment in money, goods, or services made by a feudal tenant to the landlord. 2. A return conveyance made by the grantee to the grantor in a fine. See FINE(1).

render,vb.1. To transmit or deliver <render payment>.2. (Of a judge) to deliver formally <render a judgment>.3. (Of a jury) to agree on and report formally <render a verdict>.4. To pay as due <render an account>.

#### RENDEZVOUS

rendezvous,n.1. A place designated for meeting or assembly, esp. of troops or ships. 2. The meeting or assembly itself.

#### RENDITION

rendition,n.1. The action of making, delivering, or giving out, such as a legal decision. 2. The return of a fugitive from one state to the state where the fugitive is accused or convicted of a crime. — Also termed interstate rendition. Cf. EXTRADITION. [Cases: Extradition and Detainers 6, 30.]

#### RENDITION OF JUDGMENT

rendition of judgment.The judge's oral or written ruling containing the judgment entered. Cf. ENTRY OF JUDGMENT. [Cases: Federal Civil Procedure 2621; Judgment 215. C.J.S. Judgments §§ 108–109.]

#### RENDITION WARRANT

rendition warrant.See WARRANT(1).

#### RENEGE

renege (ri-nigor ri-neg), vb. To fail to keep a promise or commitment; to back out of a deal.

#### RENEGOTIABLE-RATE MORTGAGE

renegotiable-rate mortgage.See MORTGAGE.

#### RENEGOTIATION

renegotiation,n.1. The act or process of negotiating again or on different terms; a second or further negotiation. 2. The reexamination and adjustment of a government contract to eliminate or recover excess profits by the contractor. [Cases: United States 70(35).] — renegotiate,vb.

#### RENEWABLE TERM INSURANCE

renewable term insurance.See INSURANCE.

#### RENEWAL

renewal,n.1. The act of restoring or reestablishing. 2.Parliamentary law. The introduction or consideration of a question already disposed of. — Also termed renewal of a motion. See restorative motion under MOTION(2). Cf. RECONSIDER. 3. The re-creation of a legal relationship or the replacement of an old contract with a new contract, as opposed to the mere extension of a previous relationship or contract. Cf. EXTENSION(1); REVIVAL(1). [Cases: Contracts 217. C.J.S. Contracts §§ 436–443, 446, 448–449, 500–501.] — renew,vb.

---

**RENEWAL NOTE**

renewal note. See NOTE(1).

**RENEWAL OF A MOTION**

renewal of a motion. See RENEWAL(2).

**RENOUNCE**

renounce, vb. 1. To give up or abandon formally (a right or interest); to disclaim <renounce an inheritance>. [Cases: Descent and Distribution 72; Wills 717. C.J.S. Descent and Distribution §§ 69, 77, 116; Wills §§ 1708–1710, 1713–1717.] 2. To refuse to follow or obey; to decline to recognize or observe <renounce one's allegiance>.

**RENOVARE**

renovare (ren-<<schwa>>-vair-ee), vb. [Latin] Hist. To renew.

**RENOVATIO**

renovatio (ren-<<schwa>>-vay-shee-oh). [Latin] Hist. A renewal (as of a lease).

**RENT**

rent, n. 1. Consideration paid, usu. periodically, for the use or occupancy of property (esp. real property). [Cases: Landlord and Tenant 181. C.J.S. Landlord and Tenant §§ 462–465.]

ceiling rent. The maximum rent that can be charged under a rent-control regulation. [Cases: Landlord and Tenant 200.46.]

crop rent. The portion of a harvest given to a landlord by a sharecropper as rent. • Specific crop names, such as grain rent and potato rent, are commonly used.

double rent. Twice the amount of rent agreed to; specif., a penalty of twice the amount of rent against a tenant who holds possession of the leased property after the date provided in the tenant's notice to quit. • The penalty was provided by the Distress for Rent Act, 1737, 11 Geo. 2, ch. 19, § 13. [Cases: Landlord and Tenant 216. C.J.S. Landlord and Tenant §§ 547–551.]

dry rent. Rent reserved without a distress clause allowing the rent to be collected by distress; rent that can be collected only by an ordinary legal action. — Formerly also termed rent seck.

economic rent. See ECONOMIC RENT.

grain rent. See crop rent.

ground rent. 1. Rent paid by a tenant under a long-term lease for the use of undeveloped land, usu. for the construction of a commercial building. — Also termed redeemable ground rent. See ground lease under LEASE. 2. A heritable interest, in rental income from land, reserved by a grantor who conveys the land in fee simple. • This type of ground rent is found primarily in Maryland and Pennsylvania. — Also termed (in Scots law) irredeemable ground rent; ground annual. [Cases: Estates in Property 13. C.J.S. Estates §§ 159–192.]

guild rent.Hist. Rent payable to the Crown by a guild. — Also spelled gild-rent.

irredeemable ground rent.See ground rent (2).

net rent.The rental price for property after payment of expenses, such as repairs, utilities, and taxes. [Cases: Landlord and Tenant 200.2.]

rack-rent. See RACK-RENT.

redeemable ground rent.See ground rent (1).

2.Hist. A compensation or return made periodically by a tenant or occupant for the possession and use of lands or corporeal hereditaments; money, chattels, or services issuing usu. annually out of lands and tenements as payment for use.

quit rent.See QUIT RENT.

rent charge.The right to receive an annual sum from the income of land, usu. in perpetuity, and to retake possession if the payments are in arrears. — Also spelled rent-charge; rentcharge. — Also termed fee-farm rent.

“Rent-charge is a rent with liberty to distrain. As when a man seised of land granteth by a deed poll, or by indenture, a yearly rent going out of the same land to another in fee or fee-tail, or for a term of life, etc. with clause of distress, or maketh a feoffment in fee by indenture, reserving to himself a certain yearly rent, with clause of distress.” Sir Henry Finch, *Law, or a Discourse Thereof* 155 (1759).

“A rentcharge is an annual or periodic payment charged upon, and payable by the owner of, land. Unlike a rent service, in the case of a rentcharge there is no tenure or privity of estate between the parties. The owner of a rentcharge has no tenurial relationship with the land upon which it is charged. A rentcharge is a species of incorporeal property, but, unlike an easement, is incorporeal property in gross, being enjoyed by the owner personally and not in the capacity of proprietor of land.” Peter Butt, *Land Law* 330 (2d ed. 1988).

rent seck.Hist. A rent reserved by deed but without any clause of distress. — Also spelled rent-seck; rent-sec. — Also termed dry rent. Pl. rents seck.

“But rents-seck have long ceased to exist, because the inability of their owners to distrain was abolished by the Landlord and Tenant Act, 1730 (4 George II), which enacted that the owners of rents-seck, rents of assize and chief rents should have the same remedy by distress as existed in the case of rent reserved upon lease.” G.C. Cheshire, *Modern Law of Real Property* 199 (3d ed. 1933).

“At common law, the relationship of lord and tenant carried with it an automatic right of distress for any rent. If no such relationship existed, there was no common law right of distress, and consequently an express clause of distress was frequently inserted when reserving the rent. A rent supported by no right of distress was known as a rent seck (from the Latin *siccus*, dry, barren) .... Rent seck ceased to exist many years ago, for by the Landlord and Tenant Act 1730, the owners of rents seck were given the same rights of distress as a landlord has against his tenant



under a lease, namely, a right to distrain as soon as the rent is in arrear.” Robert E. Megarry & P.V. Baker, *A Manual of the Law of Real Property* 409 (4th ed. 1969).

rent service. A rent with some corporeal service incident to it (as by fealty) and with a right of distress. — Also written rent-service.

“[R]ent-service exists only where the relation of landlord and tenant is found, and in such a case rent derives its name from the fact that it was given as a substitute for the services to which the land was originally liable.” G.C. Cheshire, *Modern Law of Real Property* 198 (3d ed. 1933).

3. Civil law. A contract by which one party conveys to another party a tract of land or other immovable property, to be held by the other party as owner and in perpetuity, in exchange for payment of an annual sum of money or quantity of fruits. • Under Louisiana law, the rent is essentially redeemable even though stipulated to be perpetual. The seller may set the terms of the redemption, which must take place after a stipulated time (not to exceed 30 years). La. Civ. Code art. 2788. See FRUIT(2). — Also termed rent of lands. [Cases: Landlord and Tenant 181. C.J.S. Landlord and Tenant §§ 462–465.] 4. The difference between the actual return from a commodity or service and the cost of supplying it; the difference between revenue and opportunity cost. — rent, vb.

#### RENTAGE

rentage. Rent or rental.

#### RENT-A-JUDGING

rent-a-judging. See PRIVATE JUDGING.

#### RENTAL

rental, n. 1. The amount received as rent.

crescendo rental. A rent payment that gradually increases at fixed periods during the term of the lease.

delay rental. Oil & gas. A periodic payment made by an oil-and-gas lessee to postpone exploration during the primary lease term. See DRILLING-DELAY RENTAL CLAUSE. [Cases: Mines and Minerals 78.1(3). C.J.S. Mines and Minerals §§ 269–270.]

net rental. The amount remaining after deducting all expenses from the gross rental income.

2. The income received from rent. 3. A record of payments received from rent. — rental, adj.

#### RENTAL AND RELATED RIGHTS DIRECTIVE

Rental and Related Rights Directive. See DIRECTIVE ON RENTAL, LENDING AND CERTAIN NEIGHBORING RIGHTS .

#### RENTAL DIRECTIVE

Rental Directive. See DIRECTIVE ON RENTAL, LENDING AND CERTAIN

## NEIGHBORING RIGHTS .

## RENTAL DIVISION ORDER

rental division order.Oil & gas. A stipulation signed by those entitled to delay rentals, stating what interest each owns and how much rental each is to receive.

## RENTAL RIGHT

rental right.Copyright. The power of a copyright owner to control the use of copies of the work beyond the first sale, when that use involves offering the copy to the public for temporary use for a fee (as at a store renting DVDs and videotapes) or some other commercial advantage (as at a hotel offering the loan of DVDs or videotapes). • Rental rights are recognized among members of the European Commission and under TRIPs. The right also applies to the rental of computer software. [Cases: Copyrights and Intellectual Property 38.5. C.J.S. Copyrights and Intellectual Property §§ 47, 97.]

## RENTCHARGE

rentcharge. See rent charge under RENT(2).

## RENT CONTROL

rent control.A restriction imposed, usu. by municipal legislation, on the maximum rent that a landlord may charge for rental property, and often on a landlord's power of eviction. [Cases: Landlord and Tenant 200.10–200.55. C.J.S. Landlord and Tenant §§ 551.1, 760.]

## RENTE

rente (rawnt), n.[French “income, rent”] French law. 1. Annual income or rent.

rente foncière (fawn-syair) [French “ground rent”] A rent that is payable for the use of land and is perpetual.

rente viagère (vee-ah-zhair). [French “life rent”] A rent charge or annuity that is payable for life; a life interest or annuity.

2. (usu. pl.) Interest paid annually by the French government on the public debt; a government stock, bond, or annuity.

## RENTEE

rentee.Rare. A tenant.

## RENTIER

rentier (rawn-tyay). [French] 1. A person who owns or holds rentes. See RENTE. 2. A person who makes or lives off an income from property or investment; a stockholder or annuitant.

## RENT OF LANDS

rent of lands.See RENT(3).

---

**RENT SECK**

rent seck. See RENT(2).

**RENT-SEEKING**

rent-seeking, n. Economic behavior motivated by an incentive to overproduce goods that will yield a return greater than the cost of production. • The term is often used in the field of law and economics. See RENT(4).

**RENT SERVICE**

rent service. See RENT(2).

**RENTS, ISSUES, AND PROFITS**

rents, issues, and profits. The total income or profit arising from the ownership or possession of property.

**RENT STRIKE**

rent strike. A refusal by a group of tenants to pay rent until grievances with the landlord are heard or settled.

**RENUNCIATION**

renunciation (ri-n<<schwa>>n-see-ay-sh<<schwa>>n), n.1. The express or tacit abandonment of a right without transferring it to another. 2. Wills & estates. The act of waiving a right under a will. • At one time, one renounced an inheritance by intestacy and disclaimed a gift by will. Today disclaim is common in both situations. — Also termed (in sense 2) disclaimer. See RIGHT OF ELECTION. Cf. DISCLAIMER. [Cases: Descent and Distribution 72; Wills 717. C.J.S. Descent and Distribution §§ 69, 77, 116; Wills §§ 1708–1710, 1713–1717.] 3. Criminal law. Complete and voluntary abandonment of criminal purpose — sometimes coupled with an attempt to thwart the activity's success — before a crime is committed. • Renunciation can be an affirmative defense to attempt, conspiracy, and the like. Model Penal Code § 5.01(4). — Also termed withdrawal; abandonment. [Cases: Criminal Law 31.10. C.J.S. Criminal Law §§ 122, 136.] 4. See anticipatory repudiation under REPUDIATION. — renunciative, renunciatory, adj. — renounce, vb.

**RENVOI**

renvoi (ren-voy), n. [French “sending back”] 1. The doctrine under which a court in resorting to foreign law adopts as well the foreign law's conflict-of-laws principles, which may in turn refer the court back to the law of the forum. [Cases: Action 17. C.J.S. Actions §§ 18–20; Conflict of Laws §§ 2–3, 12, 15, 20, 23, 27–32, 34–40, 42–48, 50–65, 96–97, 100, 102, 105–107.] 2. The problem arising when one state's rule on conflict of laws refers a case to the law of another state, and that second state's conflict-of-law rule refers the case either back to the law of the first state or to a third state. See CONFLICT OF LAWS. 3. RECONDUCTION(2).

**REO**

---

REO.abbr.REAL ESTATE OWNED.

REO ABSENTE

reo absente (ree-oh ab-sten-tee). [Latin] The defendant being absent; the absence of the defendant.

REOPEN

reopen. (Of a court) to review (an otherwise final and nonappealable judgment) for the purpose of possibly granting or modifying relief. • A court will reopen a judgment or case only in highly unusual circumstances. See Fed. R. Civ. P. 60.

REO PRAESENTE

reo praesente (ree-oh pri-zen-tee). [Latin] Hist. The defendant being present; the presence of the defendant.

REORGANIZATION

reorganization,n.1.Bankruptcy. A financial restructuring of a corporation, esp. in the repayment of debts, under a plan created by a trustee and approved by a court. See CHAPTER 11. [Cases: Bankruptcy 3501.C.J.S. Bankruptcy § 368.]

haircut reorganization.A restructuring that reduces the principal amount of indebtedness owed to creditors. • The more common usage is simply haircut <we took a haircut on that deal>.

2.Tax. A restructuring of a corporation, as by a merger or recapitalization, in order to improve its tax treatment under the Internal Revenue Code. • The Code classifies the various types of reorganizations with different letters. IRC (26 USCA) § 368(a)(1). Cf. RECAPITALIZATION.

A reorganization.A reorganization that involves a merger or consolidation under a specific state statute. [Cases: Internal Revenue 3668.]

B reorganization.A reorganization in which one corporation exchanges its voting shares for another corporation's voting shares. [Cases: Internal Revenue 3669. C.J.S. Internal Revenue §§ 406–407.]

C reorganization.A reorganization in which one corporation exchanges its voting shares for substantially all the assets of another corporation. [Cases: Internal Revenue 3670.]

D reorganization.A reorganization in which the corporation transfers some or all of its assets to another corporation that is controlled by the transferor or its shareholders, and then the stock of the transferee corporation is distributed. [Cases: Internal Revenue 3670.]

E reorganization.A reorganization that involves a recapitalization. [Cases: Internal Revenue 3671.]

F reorganization.A reorganization that involves a mere change in the identity, form, or place of organization of a corporation. [Cases: Internal Revenue 3672.]

**G reorganization.**A reorganization that involves a transfer of all or part of the corporation's assets to another corporation in a bankruptcy or similar proceeding. [Cases: Internal Revenue 3673. C.J.S. Internal Revenue §§ 405, 408.]

#### REORGANIZATION BOND

reorganization bond.See adjustment bond under BOND(3).

#### REORGANIZATION PLAN

reorganization plan.Bankruptcy. A plan of restructuring submitted by a corporation for approval by the court in a Chapter 11 case. See CHAPTER11. [Cases: Bankruptcy 3531–3570. C.J.S. Bankruptcy §§ 381–411.]

#### REP

rep.abbr.1.REPORT. 2.REPORTER. 3.REPRESENTATIVE. 4.REPUBLIC.

#### REPAIR-AND-REPLACE PROVISION

repair-and-replace provision.A contractual clause providing that a product's defect will be remedied by repairing or replacing the defective part or product.

#### REPAIR DOCTRINE

repair doctrine.Patents. The rule that a licensee who is authorized to produce, use, or distribute a patented device also has the right to repair and replace unpatented components. — Also termed permissible-repair doctrine. Cf. RECONSTRUCTION(2). [Cases: Patents 255. C.J.S. Patents § 405.]

#### REPARABLE INJURY

reparable injury.See INJURY.

#### REPARATION

reparation (rep-<<schwa>>-ray-sh<<schwa>>n).1. The act of making amends for a wrong. 2. (usu. pl.) Compensation for an injury or wrong, esp. for wartime damages or breach of an international obligation.

#### REPARATIONE FACIENDA

reparatione facienda.See DE REPARATIONE FACIENDA.

#### REPARATIVE INJUNCTION

reparative injunction.See INJUNCTION.

#### REPAROLE

reparole. A second release from prison on parole, served under the same sentence for which the parolee served the first term of parole.

---

**REPEAL**

repeal, n. RESCIND(3); esp., abrogation of an existing law by legislative act. [Cases: Statutes 149–170, 232. C.J.S. Statutes §§ 143–144, 212–213, 276–291, 293–298, 300–302, 304–305.] — repeal, vb.

express repeal. Repeal by specific declaration in a new statute or main motion. [Cases: Statutes 151. C.J.S. Statutes § 280.]

implied repeal. Repeal by irreconcilable conflict between an old law or main motion and a more recent law or motion. — Also termed repeal by implication. [Cases: Statutes 159. C.J.S. Statutes § 287.]

repeal by implication. See implied repeal.

**REPEALER**

repealer. 1. A legislative act abrogating an earlier law. — Also termed repealing act. [Cases: Statutes 149–170, 232. C.J.S. Statutes §§ 143–144, 212–213, 276–291, 293–298, 300–302, 304–305.] 2. One who repeals.

**REPEALING CLAUSE**

repealing clause. A statutory provision that repeals an earlier statute.

**REPEALING STATUTE**

repealing statute. See STATUTE.

**REPEATER**

repeater. See RECIDIVIST.

**REPEAT OFFENDER**

repeat offender. See OFFENDER.

**REPETITION**

repetition. Civil law. A demand or action for restitution or repayment. See SOLUTIO INDEBITI.

**REPETITUM NAMIIUM**

repetitum namium (ri-pet-<<schwa>>-t<<schwa>>m nay-mee-<<schwa>>m). [Law Latin] Hist. A second, repeated, or reciprocal distress; WITHERNAM.

**REPETUNDAE**

repetundae (rep-<<schwa>>-t<<schwa>>n-dee). [Latin “things or money claimed back”] Roman law. See RES REPETUNDAE.

**REPLACEMENT COST**

replacement cost. See COST(1).

#### REPLACEMENT-COST DEPRECIATION METHOD

replacement-cost depreciation method. See DEPRECIATION METHOD.

#### REPLACEMENT INSURANCE

replacement insurance. See INSURANCE.

#### REPLEAD

replead, vb. 1. To plead again or anew; to file a new pleading, esp. to correct a defect in an earlier pleading. [Cases: Federal Civil Procedure 1838; Pretrial Procedure 695.] 2. To make a replader.

#### REPLEADER

repleader (ree-plee-d<<schwa>>r). Common-law pleading. A court order or judgment — issued on the motion of a party who suffered an adverse verdict — requiring the parties to file new pleadings because of some defect in the original pleadings. — Also termed judgment of replader. [Cases: Pleading 286. C.J.S. Pleading § 477.]

#### REPLEGIARE

replegiare (ri-plee-jee-air-ee), vb. [Law Latin] Hist. To take back on pledge or surety; to replevy.

#### REPLEVIABLE

repleviable (ri-plev-ee-<<schwa>>-b<<schwa>>l), adj. Capable of being replevied; recoverable by replevin <repleviable property>. — Also spelled replevisable (ri-plev-<<schwa>>-s<<schwa>>-b<<schwa>>l). Cf. IRREPLEVIABLE. [Cases: Replevin 3. C.J.S. Replevin §§ 10–24.]

#### REPLEVIN

replevin (ri-plev-in), n. 1. An action for the repossession of personal property wrongfully taken or detained by the defendant, whereby the plaintiff gives security for and holds the property until the court decides who owns it. — Also termed claim and delivery. [Cases: Replevin 1. C.J.S. Replevin §§ 2–7.] 2. A writ obtained from a court authorizing the retaking of personal property wrongfully taken or detained. — Also termed (in sense 2) writ of replevin. Cf. DETINUE; TROVER. [Cases: Replevin 34. C.J.S. Replevin § 60.]

“The action of replevin lies, where specific personal property has been wrongfully taken and is wrongfully detained, to recover possession of the property, together with damages for its detention. To support the action it is necessary: (a) That the property shall be personal. (b) That the plaintiff, at the time of suit, shall be entitled to the immediate possession. (c) That (at common law) the defendant shall have wrongfully taken the property (replevin in the cepit). But, by statute in most states, the action will now also lie where the property is wrongfully detained, though it was

lawfully obtained in the first instance (replevin in the detinet). (d) That the property shall be wrongfully detained by the defendant at the time of suit.” Benjamin J. Shipman, *Handbook of Common-Law Pleading* § 49, at 120 (Henry Winthrop Ballantine ed., 3d ed. 1923).

“In rare cases, the plaintiff might seek equitable relief to secure return of a chattel. More commonly, the claim for recovery of the chattel was pursued at common law under forms of action such as Detinue or Replevin. American statutes or court rules tracked the common law generally, referring to the recovery variously as replevin, detinue, claim-and-delivery, or sequestration. The statutes usually allowed the plaintiff to recover the disputed chattel before trial, though this is now subject to constitutional limits which have led to procedural revisions in many of the statutes.” 1 Dan B. Dobbs, *Law of Remedies* § 5.17(1), at 917 (2d ed. 1993).

personal replevin. At common law, an action to replevy a person out of prison or out of another's custody. • Personal replevin has been largely superseded by the writ of habeas corpus as a means of investigating the legality of an imprisonment. See HABEAS CORPUS.

replevin in cepit (in see-pit). An action for the repossession of property that is both wrongfully taken and wrongfully detained. [Cases: Replevin 9. C.J.S. Replevin §§ 28–29.]

replevin in detinet (in det-i-net). An action for the repossession of property that is rightfully taken but wrongfully detained. [Cases: Replevin 9. C.J.S. Replevin §§ 28–29.]

replevin, vb. Archaic. REPLEVY.

REPLEVIN BOND

replevin bond. See BOND(2).

REPLEVISABLE

replevisable. See REPLEVIABLE.

REPLEVISOR

replevisor (ri-plev-<<schwa>>-s<<schwa>>r). The plaintiff in a replevin action.

REPLEVY

replevy (ri-plev-ee), n. Archaic. REPLEVIN.

replevy, vb. 1. To recover possession of (goods) by a writ of replevin. [Cases: Replevin 1. C.J.S. Replevin §§ 2–7.] 2. To recover (goods) by replevin. 3. Archaic. To bail (a prisoner).

REPLEVY BOND

replevy bond. See replevin bond under BOND(2).

REPLIANT

repliant (ri-pli-<<schwa>>nt). A party who makes a replication (i.e., a common-law reply). — Also termed replicant.



**REPLICARE**

replicare (rep-l<<schwa>>-kair-ee), vb.[Latin] Hist. To reply; to answer a defendant's plea.

**REPLICATIO**

replicatio (rep-li-kay-shee-oh), n.[Latin] Roman law.A plaintiff's rejection of what a defendant asserted in an exceptio; a counterexception. Pl. replicationes (rep-li-kay-shee-oh-nee-z). Cf. TRIPLICATIO; QUADRUPPLICATIO.

**REPLICATION**

replication (rep-l<<schwa>>-kay-sh<<schwa>>n). A plaintiff's or complainant's reply to a defendant's plea or answer; REPLY(2). [Cases: Pleading 162. C.J.S. Pleading §§ 209, 219.]

anticipatory replication.Equity pleading. In an original bill, the denial of defensive matters that the defendant might assert. • A defendant who relies on the anticipated defense must traverse the anticipatory matter in addition to setting up the defense. [Cases: Equity 133.]

general replication.Equity pleading. A replication that consists of a general denial of the defendant's plea or answer and an assertion of the truth and sufficiency of the bill. [Cases: Equity 207.]

replication de injuria.Common-law pleading. A traverse occurring only in the replication whereby the plaintiff is permitted to traverse the whole substance of a plea consisting merely of legal excuse, when the matter does not involve a title or interest in land, authority of law, authority of fact derived from the opposing party, or any matter of record. — Also termed replication de injuria sua propria, absque tali causa. [Cases: Pleading 179. C.J.S. Pleading § 222.]

replication per fraudem.Common-law pleading. A replication asserting that the discharge pleaded by the defendant was obtained by fraud.

special replication.Equity pleading. A replication that puts in issue a new fact to counter a new matter raised in the defendant's plea or answer. [Cases: Equity 209.]

**REPLY**

reply,n.1.Civil procedure. In federal practice, the plaintiff's response to the defendant's counterclaim (or, by court order, to the defendant's or a third party's answer).Fed. R. Civ. P. 7(a). [Cases: Federal Civil Procedure 801–815.] 2.Common-law pleading. The plaintiff's response to the defendant's plea or answer. • The reply is the plaintiff's second pleading, and it is followed by the defendant's rejoinder. — Also termed (in sense 2) replication. [Cases: Pleading 162, 164. C.J.S. Pleading §§ 209, 213–214, 219.] — reply,vb.

**REPLY BRIEF**

reply brief.See BRIEF.

**REPO**

repo (ree-poh).1.REPOSSESSION. 2.REPURCHASE AGREEMENT.

## REPORT

report,n.1. A formal oral or written presentation of facts or a recommendation for action <according to the treasurer's report, there is \$300 in the bank>.

committee report.Parliamentary law. A report from a committee to a deliberative assembly on business referred to the committee or on a matter otherwise under its charge.

informational report.Parliamentary law. A report without a recommendation for action.

insider report.Securities. A monthly report that must be filed with the SEC when more than 10% of a company's stock is traded.

majority report.Parliamentary law. A committee report, as distinguished from a minority report. See committee report. Cf. minority report.

minority report.Parliamentary law. A report by a member or members who dissent from a committee report, setting forth their views, and sometimes proposing an alternative recommendation. • Some organizations require that a minority must reach a certain size (or obtain permission) before it can file a report. A typical minimum is one-fourth of the committee's members, which guarantees that not more than one minority report will result.

officer's report.Parliamentary law. A report from an officer to an organization or deliberative assembly on business relating to the officer's duties or on a matter otherwise under the officer's charge.

report with recommendation.Parliamentary law. A report accompanied by a recommendation for action.

2. A written account of a court proceeding and judicial decision <the law clerk sent the court's report to counsel for both sides>. [Cases: Courts 103. C.J.S. Courts §§ 170, 173–174, 176.] 3. (usu. pl.) A published volume of judicial decisions by a particular court or group of courts <U.S. Reports>. • Generally, these decisions are first printed in temporary paperback volumes, and then printed in hardbound reporter volumes. Law reports may be either official (published by a government entity) or unofficial (published by a private publisher). Court citations frequently include the names of both the official and unofficial reports. — Also termed reporter; law report; law reporter. Cf. ADVANCE SHEETS. [Cases: Courts 103; Reports 3. C.J.S. Courts §§ 170, 173–174, 176; Reports §§ 10–13.]

official report.(usu. pl.) The governmentally approved set of reported cases within a given jurisdiction. [Cases: Courts 103; Reports 1. C.J.S. Courts §§ 170, 173–174, 176; Reports §§ 2–3.]

“[I]t may justly be said that all reports are in a sense ‘official,’ or that to use the term ‘official reports’ as referring to any particular series of reports is a misnomer, for it is certainly misleading. The mere fact that each state authorizes or requires publication of reports of its Supreme Court decisions, and, to insure such publication, agrees to purchase a stated number of each volume of the reports, cannot be said to give such a series pre-eminence as an ‘official’ publication.” William

M. Lile et al., *Brief Making and the Use of Law Books* 33 (3d ed. 1914).

4. (usu. pl.) A collection of administrative decisions by one or more administrative agencies. [Cases: Administrative Law and Procedure 507.C.J.S. Public Administrative Law and Procedure §§ 151, 157.] 5.MINUTES (2). — Abbr. rep. — report,vb.

#### REPORT AGENDA

report agenda.See report calendar under CALENDAR(4).

#### REPORT CALENDAR

report calendar.See CALENDAR(4).

#### REPORTER

reporter. 1. A person responsible for making and publishing a report; esp., a lawyer-consultant who prepares drafts of official or semi-official writings such as court rules or Restatements <the reporter to the Advisory Committee on Bankruptcy Rules explained the various amendments>. [Cases: Reports 3. C.J.S. Reports §§ 10–13.] 2.REPORTER OF DECISIONS. 3.REPORT (3) <Supreme Court Reporter>. — Abbr. rep.; rpt.

“It may not come amiss to remark that the National Report System is usually spoken of as the ‘Reporters,’ and one of the component parts of that system is in like manner spoken of as a ‘Reporter.’ Wherever, in this or the succeeding chapters of this work, the word is used with a capital, it refers to one or more of the parts of the National Reporter System. When the word ‘reporter’ is used without capitalization, it refers to the person who reports or edits the cases in any series of reports to which reference is being made.” William M. Lile et al., *Brief Making and the Use of Law Books* 37 (3d ed. 1914).

#### REPORTER OF DECISIONS

reporter of decisions.The person responsible for publishing a court's opinions. • The position began historically — in the years before systematic reporting of decisions was introduced — when lawyers attended the sessions of particular courts, were accredited to them by the judges, and reported the decisions of that court. Today, the reporter of decisions holds an administrative post as a court employee. The reporter often has duties that include verifying citations, correcting spelling and punctuation, and suggesting minor editorial improvements before judicial opinions are released or published. — Often shortened to reporter. — Also termed court reporter. See COURT REPORTER. [Cases: Courts 103; Reports 3. C.J.S. Courts §§ 170, 173–174, 176; Reports §§ 10–13.]

#### REPORTER'S PRIVILEGE

reporter's privilege.See journalist's privilege (1) under PRIVILEGE(3).

#### REPORTER'S RECORD

reporter's record.1.RECORD. 2.TRANSCRIPT.

---

**REPORTER'S SYLLABUS**

reporter's syllabus. See HEADNOTE.

**REPORTING COMPANY**

reporting company. See COMPANY.

**REPORT OF PROCEEDINGS**

report of proceedings. See TRANSCRIPT.

**REPORTS**

reports, n. See REPORT.

**REPORTS, THE**

Reports, The. A series of 13 volumes of caselaw published in the 17th century by Sir Edward Coke.

**REPORT WITH RECOMMENDATION**

report with recommendation. See REPORT(1).

**REPOSE**

repose (ri-pohz), n. 1. Cessation of activity; temporary rest. 2. A statutory period after which an action cannot be brought in court, even if it expires before the plaintiff suffers any injury. See STATUTE OF REPOSE. [Cases: Limitation of Actions 1, 165. C.J.S. Limitations of Actions §§ 2-4, 10-11.]

**REPOSITORY**

repository (ri-poz-<<schwa>>-tor-ee). A place where something is deposited or stored; a warehouse or storehouse. [Cases: Warehousemen 1-38. C.J.S. Agriculture §§ 163-165, 170-173, 176; Warehousemen and Safe Depositaries §§ 1-44, 47-137.]

**REPOSSESSION**

repossession, n. The act or an instance of retaking property; esp., a seller's retaking of goods sold on credit when the buyer has failed to pay for them. — Often shortened to repo. Cf. FORECLOSURE; RESCUE(3). [Cases: Secured Transactions 228. C.J.S. Secured Transactions §§ 151, 153-160, 180.] — repossess, vb.

**REPRESENTATION**

representation, n. 1. A presentation of fact — either by words or by conduct — made to induce someone to act, esp. to enter into a contract; esp., the manifestation to another that a fact, including a state of mind, exists <the buyer relied on the seller's representation that the roof did not leak>. Cf. MISREPRESENTATION. [Cases: Fraud 9.]

“Representation ... may introduce terms into a contract and affect performance: or it may

induce a contract and so affect the intention of one of the parties, and the formation of the contract.... At common law, ... if a representation did not afterwards become a substantive part of the contract, its untruth (save in certain excepted cases and apart always from fraud) was immaterial. But if it did, it might be one of two things: (1) it might be regarded by the parties as a vital term going to the root of the contract (when it is usually called a 'condition'); and in this case its untruth entitles the injured party to repudiate the whole contract; or (2) it might be a term in the nature only of an independent subsidiary promise (when it is usually called a 'warranty'), which is indeed a part of the contract, but does not go to the root of it; in this case its untruth only gives rise to an action ex contractu for damages, and does not entitle the injured party to repudiate the whole contract." William R. Anson, *Principles of the Law of Contract* 218, 222 (Arthur L. Corbin ed., 3d Am. ed. 1919).

affirmative representation. A representation asserting the existence of certain facts pertaining to a given subject matter. [Cases: Contracts 205.5; Fraud 9. C.J.S. Contracts § 341.]

false representation. See MISREPRESENTATION.

material representation. A representation to which a reasonable person would attach importance in deciding his or her course of action in a transaction. • Material representation is a necessary element of an action for fraud. [Cases: Contracts 94(2); Fraud 18. C.J.S. Contracts §§ 156, 166.]

promissory representation. A representation about what one will do in the future; esp., a representation made by an insured about what will happen during the time of coverage, stated as a matter of expectation and amounting to an enforceable promise. [Cases: Insurance 3035. C.J.S. Insurance §§ 537, 546–551, 629, 634, 639, 694, 704, 759.]

2. The act or an instance of standing for or acting on behalf of another, esp. by a lawyer on behalf of a client <Clarence Darrow's representation of John Scopes>. [Cases: Attorney and Client 77–101. C.J.S. Attorney and Client §§ 191–217.]

concurrent representation. The simultaneous representation of more than one person in the same matter. See CONFLICT OF INTEREST(2).

3. The fact of a litigant's having such a close alignment of interests with another person that the other is considered as having been present in the litigation <the named plaintiff provided adequate representation for the absent class members>.

adequate representation. A close alignment of interests between actual parties and potential parties in a lawsuit, so that the interests of potential parties are sufficiently protected by the actual parties. • The concept of adequate representation is often used in procedural contexts. For example, if a case is to be certified as a class action, there must be adequate representation by the named plaintiffs of all the potential class members. Fed. R. Civ. P. 23(a)(4). And if a nonparty is to intervene in a lawsuit, there must not already be adequate representation of the nonparty by an existing party. Fed. R. Civ. P. 24(a)(2).

virtual representation. A party's maintenance of an action on behalf of others with a similar

interest, as a class representative does in a class action. See VIRTUAL-REPRESENTATION DOCTRINE. [Cases: Judgment 677; Parties 35.3. C.J.S. Judgments §§ 847, 851–854; Parties § 28.]

4. The assumption by an heir of the rights of his or her predecessor <each child takes a share by representation>. See PER STIRPES. [Cases: Wills 550. C.J.S. Wills §§ 1809–1810.] 5. (usu. pl.) Int'l law. A friendly but firm statement of a perceived wrong. • This is the mildest form of complaint that one nation can make to another. — Also termed diplomatic representation. — represent, vb. “Representations are in the nature of vigorous arguments employed in the hope of securing a modification of the action complained of without implying necessarily or expressly an intention ultimately to seek redress by more vigorous means.” Ellery C. Stowell, *International Law: A Restatement of Principles in Conformity with Actual Practice* 427 (1931).

#### REPRESENTATION, ESTOPPEL BY

representation, estoppel by. See estoppel by representation under ESTOPPEL.

#### REPRESENTATION ELECTION

representation election. See ELECTION(3).

#### REPRESENTATIVE

representative, n. 1. One who stands for or acts on behalf of another <the owner was the football team's representative at the labor negotiations>. See AGENT(2). [Cases: Principal and Agent 1. C.J.S. Agency §§ 2, 4–6, 23, 25–27, 33, 38–40, 58; Architects § 21.]

accredited representative. A person with designated authority to act on behalf of another person, group, or organization, usu. by being granted that authority by law or by the rules of the group or organization <as an officer of the union, she was the accredited representative of the employees in the wage dispute>.

class representative. A person who sues on behalf of a group of plaintiffs in a class action. — Also termed named plaintiff. See CLASS ACTION. [Cases: Federal Civil Procedure 164; Parties 35.13. C.J.S. Parties §§ 31, 34.]

independent personal representative. See personal representative.

lawful representative. 1. A legal heir. 2. An executor, administrator, or other legal representative. — Also termed legal representative. See personal representative. [Cases: Executors and Administrators 14–18. C.J.S. Executors and Administrators §§ 17–32, 34–49.]

legal–personal representative. 1. When used by a testator referring to personal property, an executor or administrator. [Cases: Executors and Administrators 14–18. C.J.S. Executors and Administrators §§ 17–32, 34–49.] 2. When used by a testator referring to real property, one to whom the real estate passes immediately upon the testator's death. 3. When used concerning the death of a mariner at sea, the public administrator, executor, or appointed administrator in the seaman's state of residence.

legal representative. 1. See lawful representative. 2. See personal representative.

personal representative. A person who manages the legal affairs of another because of incapacity or death, such as the executor of an estate. • Technically, while an executor is a personal representative named in a will, an administrator is a personal representative not named in a will. — Also termed independent personal representative; legal representative. [Cases: Executors and Administrators 14–18. C.J.S. Executors and Administrators §§ 17–32, 34–49.]

registered representative. A person approved by the SEC and stock exchanges to sell securities to the public. — Formerly also termed customer's man; customer's person. [Cases: Securities Regulation 40.12–40.14. C.J.S. Securities Regulation §§ 157–160, 165.]

2. A member of a legislature, esp. of the lower house <one senator and one representative attended the rally>. [Cases: States 28. C.J.S. States § 42.] — Abbr. rep.

#### REPRESENTATIVE ACTION

representative action. 1. CLASS ACTION. 2. DERIVATIVE ACTION(1).

#### REPRESENTATIVE CAPACITY

representative capacity. See CAPACITY(1).

#### REPRESENTTEE

representee. One to whom a representation is made.

“First, where the representor can show that he was not negligent, he will not be liable under the 1967 Act; and secondly, where the representee wants to claim damages at the contractual rate, for loss of his bargain, it may be that the Misrepresentation Act will not suffice.” P.S. Atiyah, *An Introduction to the Law of Contract* 165 (3d ed. 1981).

#### REPRESENTOR

representor. One who makes a representation.

“[I]t is arguable that even where a contracting party does not intend to guarantee the accuracy of what he says, the other party is at least entitled to assume that due care has been taken by the representor.” P.S. Atiyah, *An Introduction to the Law of Contract* 309 (3d ed. 1981).

#### REPRESSED-MEMORY SYNDROME

repressed-memory syndrome. A memory disorder characterized by an intermittent and extensive inability to recall important personal information, usu. following or concerning a traumatic or highly stressful occurrence, when the memory lapses cannot be dismissed as normal forgetfulness. • The theoretical basis for this syndrome was proposed by Sigmund Freud in 1895. The American Psychiatric Association has recognized the syndrome officially by the medical term dissociative amnesia. Although the APA has affirmed that some people suffering partial or total dissociative amnesia may later recover some or all of the memory of the traumatic or stressful event, the existence of the syndrome is controversial. Some studies indicate that “repressed”

memories, at least in some patients, may be a product of suggestions made by mental-health therapists rather than of any actual experience. — Abbr. RMS. — Also termed recovered-memory syndrome; dissociative amnesia. Cf. FALSE-MEMORY SYNDROME .

#### REPRESSIVE TAX

repressive tax. See sin tax under TAX.

#### REPRIEVE

reprieve (ri-preev), n. Temporary postponement of the carrying out of a criminal sentence, esp. a death sentence. Cf. COMMUTATION(2); PARDON. [Cases: Pardon and Parole 27. C.J.S. Pardon and Parole §§ 3, 32–33.] — reprieve, vb.

“The term reprieve is derived from *reprendre*, to keep back, and signifies the withdrawing of the sentence for an interval of time, and operates in delay of execution.” 1 Joseph Chitty, *A Practical Treatise on the Criminal Law* 757 (2d ed. 1826).

#### REPRIMAND

reprimand, n. In professional responsibility, a form of disciplinary action — imposed after trial or formal charges — that declares the lawyer's conduct improper but does not limit his or her right to practice law; a mild form of lawyer discipline that does not restrict the lawyer's ability to practice law. [Cases: Attorney and Client 58. C.J.S. Attorney and Client §§ 116–118.] — reprimand, vb.

private reprimand. An unpublished communication between a disciplinary agency and a wrongdoing attorney, admonishing the attorney about the improper conduct. • Sometimes a published reprimand that does not identify the lawyer by name is considered a private reprimand. [Cases: Attorney and Client 58. C.J.S. Attorney and Client §§ 116–118.]

public reprimand. A published notice, appearing usu. in a legal newspaper or bar journal, admonishing the attorney about improper conduct and describing the impropriety for the benefit of other members of the legal profession. [Cases: Attorney and Client 58. C.J.S. Attorney and Client §§ 116–118.]

#### REPRISAL

reprisal (ri-prI-z<<schwa>>). 1. (often pl.) Int'l law. The use of force, short of war, against another country to redress an injury caused by that country. [Cases: War and National Emergency 12. C.J.S. War and National Defense §§ 8, 13, 16–22, 84–85.]

“ ‘Reprisals' is a word with a long history, and modern writers are not agreed on the meaning which should be given to it today. Literally and historically it denotes the seizing of property or persons by way of retaliation .... Reprisals when they are taken today are taken by a state, but some writers would still limit the word to acts of taking or withholding the property of a foreign state or its nationals, for example by an embargo, whilst others would abandon the historical associations and use it to denote any kind of coercive action not amounting to war whereby a state attempts to secure satisfaction from another for some wrong which the latter has committed



against it.” J.L. Briery, *The Law of Nations* 321–22 (5th ed. 1955).

**general reprisal.** A reprisal by which a nation directs all its military officers and citizens to redress an injury caused by another nation. • An example is a command to seize the property of the offending nation wherever it is found.

**negative reprisal.** A reprisal by which a nation refuses to perform an obligation to another nation, such as the fulfillment of a treaty.

**positive reprisal.** A reprisal by which a nation forcibly seizes another nation's property or persons.

**special reprisal.** A reprisal by which a nation authorizes an aggrieved private citizen to redress an injury caused by another nation. • An example is an authorization for a private citizen to seize a particular vessel of the offending nation. See *LETTERS OF MARQUE*.

2. (often pl.) Int'l law. An act of forceful retaliation for injury or attack by another country; formerly, in war, the killing of prisoners in response to an enemy's war crimes (now unlawful). Cf. *RETORSION*. 3. Any act or instance of retaliation, as by an employer against a complaining employee. [Cases: *Master and Servant* 30(6.5). C.J.S. *Employer–Employee Relationship* §§ 68, 70, 72, 79.]

#### REPRISE

**reprise** (ri-prĭz), n. An annual deduction, duty, or payment out of a manor or estate, such as an annuity.

#### REPROBATION

**reprobation** (rep-r<<schwa>>-bay-sh<<schwa>>n). The act of raising an objection or exception, as to the competency of a witness or the sufficiency of evidence. — **reprobationary** (rep-r<<schwa>>-bay-sh<<schwa>>-ner-ee), **reprobative** (rep-r<<schwa>>-bay-tiv), adj. — **reprobate** (rep-r<<schwa>>-bayt), vb.

#### REPROBATOR

**reprobator** (rep-r<<schwa>>-bay-t<<schwa>>r). Scots law. Hist. A challenge to disqualify a witness or to invalidate the testimony of an objectionable witness. — Also termed *action of reprobator*.

#### REPRODUCTION RIGHT

**reproduction right.** Copyright. A copyright holder's exclusive right to make copies or phonorecords of the protected work. • Unauthorized copying constitutes infringement. — Also termed *right of reproduction*. [Cases: *Copyrights and Intellectual Property* 36. C.J.S. *Copyrights and Intellectual Property* §§ 10, 40–41, 97.]

#### REPRODUCTIVE RIGHTS

**reproductive rights.** A person's constitutionally protected rights relating to the control of his or

her procreative activities; specif., the cluster of civil liberties relating to pregnancy, abortion, and sterilization, esp. the personal bodily rights of a woman in her decision whether to become pregnant or bear a child. • The phrase includes the idea of being able to make reproductive decisions free from discrimination, coercion, or violence. Human-rights scholars increasingly consider many reproductive rights to be protected by international human-rights law. [Cases: Civil Rights 1029. C.J.S. Civil Rights §§ 4–5, 8, 13.]

## REPUBLIC

republic, n. A system of government in which the people hold sovereign power and elect representatives who exercise that power. • It contrasts on the one hand with a pure democracy, in which the people or community as an organized whole wield the sovereign power of government, and on the other with the rule of one person (such as a king or dictator) or of an elite group (such as an oligarchy, aristocracy, or junta). — Abbr. rep. Cf. DEMOCRACY. — republican, adj.

“A republic is a government which (a) derives all of its powers directly or indirectly from the great body of the people and (b) is administered by persons holding their office during pleasure, for a limited period, or during good behavior.” Robert A. Dahl, *A Preface to Democratic Theory* 10 (1956).

## REPUBLICAN GOVERNMENT

republican government. See GOVERNMENT.

## REPUBLICATION

republish, v. 1. The act or an instance of publishing again or anew. 2. Wills & estates. Reestablishment of the validity of a previously revoked will by repeating the formalities of execution or by using a codicil. • The result is to make the old will effective from the date of republication. — Also termed revalidation. Cf. REVIVAL(2). [Cases: Wills 196–202. C.J.S. Wills §§ 429–440.] 3. Defamation. The act or an instance of repeating or spreading more widely a defamatory statement. — republish, vb.

## REPUDIATE

repudiate, vb. 1. To reject or renounce (a duty or obligation); esp., to indicate an intention not to perform (a contract). [Cases: Contracts 313. C.J.S. Contracts § 534.] 2. Hist. To divorce or disown (one's wife).

## REPUDIATEE

repudiatee (ri-pyoo-dee-<<schwa>>-tee). A party to a contract that has been repudiated by the other party. [Cases: Contracts 313. C.J.S. Contracts § 534.]

## REPUDIATION

repudiation (ri-pyoo-dee-ay-sh<<schwa>>n), n. 1. Eccles. law. Rare. A person's refusal to accept a benefice. 2. A contracting party's words or actions that indicate an intention not to perform the contract in the future; a threatened breach of contract. Cf. REJECTION(1), (2);

RESCISSION; REVOCATION(1). [Cases: Contracts 313(2). C.J.S. Contracts §§ 534–540.] — repudiatory (ri-pyoo-dee-*<<schwa>>*-tor-ee), repudiable (ri-pyoo-dee-*<<schwa>>*-b*<<schwa>>*l), adj.

“A repudiation is (a) a statement by the obligor to the obligee indicating that the obligor will commit a breach that would of itself give the obligee a claim for damages for total breach ... , or (b) a voluntary affirmative act which renders the obligor unable or apparently unable to perform without such a breach.” Restatement (Second) of Contracts § 250 (1979).

“In order to constitute a repudiation, a party's language must be sufficiently positive to be reasonably interpreted to mean that the party will not or cannot perform. Mere expression of doubt as to his willingness or ability to perform is not enough to constitute a repudiation, although such an expression may give an obligee reasonable grounds to believe that the obligor will commit a serious breach and may ultimately result in a repudiation .... However, language that under a fair reading ‘amounts to a statement of intention not to perform except on conditions which go beyond the contract’ constitutes a repudiation.” Restatement (Second) of Contracts § 250, cmt. b (1979).

anticipatory repudiation.Repudiation of a contractual duty before the time for performance, giving the injured party an immediate right to damages for total breach, as well as discharging the injured party's remaining duties of performance. • This type of repudiation occurs when the promisor unequivocally disavows any intention to perform when the time for performance comes. Once the repudiation occurs, the nonrepudiating party has three options: (1) treat the repudiation as an immediate breach and sue for damages; (2) ignore the repudiation, urge the repudiator to perform, wait for the specified time of performance, and sue if the repudiating party does not perform; and (3) cancel the contract. — Also termed renunciation. See anticipatory breach under BREACH OF CONTRACT. [Cases: Contracts 313. C.J.S. Contracts § 534.]

The Restatement lists three actions that constitute anticipatory repudiation: “(a) a positive statement to the promisee or other person having a right under the contract, indicating that the promisor will not or cannot substantially perform his contractual duties; (b) transferring or contracting to transfer to a third person an interest in specific land, goods, or in any other thing essential for the substantial performance of his contractual duties; (c) any voluntary affirmative act which renders substantial performance of his contractual duties impossible, or apparently impossible.” Restatement (Second) of Contracts § 318 (1979).

total repudiation.An unconditional refusal by a party to perform the acts required by a contract. • This type of repudiation justifies the other party in refraining from performance. [Cases: Contracts 313. C.J.S. Contracts § 534.]

#### REPUDIATOR

repudiator (ri-pyoo-dee-ay-t*<<schwa>>*r). One who repudiates; esp., a party who repudiates a contract. [Cases: Contracts 313. C.J.S. Contracts § 534.]

#### REPUDIUM

repudium (ri-pyoo-dee-*<<schwa>>*m), n. [Latin] Roman law. The revocation of betrothal or

marriage by either the man or the woman. • After Augustus, it was necessary to send the other spouse a letter of repudiation in order to terminate the marriage. Cf. DIVORTIUM.

#### REPUGNANCY

repugnancy (ri-p<<schwa>>g-n<<schwa>>n-see). An inconsistency or contradiction between two or more parts of a legal instrument (such as a contract or statute). [Cases: Contracts 162; Statutes 207. C.J.S. Contracts §§ 324, 326.]

#### REPUGNANT

repugnant (ri-p<<schwa>>g-n<<schwa>>nt), adj. Inconsistent or irreconcilable with; contrary or contradictory to <the court's interpretation was repugnant to the express wording of the statute>.

#### REPUGNANT VERDICT

repugnant verdict. See VERDICT.

#### REPURCHASE

repurchase, n. The act or an instance of buying something back or again; esp., a corporation's buying back of some or all of its stock at market price. See REDEMPTION. [Cases: Corporations 82, 120. C.J.S. Corporations §§ 180–181, 193–195, 239–241.] — repurchase, vb.

#### REPURCHASE AGREEMENT

repurchase agreement. A short-term loan agreement by which one party sells a security to another party but promises to buy back the security on a specified date at a specified price. — Often shortened to repo. [Cases: Corporations 82, 120. C.J.S. Corporations §§ 180–181, 193–195, 239–241.]

#### REPURCHASE PRICE

repurchase price. See redemption price under PRICE.

#### REPUTATION

reputation, n. The esteem in which a person is held by others. • Evidence of reputation may be introduced as proof of character whenever character evidence is admissible. Fed. R. Evid. 405. — Also termed personal reputation. [Cases: Criminal Law 375; Evidence 106; Witnesses 338. C.J.S. Criminal Law §§ 816–818; Evidence §§ 495–497, 499–502, 504–506; Witnesses § 592.] — reputational, adj.

#### REPUTATIONAL EVIDENCE

reputational evidence. See reputation evidence under EVIDENCE.

#### REPUTATION EVIDENCE

reputation evidence. See EVIDENCE.

---

**REPUTED MANOR**

reputed manor. See MANOR.

**REQUEST**

request, n. Parliamentary law. A motion by which a member invokes a right, seeks permission for the exercise of a privilege, or asks a question. Cf. MOTION(2); DEMAND(2); INQUIRY(2); POINT(2).

request for leave to modify a motion. See request for permission to modify a motion.

request for leave to withdraw a motion. See request for permission to withdraw a motion.

request for permission to modify a motion. A motion by which the mover seeks an amendment to his or her own motion after the chair has stated the motion. • The mover controls a motion only until the chair states the question. After that, the motion belongs to the assembly and the mover cannot modify it without the assembly's permission. See friendly amendment under AMENDMENT(3). — Also termed request for leave to modify a motion.

request for permission to withdraw a motion. A motion by the mover to end consideration of the motion without reaching a decision on its merits. See request for permission to modify a motion. — Also termed request for leave to withdraw a motion.

request to be excused from a duty. A motion seeking relief from a duty that an officer or other member has been charged with.

request to read papers. 1. A motion asking permission to read aloud from printed matter. • Reading aloud is generally not allowed without permission. 2. A motion asking that the chair or secretary read aloud a document for the mover's or the assembly's information.

**REQUEST FOR ADMISSION**

request for admission. Civil procedure. In pretrial discovery, a party's written factual statement served on another party who must admit, deny, or object to the substance of the statement. • Ordinarily, many requests for admission appear in one document. The admitted statements, along with any statements not denied or objected to, will be treated by the court as established and therefore do not have to be proved at trial. Fed. R. Civ. P. 36. — Abbr. RFA. — Also termed request for admissions; request to admit; notice to admit. [Cases: Federal Civil Procedure 1671; Pretrial Procedure 471. C.J.S. Discovery §§ 113, 115.]

**REQUEST FOR CONTINUED EXAMINATION**

request for continued examination. Patents. A means of negating the final action on a patent so that the applicant can file amendments, new claims, etc. to show that the invention is patentable as of the original application date. • Unlike a continuation application, a request for continued examination keeps a patent alive as if no final decision had been made. It allows prosecution of claims that have been rejected in a final office action to continue. — Abbr. RCE. Cf. CONTINUATION. [Cases: Patents 104. C.J.S. Patents §§ 145–147, 149–151, 173–175.]

---

**REQUEST FOR INSTRUCTIONS**

request for instructions.Procedure. During trial, a party's written request that the court instruct the jury on the law as set forth in the request. — Abbr. RFI. — Also termed request to charge. See Fed. R. Civ. P. 51. [Cases: Federal Civil Procedure 2176; Trial 259. C.J.S. Trial § 698.]

**REQUEST FOR LEAVE TO MODIFY A MOTION**

request for leave to modify a motion.See REQUEST.

**REQUEST FOR LEAVE TO WITHDRAW A MOTION**

request for leave to withdraw a motion.See REQUEST.

**REQUEST FOR PERMISSION TO MODIFY A MOTION**

request for permission to modify a motion.See REQUEST.

**REQUEST FOR PERMISSION TO WITHDRAW A MOTION**

request for permission to withdraw a motion.See REQUEST.

**REQUEST FOR PRODUCTION**

request for production.Procedure. In pretrial discovery, a party's written request that another party provide specified documents or other tangible things for inspection and copying. Fed. R. Civ. P. 34. — Abbr. RFP. — Also termed document request; request for production of documents; notice to produce; demand for document inspection. [Cases: Federal Civil Procedure 1551; Pretrial Procedure 331. C.J.S. Discovery § 71.]

**REQUEST FOR RECONSIDERATION**

request for reconsideration.Patents. An applicant's submission of further arguments after a patent claim's rejection. [Cases: Patents 104.C.J.S. Patents §§ 145–147, 149–151, 173–175.]

**REQUEST FOR REEXAMINATION**

request for reexamination.Patents. A formal process of asking the Patent and Trademark Office to review an in-force patent's validity in light of prior-art references. • Anyone, including the patentee or an infringer, may request a patent's reexamination. [Cases: Patents 140. C.J.S. Patents § 251.]

**REQUEST TO ADMIT**

request to admit.See REQUEST FOR ADMISSION.

**REQUEST TO BE EXCUSED FROM A DUTY**

request to be excused from a duty.See REQUEST.

**REQUEST TO CHARGE**

request to charge.See REQUEST FOR INSTRUCTIONS.

---

**REQUEST TO READ PAPERS**

request to read papers.See REQUEST.

**REQUIRED-RECORDS DOCTRINE**

required-records doctrine.The principle that the privilege against self-incrimination does not apply when one is being compelled to produce business records that are kept in accordance with government regulations and that involve public aspects. • Some courts have held that certain medical records and tax forms fall within this doctrine and are thus not protected by the privilege against self-incrimination. [Cases: Witnesses 298. C.J.S. Witnesses § 543.]

**REQUIRED-REQUEST LAW**

required-request law.A law mandating that hospital personnel discuss with a deceased patient's relatives the possibility of an anatomical gift. • The Uniform Anatomical Gift Act (not in effect in all states) mandates a required-request law.

**REQUIRED RESERVE**

required reserve.See RESERVE.

**REQUIREMENT FOR DIVISION**

requirement for division.See RESTRICTION(4).

**REQUIREMENT FOR RESTRICTION**

requirement for restriction.See RESTRICTION(4).

**REQUIREMENTS CONTRACT**

requirements contract.See CONTRACT.

**REQUIREMENTS TESTING**

requirements testing.See ACCEPTANCE TESTING.

**REQUISITION**

requisition (rek-w<<schwa>>-zish-<<schwa>>n), n.1. An authoritative, formal demand <a state governor's requisition for another state's surrender of a fugitive>. [Cases: Extradition and Detainers 34.] 2. A governmental seizure of property <the state's requisition of the shopping center during the weather emergency>. See TAKING(2). — requisition,vb.

**REQUISITIONIST**

requisitionist. One who makes a formal demand (as for the performance of an obligation or the return of a fugitive). See REQUISITION(1).

**REQUISITORY LETTER**

requisitory letter.See LETTER OF REQUEST.

## RERE-COUNTY

rere-county (reer-kown-tee).Hist. A subsidiary English county court held by the sheriff on the day after the regular county court. — Also spelled rere county; rier county.

## RE-REFER

re-refer. See REFER.

## RES

res (rays or reez or rez), n.[Latin “thing”] 1. An object, interest, or status, as opposed to a person <jurisdiction of the res — the real property in Colorado>. [Cases: Courts 16. C.J.S. Courts § 50.] 2. The subject matter of a trust; CORPUS(1) <the stock certificate is the res of the trust>. [Cases: Trusts 1. C.J.S. Trover and Conversion §§ 1–9, 14–18.] Pl. res.

## RES ACCESSORIA

res accessoria (rays ak-ses-or-ee-*<<schwa>>*). [Latin] Civil law. An accessory thing; a thing that is related to a principal thing. Pl. res accessoriae.

## RES ADJUDICATA

res adjudicata (rays *<<schwa>>*-joo-di-kay-t*<<schwa>>* or -kah-t*<<schwa>>*). See RES JUDICATA.

## RESALE

resale,n.1. The act of selling goods or property — previously sold to a buyer who breached the sales contract — to someone else. UCC § 2-706. [Cases: Sales 332–339. C.J.S. Sales §§ 344–347.] 2. A retailer's selling of goods, previously purchased from a manufacturer or wholesaler, usu. to consumers or to someone else further down the chain of distribution. — resell,vb.

## RESALE-PRICE MAINTENANCE

resale-price maintenance.A form of price-fixing in which a manufacturer forces or persuades several different retailers to sell the manufacturer's product at the same price, thus preventing competition. • Resale-price maintenance is per se illegal under antitrust law. But a manufacturer is permitted to suggest a retail price as long as it does not compel retailers to sell at that price. See vertical price-fixing under PRICE-FIXING. [Cases: Monopolies 17(1.7). C.J.S. Monopolies §§ 83–85, 87.]

## RES ALIENA

res aliena (rays ay-lee-ee-n*<<schwa>>* or al-ee-). [Latin] Archaic. The property belonging to another.

## RES ALIENARI PROHIBITA

res alienari prohibita (rays ay-lee-*<<schwa>>*-nair-I proh-hib-i-t*<<schwa>>*). [Law Latin] Hist. A thing that cannot be alienated.



## RES ALIENA SCIENTER LEGATA

res aliena scienter legata (rays ay-lee-ee-n<<schwa>> [or al-ee-] sI-en-t<< schwa>>r l<<schwa>>-gay-t<<schwa>>). [Latin] Hist. The property of another knowingly bequeathed — that is, property that a testator did not own but purported to bequeath by will.

## RES CADUCA

res caduca (rays k<<schwa>>-d[y]oo-k<<schwa>>). [Latin] Civil law. A fallen thing; an escheat. Pl. res caducae.

## RESCUIT

rescuit (ri-seet).Hist. The admittance of an interested third party to plead in a case between two others; intervention.

## RESCIND

rescind (ri-sind), vb.1. To abrogate or cancel (a contract) unilaterally or by agreement. [Cases: Contracts 249. C.J.S. Contracts §§ 422, 424, 427–428, 456, 465–466, 484.] 2. To make void; to repeal or annul <rescind the legislation>.3.Parliamentary law. To void, repeal, or nullify a main motion adopted earlier. — Also termed annul; repeal. — rescindable,adj.

rescind and expunge.See EXPUNGE(2).

## RESCISSION

rescissio (ri-sis[h]-ee-oh). [Latin] Civil law. Annulment or voidance of a juridical act; rescission. Pl. rescissiones.

## RESCISSION

rescission (ri-sizh-<<schwa>>n), n.1. A party's unilateral unmaking of a contract for a legally sufficient reason, such as the other party's material breach, or a judgment rescinding the contract; VOIDANCE. • Rescission is generally available as a remedy or defense for a nondefaulting party and is accompanied by restitution of any partial performance, thus restoring the parties to their precontractual positions. — Also termed avoidance. [Cases: Contracts 249. C.J.S. Contracts §§ 422, 424, 427–428, 456, 465–466, 484.] 2. An agreement by contracting parties to discharge all remaining duties of performance and terminate the contract. — Also spelled rescision; recission. — Also termed (in sense 2) agreement of rescission; mutual rescission; abandonment. Cf. REJECTION(2); REPUDIATION (2); REVOCATION(1). [Cases: Contracts 252. C.J.S. Contracts §§ 428, 462.] — rescissory (ri-sis-<<schwa>>-ree or ri-siz-), adj.

“The [UCC] takes cognizance of the fact that the term ‘rescission’ is often used by lawyers, courts and businessmen in many different senses; for example, termination of a contract by virtue of an option to terminate in the agreement, cancellation for breach and avoidance on the grounds of infancy or fraud. In the interests of clarity of thought — as the consequences of each of these forms of discharge may vary — the Commercial Code carefully distinguishes three circumstances. ‘Rescission’ is utilized as a term of art to refer to a mutual agreement to discharge contractual

duties. 'Termination' refers to the discharge of duties by the exercise of a power granted by the agreement. 'Cancellation' refers to the putting an end to the contract by reason of a breach by the other party. Section 2-720, however, takes into account that the parties do not necessarily use these terms in this way." John D. Calamari & Joseph M. Perillo, *The Law of Contracts* § 21-2, at 864-65 (3d ed. 1987).

equitable rescission. Rescission that is decreed by a court of equity. [Cases: Cancellation of Instruments 1. C.J.S. Cancellation of Instruments; Rescission §§ 2-7.]

legal rescission. 1. Rescission that is effected by the agreement of the parties. [Cases: Contracts 251.] 2. Rescission that is decreed by a court of law, as opposed to a court of equity.

"The modern tendency is to treat rescission as equitable, but rescission was often available at law. If plaintiff had paid money, or had delivered goods, he could rescind by tendering whatever he had received from defendant and suing at law to recover his money or replevy his goods. But if he had delivered a promissory note or securities, or conveyed real estate, rescission required the court to cancel the instruments or compel defendant to reconvey. This relief was available only in equity. Many modern courts ignore the distinction .... But versions of the distinction are codified in some states." Douglas Laycock, *Modern American Remedies* 627-28 (3d ed. 2002).

#### RESCISSORY ACTION

rescissory action. See ACTION(4).

#### RESCISSORY DAMAGES

rescissory damages. See DAMAGES.

#### RES COMMUNES

res communes (rays k<<schwa>>-myoo-nee), n. pl. [Latin "common things"] Civil law. Things common to all; things that cannot be owned or appropriated, such as light, air, and the sea. La. Civ. Code art. 449.

#### RES CONTROVERSA

res controversa (rays kon-tr<<schwa>>-v<<schwa>>-r-s<<schwa>>). [Latin] Civil law. A matter in controversy; a point in question. Pl. res controversae.

#### RES CORONAE

res coronae (rays k<<schwa>>-roh-nee), n. pl. [Latin] Hist. Things of the Crown, such as ancient manors, homages of the king, and liberties.

#### RES CORPORALES

res corporales (rays kor-p<<schwa>>-ray-leez), n. pl. [Latin] Civil law. Corporeal things; tangible things that are perceptible to the senses. La. Civ. Code art. 461. See corporeal thing under THING.

#### RESCOUS

rescous (res-k<<schwa>>s).1.RESCUE(2).2.RESCUE(3).

### RESCRIPT

rescript (ree-skript), n.1. A judge's written order to a court clerk explaining how to dispose of a case. 2. An appellate court's written decision, usu. unsigned, that is sent down to the trial court. [Cases: Appeal and Error 1196, 1207; Criminal Law 1192; Federal Courts 949. C.J.S. Appeal and Error §§ 978, 994.] 3. A Roman emperor's or a Pope's written answer to a legal inquiry or petition. Cf. PRECES. — Also termed (when the reply is to a private citizen) annotation; subnotation; subscription; (when the reply is to an official body) epistle. 4. A duplicate or counterpart; a rewriting.

### RESCUE

rescue,n.1. The act or an instance of saving or freeing someone from danger or captivity. 2. The forcible and unlawful freeing of a person from arrest or imprisonment. — Also termed rescous. [Cases: Rescue 1. C.J.S. Escape §§ 28–31, 33.]

“A rescue signifies a forcible setting at liberty, against law, of a person duly arrested. It is necessary, that the rescuer should have knowledge that the person whom he sets at liberty has been apprehended for a criminal offence, if he be in the custody of a private person; but if he be under the care of an officer, then he is to take notice of it at his peril.” 1 Joseph Chitty, *A Practical Treatise on the Criminal Law* 62 (2d ed. 1826).

3. The forcible retaking by the owner of goods that have been lawfully distrained. — Also termed rescous. Cf. REPOSSESSION. 4.Int'l law. The retaking of a prize by persons captured with it, so that the property is legally restored to its original owner. See POSTLIMINIUM(3). — rescue,vb.

### RESCUE CLAUSE

rescue clause.See SUE-AND-LABOR CLAUSE.

### RESCUE DOCTRINE

rescue doctrine.Torts. The principle that a tortfeasor who negligently endangered a person is liable for injuries to someone who reasonably attempted to rescue the person in danger. • The rationale for this doctrine is that an attempted rescue of someone in danger is always foreseeable. Thus, if the tortfeasor is negligent toward the rescuee, the tortfeasor is also negligent toward the rescuer. — Also termed danger-invites-rescue doctrine. Cf. EMERGENCY DOCTRINE; GOOD SAMARITAN DOCTRINE. [Cases: Negligence 510(3). C.J.S. Negligence §§ 240, 317.]

“Danger invites rescue. The cry of distress is the summons to relief. The law does not ignore these reactions of the mind in tracing conduct to its consequences. It recognizes them as normal. It places their effects within the range of the natural and probable. The wrong that imperils life is a wrong to the imperiled victim; it is a wrong also to his rescuer .... The railroad company whose train approaches without signal is a wrongdoer toward the traveler surprised between the rails, but a wrongdoer also to the bystander who drags him from the path .... The emergency begets the man.

The wrongdoer may not have foreseen the coming of a deliverer. He is accountable as if he had.”  
Wagner v. International Ry. Co., 133 N.E. 437, 437–38 (N.Y. 1921).

#### RESCUE SYNDROME

rescue syndrome. Family law. A situation in which a child in a custody battle expresses a preference for the parent perceived by the child to be the “weaker” of the two, in the belief that the parent needs the child. • This is a form of parent-alienation syndrome. One parent may overtly or subtly act increasingly dependent on the child, leading the child to believe that he or she is responsible for the parent's comfort, happiness, and protection. The child may also believe that one parent is actively harming the other and attempt to protect the “weaker” parent by choosing to stay with that parent, even if the child would actually prefer to live with the “stronger” parent. See PARENT-ALIENATION SYNDROME. Cf. LOLLIPOP SYNDROME.

#### RESCUSSU

rescussu. See DE RESCUSSU.

#### RES DERELICTA

res derelicta (rays der-*<<schwa>>-lik-t<<schwa>>*). [Latin] A thing thrown away or forsaken by its owner; abandoned property.

#### RES DOMINANS

res dominans (rays dom-*<<schwa>>-nanz*). [Latin] The dominant property entitled to enjoy a servitude. See dominant estate under ESTATE(4).

#### RESEARCH AND DEVELOPMENT

research and development. An effort (as by a company or business enterprise) to create or improve products or services, esp. by discovering new technology or advancing existing technology. — Abbr. R and D; R & D.

#### RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Research and Special Programs Administration. A unit in the U.S. Department of Transportation responsible for conducting research and engaging in special programs through several offices, including the Office of Hazardous Materials Safety, the Office of Pipeline Safety, the Transportation Systems Center, the Office of Emergency Transportation, the Office of Program Management and Administration, and the Office of Aviation Information Management. — Abbr. RSPA.

#### RESEARCH ATTORNEY

research attorney. See ATTORNEY.

#### RESEISER

reseiser (ri-see-z*<<schwa>>r*). Hist. The taking of lands by the monarch in a case in which a general livery or ouster *le main* was previously misused.

---

**RESENTENCING**

resentencing,n. The act or an instance of imposing a new or revised criminal sentence. —  
resentence,vb.

**RESERVATION**

reservation. 1. The creation of a new right or interest (such as an easement), by and for the grantor, in real property being granted to another. Cf. EXCEPTION(3). [Cases: Deeds 141; Easements 14. C.J.S. Deeds §§ 279–282, 284; Easements § 60.]

implied reservation.An implied easement that reserves in a landowner an easement across a portion of sold land, such as a right-of-way over land lying between the seller's home and the only exit. • An implied reservation arises only if the seller could have expressly reserved an easement, but for some reason failed to do so. See implied easement under EASEMENT. [Cases: Easements 17. C.J.S. Easements §§ 62, 75–78, 105.]

“If the implied easement is in favor of the conveyee and is appurtenant to the tract conveyed, it is called an implied grant; if the implied easement is in favor of the conveyor and is appurtenant to the tract retained, it is called an implied reservation.” Ralph E. Boyer et al., *The Law of Property* 311 (4th ed. 1991).

2. The establishment of a limiting condition or qualification; esp., a nation's formal declaration, upon signing or ratifying a treaty, that its willingness to become a party to the treaty is conditioned on the modification or amendment of one or more provisions of the treaty as applied in its relations with other parties to the treaty. [Cases: Treaties 3.C.J.S. Treaties § 4.] 3. A tract of public land that is not open to settlers but is set aside for a special purpose; esp., a tract of land set aside for use by indigenous peoples. — Also termed (in sense 3) reserve; reserved land; withdrawn land. [Cases: Indians 12. C.J.S. Indians §§ 72–74, 79–80.]

**RESERVATION-OF-RIGHTS LETTER**

reservation-of-rights letter.Insurance. A notice of an insurer's intention not to waive its contractual rights to contest coverage or to apply an exclusion that negates an insured's claim. — Also termed reservation of rights.

**RESERVE**

reserve,n.1. Something retained or stored for future use; esp., a fund of money set aside by a bank or an insurance company to cover future liabilities.

amortization reserve.An account created for bookkeeping purposes to extinguish an obligation gradually over time.

bad-debt reserve.A reserve to cover losses on uncollectible accounts receivable.

legal reserve.The minimum amount of liquid assets that a bank or an insurance company must maintain by law to meet depositors' or claimants' demands. [Cases: Banks and Banking 14, 503; Insurance 1139. C.J.S. Banks and Banking §§ 23, 674–676, 679; Insurance §§ 106–107,

116–118.]

loss reserve. 1. An insurance company's reserve that represents the estimated value of future payments, as for losses incurred but not yet reported. [Cases: Insurance 1139. C.J.S. Insurance §§ 106–107, 116–118.] 2. A bank's reserve set aside to cover possible losses, as from defaulting loans.

mean reserve. In insurance, the average of the beginning reserve (after the premium has been paid for the policy year) and the ending reserve of the policy year.

policy reserve. An insurance company's reserve that represents the difference between net premiums and expected claims for a given year. • This type of reserve is kept esp. by life-insurance companies. [Cases: Insurance 1139. C.J.S. Insurance §§ 106–107, 116–118.]

required reserve. The minimum amount of money, as required by the Federal Reserve Board, that a bank must hold in the form of vault cash and deposits with regional Federal Reserve Banks. [Cases: Banks and Banking 351–359. C.J.S. Banks and Banking §§ 650–662, 676–678, 682–687, 746.]

sinking-fund reserve. A reserve used to pay long-term debt. See sinking fund under FUND(1).

unearned-premium reserve. An insurance company's reserve that represents premiums that have been received in advance but not yet applied to policy coverage. • If a policyholder cancels coverage before the policy expires but has already paid a premium for the full policy period, the insurance company refunds the policyholder out of this reserve. [Cases: Insurance 1139. C.J.S. Insurance §§ 106–107, 116–118.]

2.RESERVATION(3).3. See net value under VALUE(2). — reserve,vb.

#### RESERVE ACCOUNT

reserve account. See impound account under ACCOUNT.

#### RESERVE BANK

reserve bank. See member bank under BANK.

#### RESERVE BOARD

Reserve Board. See FEDERAL RESERVE BOARD OF GOVERNORS.

#### RESERVE CLAUSE

reserve clause. A clause in a professional athlete's contract restricting the athlete's right to change teams, even after the contract expires. • Reserve clauses are uncommon in modern professional sports. Cf. FREE AGENCY.

#### RESERVED EASEMENT

reserved easement. See EASEMENT.

#### RESERVED LAND

reserved land. See RESERVATION(3).

**RESERVED POINT OF LAW**

reserved point of law. See POINT OF LAW.

**RESERVED POWER**

reserved power. See POWER(3).

**RESERVED POWER CLAUSE**

Reserved Power Clause. See TENTH AMENDMENT.

**RESERVED SURPLUS**

reserved surplus. See appropriated surplus (1) under SURPLUS.

**RESERVE MILITIA**

reserve militia. See MILITIA.

**RESERVE PRICE**

reserve price. See PRICE.

**RESERVE RATIO**

reserve ratio. The Federal Reserve Board's measurement of a member bank's required reserves. See required reserve under RESERVE.

primary reserve ratio. The ratio between a bank's required reserves (cash in vault plus deposits with Federal Reserve Banks) and its demand and time deposits.

secondary reserve ratio. The ratio between a bank's government securities and its demand and time deposits.

**RESET**

reset, n. Scots law. 1. The act or an instance of knowingly receiving stolen goods. 2. Archaic. The harboring or sheltering of a criminal or outlaw. — resetter, n. — reset, vb.

**RESETTLEMENT**

resettlement, n. 1. The settlement of one or more persons in a new or former place. 2. The reopening of an order or decree for the purpose of correcting a mistake or adding something omitted. [Cases: Motions 49. C.J.S. Motions and Orders §§ 56, 58.] — resettle, vb.

**RES FIT INEMPTA**

res fit inempta (rays fit in-emp-t<<schwa>>). [Latin] Hist. The object is regarded as unbought. • This is the ancient way of saying, “The sale is off.”

**RES FUNGIBILES**

res fungibiles (rays f<<schwa>>n-jib-<<schwa>>-leez), n. pl. [Latin] Civil law. Fungible things; things that are commercially interchangeable.

#### RES GESTAE

res gestae (rays jes-tee alsojes-tI), n. pl.[Latin “things done”] The events at issue, or other events contemporaneous with them. • In evidence law, words and statements about the res gestae are usu. admissible under a hearsay exception (such as present sense impression or excited utterance). Where the Federal Rules of Evidence or state rules fashioned after them are in effect, the use of res gestae is now out of place. See Fed. R. Evid. 803(1), (2). — Also termed res gesta. [Cases: Criminal Law 363–368; Evidence 118–128. C.J.S. Criminal Law §§ 454, 831, 867–876; Evidence §§ 342–363.]

“The Latin expression ‘res gestae’ or ‘res gesta,’ literally ‘things done’ or ‘thing transacted,’ has long served as a catchword .... [T]he phrase has frequently served both to let in utterances which in strictness were not admissible and to exclude utterances which might well have been admitted. And frequently also its indefiniteness has served as a basis for rulings where it was easier for the judge to invoke this imposing catchword than to think through the real question involved. The phrase is antiquated. By modern judges it is being gradually discarded. It is superfluous, and serves only to obscure the logic of the rules. It should be left to oblivion.” John H. Wigmore, *A Students' Textbook of the Law of Evidence* 279 (1935).

“The res gestae embraces not only the actual facts of the transaction and the circumstances surrounding it, but the matters immediately antecedent to and having a direct causal connection with it, as well as acts immediately following it and so closely connected with it as to form in reality a part of the occurrence.” *State v. Fouquette*, 221 P.2d 404, 416–17 (Nev. 1950).

#### RES GESTAE WITNESS

res gestae witness. See WITNESS.

#### RES HABILES

res habiles (rays hab-<<schwa>>-leez), n. pl. [Latin] Civil law. Things that may be acquired by prescription.

#### RESIANCE

resiance (rez-ee-<<schwa>>nts). Archaic. Residence; abode.

#### RESIANT

resiant (rez-ee-<<schwa>>nt), adj. Archaic. Continually dwelling or abiding in a place; resident.

resiant, n. Archaic. A resident.

#### RESIDENCE

residence. 1. The act or fact of living in a given place for some time <a year's residence in



New Jersey>.2. The place where one actually lives, as distinguished from a domicile <she made her residence in Oregon>. • Residence usu. just means bodily presence as an inhabitant in a given place; domicile usu. requires bodily presence plus an intention to make the place one's home. A person thus may have more than one residence at a time but only one domicile. Sometimes, though, the two terms are used synonymously. Cf. DOMICILE(2). [Cases: Domicile 2. C.J.S. Domicile § 4.] 3. A house or other fixed abode; a dwelling <a three-story residence>.4. The place where a corporation or other enterprise does business or is registered to do business <Pantheon Inc.'s principal residence is in Delaware>. [Cases: Corporations 52, 503(1), 666. C.J.S. Corporations §§ 107–109, 717, 886, 937, 948–949.]

habitual residence. 1.Family law. A person's customary place of residence; esp., a child's customary place of residence before being removed to some other place. • The term, which appears as an undefined term in the Hague Convention, is used in determining the country having a presumed paramount interest in the child. 2.Copyright. An established place, esp. a country, in which one lives for the long term, usu. without being a citizen of the place. • The Berne Convention makes habitual residence an alternative to legal domicile in a member country to qualify for copyright protection but leaves the exact definition of the term to member countries.

#### RESIDENCY

residency. 1. A place of residence, esp. an official one <the diplomat's residency>.2.RESIDENCE(1) <one year's residency to be eligible for in-state tuition>.

#### RESIDENT

resident,adj.1. Affiliated with or working for a particular person or company <resident agent>.2. Dwelling in a place other than one's home on a long-term basis <the hospital's resident patient>.

resident,n.1. A person who lives in a particular place. 2. A person who has a home in a particular place. • In sense 2, a resident is not necessarily either a citizen or a domiciliary. Cf. CITIZEN(1); DOMICILIARY.

#### RESIDENT AGENT

resident agent.See registered agent under AGENT(2).

#### RESIDENT ALIEN

resident alien.See ALIEN.

#### RESIDENT AMBASSADOR

resident ambassador.See AMBASSADOR.

#### RESIDENTIAL CARE

residential care.Family law. Foster-care placement involving residence in a group home or institution. • This type of foster care is most commonly used for adolescents who have been adjudged to be delinquents or status offenders.

---

**RESIDENTIAL CLUSTER**

residential cluster.Land-use planning. An area of land developed as a unit with group housing and open common space. Cf. PLANNED-UNIT DEVELOPMENT. [Cases: Zoning and Planning 66. C.J.S. Zoning and Land Planning § 52.]

**RESIDENTIAL COMMUNITY TREATMENT CENTER**

residential community treatment center.See HALFWAY HOUSE.

**RESIDENTIAL CUSTODY**

residential custody.See PHYSICAL CUSTODY(2).

**RESIDENTIAL PARENT**

residential parent.See PARENT.

**RESIDENTIAL RESPONSIBILITY**

residential responsibility.Overnight responsibility for a child. See Principles of the Law of Family Dissolution: Analysis and Recommendations § 3.02 (2000). See CUSTODY; dual-residential parent, residential parent under PARENT.

primary residential responsibility.Predominant overnight responsibility for a child.

**RESIDENTIAL TIME**

residential time.See VISITATION(2).

**RESIDUA**

residua (ri-zij-oo-<<schwa>>).pl.RESIDUUM.

**RESIDUAL**

residual,adj. Of, relating to, or constituting a residue; remaining; leftover <a residual claim> <a residual functional disability>.

residual,n.1. A leftover quantity; a remainder. 2. (often pl.) A disability remaining after an illness, injury, or operation. 3. (usu. pl.) A fee paid to a composer or performer for each repeated broadcast (esp. on television) of a film, program, or commercial. [Cases: Copyrights and Intellectual Property 48. C.J.S. Copyrights and Intellectual Property §§ 27, 29, 33–34, 93.]

**RESIDUAL ESTATE**

residual estate.See residuary estate under ESTATE(3).

**RESIDUAL VALUE**

residual value.See salvage value under VALUE(2).

**RESIDUARY**

residuary (ri-zij-oo-er-ee), adj. Of, relating to, or constituting a residue; residual <a residuary gift>.

residuary,n.1. See residuary estate under ESTATE(3).2. See residuary legatee under LEGATEE.

#### RESIDUARY BEQUEST

residuary bequest.See BEQUEST.

#### RESIDUARY CLAUSE

residuary clause.Wills & estates. A testamentary clause that disposes of any estate property remaining after the satisfaction of all other gifts. [Cases: Wills 586. C.J.S. Wills §§ 1176–1179, 1184.]

#### RESIDUARY DEVISE

residuary devise.See DEVISE.

#### RESIDUARY DEVISEE

residuary devisee.See DEVISEE.

#### RESIDUARY ESTATE

residuary estate.See ESTATE(3).

#### RESIDUARY LEGACY

residuary legacy.See LEGACY.

#### RESIDUARY LEGATEE

residuary legatee.See LEGATEE.

#### RESIDUE

residue. 1. Something that is left over after a part is removed or disposed of; a remainder. 2. See residuary estate under ESTATE(3).

#### RESIDUUM

residuum (ri-zij-oo-<<schwa>>m).1. That which remains; a residue. 2. See residuary estate under ESTATE(3). Pl. residua (ri-zij-oo-<<schwa>>).

#### RESIDUUM RULE

residuum rule.Administrative law. The principle that an agency decision based partly on hearsay evidence will be upheld on judicial review only if the decision is founded on at least some competent evidence. • The residuum rule has generally been rejected by federal and state courts. [Cases: Administrative Law and Procedure 784. C.J.S. Public Administrative Law and Procedure § 230.]

## RESIGNATION

resignation, n. 1. The act or an instance of surrendering or relinquishing an office, right, or claim. [Cases: Officers and Public Employees 62.C.J.S. Officers and Public Employees §§ 135–138.] 2. A formal notification of relinquishing an office or position. 3. Hist. The surrender to the lord of the vassal's interest in land. — resign, vb.

## RESILE

resile (ri-zil), vb. 1. To retract (a statement, allegation, etc.). 2. To draw back (from an agreement, contract, etc.). 3. To return to one's original position.

## RES IMMOBILES

res immobiles (rays i-moh-b<<schwa>>-leez), n. pl. [Latin] Civil law. Immovable things; chattels real. See IMMOBILIA.

## RES INCORPORALES

res incorporales (rays in-kor-p<<schwa>>-ray-leez), n. pl. [Latin] Civil law. Incorporeal things; intangible things that are not perceptible to the senses. See incorporeal thing under THING.

## RES IN PRIVATORUM PATRIMONIO

res in privatorum patrimonio. See RES PRIVATAE.

## RES INTEGRA

res integra (rays in-t<<schwa>>-gr<<schwa>> also in-teg-r<<schwa>>). [Latin “an entire thing”] See RES NOVA.

## RES INTER ALIOS ACTA

res inter alios acta (rays in-t<<schwa>>-r ay-lee-ohs ak-t<<schwa>>). [Latin “a thing done between others”] 1. Contracts. The common-law doctrine holding that a contract cannot unfavorably affect the rights of a person who is not a party to the contract. [Cases: Contracts 186(1).] 2. Evidence. The rule prohibiting the admission of collateral facts into evidence. [Cases: Criminal Law 369.1; Evidence 99, 130. C.J.S. Criminal Law § 825; Evidence §§ 2–5, 197–199, 204, 206, 760–761.]

## RES IPSA LOQUITUR

res ipsa loquitur (rays ip-s<<schwa>> loh-kw<<schwa>>-t<<schwa>>r). [Latin “the thing speaks for itself”] Torts. The doctrine providing that, in some circumstances, the mere fact of an accident's occurrence raises an inference of negligence so as to establish a prima facie case. — Often shortened to res ipsa. [Cases: Negligence 1610. C.J.S. Negligence §§ 744–748, 754–756.]

“The phrase ‘res ipsa loquitur’ is a symbol for the rule that the fact of the occurrence of an injury, taken with the surrounding circumstances, may permit an inference or raise a presumption of negligence, or make out a plaintiff's prima facie case, and present a question of fact for defendant to meet with an explanation. It is merely a short way of saying that the circumstances

attendant on the accident are of such a nature as to justify a jury, in light of common sense and past experience, in inferring that the accident was probably the result of the defendant's negligence, in the absence of explanation or other evidence which the jury believes." Stuart M. Speiser, *The Negligence Case: Res Ipsa Loquitur* § 1:2, at 5–6 (1972).

"It is said that *res ipsa loquitur* does not apply if the cause of the harm is known. This is a dark saying. The application of the principle nearly always presupposes that some part of the causal process is known, but what is lacking is evidence of its connection with the defendant's act or omission. When the fact of control is used to justify the inference that defendant's negligence was responsible it must of course be shown that the thing in his control in fact caused the harm. In a sense, therefore, the cause of the harm must be known before the maxim can apply." H.L.A. Hart & Tony Honoré, *Causation in the Law* 419–20 (2d ed. 1985).

"*Res ipsa loquitur* is an appropriate form of circumstantial evidence enabling the plaintiff in particular cases to establish the defendant's likely negligence. Hence the *res ipsa loquitur* doctrine, properly applied, does not entail any covert form of strict liability.... The doctrine implies that the court does not know, and cannot find out, what actually happened in the individual case. Instead, the finding of likely negligence is derived from knowledge of the causes of the type or category of accidents involved." Restatement (Third) of Torts § 17 cmt. a (Tentative Draft No. 1, 2001).

#### RES IPSA LOQUITUR TEST

*res ipsa loquitur* test (rays ip-s<<schwa>> loh-kw<<schwa>>-t<<schwa>>r). A method for determining whether a defendant has gone beyond preparation and has actually committed an attempt, based on whether the defendant's act itself would have indicated to an observer what the defendant intended to do. — Also termed equivocality test. See ATTEMPT(2). [Cases: Criminal Law 44. C.J.S. Criminal Law §§ 114–123.]

#### RESISTING ARREST

resisting arrest. The crime of obstructing or opposing a police officer who is making an arrest. — Also termed resisting lawful arrest. [Cases: Obstructing Justice 3. C.J.S. Obstructing Justice or Governmental Administration §§ 18–29.]

#### RESISTING PROCESS

resisting process. See OBSTRUCTION OF PROCESS.

#### RESISTING UNLAWFUL ARREST

resisting unlawful arrest. The act of opposing a police officer who is making an unlawful arrest. • Most jurisdictions have accepted the Model Penal Code position prohibiting the use of force to resist an unlawful arrest when the person arrested knows that a police officer is making the arrest. But some jurisdictions allow an arrestee to use nondeadly force to prevent the arrest. See Model Penal Code § 3. [Cases: Obstructing Justice 3. C.J.S. Obstructing Justice or Governmental Administration §§ 18–29.]

#### RES JUDICATA

*res judicata* (rays joo-di-kay-t<<schwa>> or -kah-t<<schwa>>). [Latin “a thing adjudicated”]  
 1. An issue that has been definitively settled by judicial decision. [Cases: Judgment 540, 584, 585. C.J.S. Judgments §§ 697–700, 702–703, 749, 752.] 2. An affirmative defense barring the same parties from litigating a second lawsuit on the same claim, or any other claim arising from the same transaction or series of transactions and that could have been — but was not — raised in the first suit. • The three essential elements are (1) an earlier decision on the issue, (2) a final judgment on the merits, and (3) the involvement of the same parties, or parties in privity with the original parties. Restatement (Second) of Judgments §§ 17, 24 (1982). — Also termed *res adjudicata*; claim preclusion; doctrine of *res judicata*. Cf. COLLATERAL ESTOPPEL. [Cases: Judgment 540, 584, 948(1). C.J.S. Judgments §§ 697–700, 702–703, 752, 930–931, 933.]

“ ‘Res judicata’ has been used in this section as a general term referring to all of the ways in which one judgment will have a binding effect on another. That usage is and doubtless will continue to be common, but it lumps under a single name two quite different effects of judgments. The first is the effect of foreclosing any litigation of matters that never have been litigated, because of the determination that they should have been advanced in an earlier suit. The second is the effect of foreclosing relitigation of matters that have once been litigated and decided. The first of these, preclusion of matters that were never litigated, has gone under the name, ‘true res judicata,’ or the names, ‘merger’ and ‘bar.’ The second doctrine, preclusion of matters that have once been decided, has usually been called ‘collateral estoppel.’ Professor Allan Vestal has long argued for the use of the names ‘claim preclusion’ and ‘issue preclusion’ for these two doctrines [Vestal, Rationale of Preclusion, 9 St. Louis U. L.J. 29 (1964)], and this usage is increasingly employed by the courts as it is by Restatement Second of Judgments.” Charles Alan Wright, *The Law of Federal Courts* § 100A, at 722–23 (5th ed. 1994).

#### RES LITIGIOSAE

*res litigiosae* (rays li-tij-ee-oh-see), n. pl.[Latin] Civil law. Things that are in litigation; property or rights that are the subject of a pending action.

#### RES MANCIPI

*res mancipi* (rays man-s<<schwa>>-pI). [Latin “things of mancipium”] Roman law. Property, specifically Italic land with its rustic servitudes and beasts of draft or burden, that can be transferred only by a formal ceremony of mancipation. — Also termed *mancipi res*; things *mancipi*. See MANCIPATION.

#### RES MERAE FACULTATIS

*res merae facultatis* (rays meer-ee fak-<<schwa>>l-tay-tis). [Law Latin] Scots law. A matter of mere power.

“Res merae facultatis .... Such, for example, is the right which a proprietor has of building upon his own property, or which any one has of walking upon the seashore, or sailing upon the sea, or on any navigable river. It is a right which may or may not be exercised at the pleasure of him who holds it; and such rights are never lost by their non-exercise for any length of time, because it is of their essential character that they may be used or exercised at any time.” John Trayner,

Trayner's Latin Maxims 554 (4th ed. 1894).

#### RES MOBILES

res mobiles (rays moh-b<<schwa>>-leez), n. pl.[Latin] Civil law. Movable things; chattels personal.

#### RES NEC MANCIPI

res nec mancipi (rays nek man-s<<schwa>>-pI). [Latin “things not of mancipium”] Roman law. Property that can be transferred without a formal ceremony of mancipation. — Also termed things nec mancipi.

#### RES NON EST INTEGRA

res non est integra (rays non est in-t<<schwa>>-gr<<schwa>>). [Latin] Hist. The original position has changed; performance has taken place (in whole or in part).

#### RES NOVA

res nova (rays noh-v<<schwa>>). [Latin “new thing”] 1. An undecided question of law. 2. A case of first impression. — Also termed res integra. See case of first impression under CASE.

#### RES NULLIUS

res nullius (rays n<<schwa>>-II-<<schwa>>s). [Latin “thing of no one”] A thing that can belong to no one; an ownerless chattel.

#### RESOLUTION

resolution. 1.Parliamentary law. A main motion that formally expresses the sense, will, or action of a deliberative assembly (esp. a legislative body). • A resolution is a highly formal kind of main motion, often containing a preamble, and one or more resolving clauses in the form, “Resolved, That...”

concurrent resolution.A resolution passed by one house and agreed to by the other. • It expresses the legislature's opinion on a subject but does not have the force of law.

joint resolution.A legislative resolution passed by both houses. • It has the force of law and is subject to executive veto. [Cases: Statutes 22, 229. C.J.S. Statutes §§ 2, 28.]

simple resolution.A resolution passed by one house only. • It expresses the opinion or affects the internal affairs of the passing house, but it does not have the force of law.

2. Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. — Also termed corporate resolution.

shareholder resolution.A resolution by shareholders, usu. to ratify the actions of the board of directors.

3. A document containing such an expression or authorization.

## RESOLUTIONS COMMITTEE

resolutions committee. See COMMITTEE.

## RESOLUTION TRUST CORPORATION

Resolution Trust Corporation. A federal agency established to act as a receiver for insolvent federal savings-and-loan associations and to transfer or liquidate those associations' assets. • The agency was created when the Federal Savings and Loan Insurance Corporation was abolished in 1989. — Abbr. RTC. See FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION. [Cases: Building and Loan Associations 42(6). C.J.S. Building and Loan Associations, Savings and Loan Associations, and Credit Unions §§ 131, 133, 141.]

## RESOLUTIVE CONDITION

resolutive condition. See resolutory condition under CONDITION(2).

## RESOLUTORY

resolatory (ri-zahl-y<<schwa>>-tor-ee), adj. Operating or serving to annul, dissolve, or terminate <a resolatory clause>.

## RESOLUTORY CONDITION

resolatory condition. See CONDITION(2).

## RESOLVING CLAUSE

resolving clause. See CLAUSE.

## RESORT

resort, n. Something that one turns to for aid or refuge <the court of last resort>. — resort, vb.

## RESPA

RESPA (res-p<<schwa>>). abbr. REAL ESTATE SETTLEMENT PROCEDURES ACT.

## RESPITE

respite (res-pit), n. 1. A period of temporary delay; an extension of time. 2. A temporary suspension of a death sentence; a reprieve. [Cases: Sentencing and Punishment 1798. C.J.S. Criminal Law §§ 1547–1548, 1687.] 3. A delay granted to a jury or court for further consideration of a verdict or appeal. 4. Civil law. An agreement between a debtor and several creditors for an extension of time to repay the various debts. La. Civ. Code art. 3084. — respite, vb.

forced respite. A respite in which some of the creditors are compelled by a court to give the same extension of time that the other creditors have agreed to.

voluntary respite. A respite in which all the creditors agree to the debtor's proposal for an extension of time.

## RESPONDEAT OUSTER



respondeat ouster (ri-spon-dee-at ow-st<<schwa>>r). [Latin “let him make further answer”] An interlocutory judgment or order that a party who made a dilatory plea that has been denied must now plead on the merits. — Also termed judgment respondeat ouster. [Cases: Pleading 111.47.]

“In case of felony, if the plea be held bad, the judgment is respondeat ouster; or rather, as the defendant generally pleads over to the felony, the jury are charged again, and that at the same time with the issue on the plea of autrefois acquit, to inquire of the second issue, and the trial proceeds as if no plea in bar had been pleaded.” 1 Joseph Chitty, *A Practical Treatise on the Criminal Law* 461 (2d ed. 1826).

#### RESPONDEAT SUPERIOR

respondeat superior (ri-spon-dee-at soo-peer-ee-<<schwa>>r or s<<schwa>>-peer-ee-or). [Law Latin “let the superior make answer”] Torts. The doctrine holding an employer or principal liable for the employee's or agent's wrongful acts committed within the scope of the employment or agency. — Also termed master–servant rule. See SCOPE OF EMPLOYMENT. [Cases: Master and Servant 300, 315; Principal and Agent 159(2). C.J.S. Agency §§ 379–384; Employer–Employee Relationship §§ 181–184, 188–193, 203, 231–235, 242, 244–246, 248, 251–252, 254–255.]

“Most courts have made little or no effort to explain the result, and have taken refuge in rather empty phrases, such as ‘he who does a thing through another does it himself,’ or the endlessly repeated formula of ‘respondeat superior,’ which in itself means nothing more than ‘look to the man higher up.’ ” W. Page Keeton et al., *Prosser and Keeton on the Law of Torts* § 69, at 500 (5th ed. 1984).

#### RESPONDE BOOK

responde book. Hist. Scots law. The chancellery's record of all duties payable by heirs who obtained royal warrants for possession of the decedent's lands.

#### RESPONDENT

respondent. 1. The party against whom an appeal is taken; APPELLEE. • In some appellate courts, the parties are designated as petitioner and respondent. In most appellate courts in the United States, the parties are designated as appellant and appellee. Often the designations depend on whether the appeal is taken by writ of certiorari (or writ of error) or by direct appeal. [Cases: Appeal and Error 326; Federal Courts 545.1. C.J.S. Appeal and Error §§ 232–233, 238.] 2. The party against whom a motion or petition is filed. Cf. PETITIONER. 3. At common law, the defendant in an equity proceeding. 4. Civil law. One who answers for another or acts as another's security.

#### RESPONDENT BANK

respondent bank. See BANK.

#### RESPONDENTIA

respondentia (ree-spon-den-shee-*<<schwa>>* or res-pon-). [Law Latin fr. Latin respondere “to answer”] A loan secured by the cargo on one's ship rather than the ship itself. Cf. BOTTOMRY. [Cases: Shipping 88. C.J.S. Shipping § 221.]

#### RESPONDENTIA BOND

respondentia bond. See BOND(2).

#### RESPONDERE NON DEBET

respondere non debet (ri-spon-d*<<schwa>>*-ree non deb-*<<schwa>>*t). [Latin] Common-law pleading. The prayer of a plea in which the defendant insists that he or she does not have to answer — because of a privilege, for example.

#### RESPONSALIS

responsalis (res-pon-say-lis). [Law Latin] 1.Hist. One who appears and answers for another. 2.Eccles. law. A proctor. See APOCRISARIUS.

#### RESPONSA PRUDENTIUM

responsa prudentium (ri-spon-s*<<schwa>>* proo-den-shee-*<<schwa>>*m). [Latin “the answers of the learned”] Roman law. The opinions and judgments of eminent lawyers or jurists on questions of law addressed to them. • The responsa prudentium originally constituted part of the early Roman civil law. Roman citizens seeking legal advice, as well as magistrates and judges, often referred legal questions to leading jurists so as to obtain their opinions (responsa). The responsa of some leading jurists were collected, much in the manner of caselaw digests, and many of them passed into Justinian's Digest. The phrase responsa prudentium gradually migrated to the common law, but today it is of primarily historical use. — Also spelled responsa prudentum.

“[T]he judex, or as we would now call him, the referee, might have no technical knowledge of law whatever. Under such conditions the unlearned judicial magistrates naturally looked for light and leading to the jurisconsults who instructed them through their responsa prudentium, the technical name given to their opinions as experts, which were promptly recorded on tablets by their students or disciples.” Hannis Taylor, *The Science of Jurisprudence* 90–91 (1908).

“In [classical Latin] responsa prudentium is the usual form, but most of the legal sources ... have prudentum following the example of Blackstone (1765).” *The Oxford English Dictionary* (2d ed. 1989).

#### RESPONSE

response. Patents. A patent applicant's answer to an office action, usu. countering the examiner's rejections and objections and often amending the claims. [Cases: Patents 109. C.J.S. Patents §§ 152–155.]

#### RESPONSIBILITY

responsibility, n. 1. LIABILITY(1). 2. Criminal law. A person's mental fitness to answer in court for his or her actions. See COMPETENCY. [Cases: Mental Health 432. C.J.S. Criminal Law §§

549–554.] 3.Criminal law. Guilt. — Also termed (in senses 2 & 3) criminal responsibility. — responsible,adj.

“[As for] the ambiguities of the word ‘responsibility,’ ... it is, I think, still important to distinguish two of the very different things this difficult word may mean. To say that someone is legally responsible for something often means only that under legal rules he is liable to be made either to suffer or to pay compensation in certain eventualities. The expression ‘he’ll pay for it’ covers both these things. In this the primary sense of the word, though a man is normally only responsible for his own actions or the harm he has done, he may be also responsible for the actions of other persons if legal rules so provide. Indeed in this sense a baby in arms or a totally insane person might be legally responsible — again, if the rules so provide; for the word simply means liable to be made to account or pay and we might call this sense of the word ‘legal accountability’. But the new idea — the programme of eliminating responsibility — is not, as some have feared, meant to eliminate legal accountability: persons who break the law are not just to be left free. What is to be eliminated are enquiries as to whether a person who has done what the law forbids was responsible at the time he did it and responsible in this sense does not refer to the legal status of accountability. It means the capacity, so far as this is a matter of a man's mind or will, which normal people have to control their actions and conform to law. In this sense of responsibility a man's responsibility can be said to be ‘impaired’.” H.L.A. Hart, “Changing Conceptions of Responsibility,” in *Punishment and Responsibility* 186, 196–97 (1968).

“Responsibility means answerability or accountability. It is used in the criminal law in the sense of ‘criminal responsibility’ and hence means answerability to the criminal law.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law and Procedure: Cases and Materials* 399 (5th ed. 1977).

#### RESPONSIBLE BROKER-DEALER

responsible broker-dealer.See BROKER.

#### RESPONSIVE

responsive,adj. Giving or constituting a response; answering <the witness's testimony is not responsive to the question>. [Cases: Witnesses 248.C.J.S. Witnesses § 430.]

#### RESPONSIVE ACTION

responsive action.Patents. A patent applicant's answer to an examiner's rejections in an office action. • To be responsive, the answer must address all of the examiner's issues in detail, rather than merely submitting substitute claims. [Cases: Patents 108. C.J.S. Patents §§ 144, 148–151.]

#### RESPONSIVE PLEADING

responsive pleading.See PLEADING(1).

#### RESPONSIVE VERDICT

responsive verdict.See VERDICT.

---

**RES PRIVATAE**

res privatae (rays pri-vay-tee), n. pl.[Latin "private things"] Roman & civil law. Things that can be owned by individuals or by the state and its political subdivisions in their capacity as private citizens. La. Civ. Code art. 450. — Also termed res in privatorum patrimonio.

**RES PUBLICAE**

res publicae (rays p<<schwa>>b-li-see), n. pl.[Latin "public things"] Roman & civil law. Things that cannot be individually owned because they belong to the public, such as the sea, navigable waters, and highways. • Public things are owned by the state and its political subdivisions in their capacity as public persons. La. Civ. Code art. 449.

**RES QUOTIDIANAE**

res quotidianae (rays kwoh-tid-ee-ay-nee), n. pl.[Latin] Civil law. Everyday matters; familiar points or questions.

**RES RELIGIOSAE**

res religiosae (rays ri-lij-ee-oh-see), n. pl.[Latin] Civil law. Religious things; esp., burial places.

**RES REPETUNDAE**

res repetundae (rays rep-<<schwa>>-t<<schwa>>n-dee). [Latin "things due to be repaid"] Roman law. 1. Money or things that can be reclaimed by a person who was forced to give them to a public official. 2. The illegal act of forcing someone to give money or things; extortion. — Sometimes (erroneously) shortened to repetundae. See crimen repetundarum under CRIMEN.

**RES SANCTAE**

res sanctae (rays sangk-tee), n. pl.[Latin "sacred things"] Roman law. The walls of a city. • The Romans considered maintenance of city walls so important that damage to a city's walls was a capital offense.

**RES SERVIENS**

res serviens (rays s<<schwa>>r-vee-enz). [Latin] The servient property subject to a servitude. See servient estate under ESTATE(4).

**RES SINGULORUM**

res singulorum (rays sing-gy<<schwa>>-lor-<<schwa>>m). [Latin] Hist. The property of individuals.

**RES SUA**

res sua (rays s[y]oo-<<schwa>>). [Latin] Hist. One's own property.

**REST**

rest,vb.1. (Of a litigant) to voluntarily conclude presenting evidence in a trial <after the police officer's testimony, the prosecution rested>.2. (Of a litigant) to voluntarily conclude presenting evidence in (a trial) <the defense rested its case after presenting just two witnesses>. • In sense 1, the verb is intransitive; in sense 2, it is transitive.

#### RESTATEMENT

Restatement. One of several influential treatises published by the American Law Institute describing the law in a given area and guiding its development. • The Restatements use a distinctive format of black-letter rules, official comments, illustrations, and reporter's notes. Although the Restatements are frequently cited in cases and commentary, a Restatement provision is not binding on a court unless it has been officially adopted as the law by that jurisdiction's highest court. Restatements have been published in the following areas of law: Agency, Conflict of Laws, Contracts, Foreign Relations Law of the United States, Judgments, Law Governing Lawyers, Property, Restitution, Security, Suretyship and Guaranty, Torts, Trusts, and Unfair Competition. — Also termed Restatement of the Law.

“We speak of the work which the organization should undertake as a restatement; its object should not only be to help make certain much that is now uncertain and to simplify unnecessary complexities, but also to promote those changes which will tend better to adapt the laws to the needs of life. The character of the restatement which we have in mind can be best described by saying that it should be at once analytical, critical and constructive.” Committee on the Establishment of a Permanent Organization for the Improvement of the Law (Elihu Root, chairman), Report Proposing the Establishment of an American Law Institute, 1 ALI Proc. 14 (1923).

#### RESTATETER

restater. An author or reporter of a Restatement.

#### RESTAUR

restaur (res-tor).1. The recourse that insurers (esp. marine underwriters) have against each other according to the date of their insurance. 2. The recourse that marine insurers have against a ship's master if a loss occurs through the master's fault or negligence. 3. The recourse that one has against a guarantor or other person under a duty to indemnify. — Also spelled restor.

#### RESTITUTIO IN INTEGRUM

restitutio in integrum (res-t<<schwa>>-t[y]oo-shee-oh in in-t<<schwa>>-gr<< schwa>>m). [Latin] Roman & civil law. Restoration to the previous condition or the status quo. • In Roman law, a praetor could accomplish this by annulling a contract or transaction that was strictly legally valid but inequitable and by restoring the parties to their previous legal relationship. The phrase is still sometimes used in American law (esp. in Louisiana) when a court annuls a contract and orders restitution on equitable grounds.

#### RESTITUTION

restitution, n.1. A body of substantive law in which liability is based not on tort or contract but on the defendant's unjust enrichment. See UNJUST ENRICHMENT . 2. The set of remedies associated with that body of law, in which the measure of recovery is usu. based not on the plaintiff's loss, but on the defendant's gain. Cf. COMPENSATION; DAMAGES. 3. Return or restoration of some specific thing to its rightful owner or status. 4. Compensation for loss; esp., full or partial compensation paid by a criminal to a victim, not awarded in a civil trial for tort, but ordered as part of a criminal sentence or as a condition of probation. [Cases: Damages 1; Implied and Constructive Contracts 4; Infants 224; Sentencing and Punishment 1973, 2100–2217. C.J.S. Criminal Law §§ 19, 1459, 1462, 1465–1466, 1556, 1759–1786; Damages §§ 1–2, 4–6; Implied and Constructive Contracts§ 6.] — restitutionary, adj.

“The term ‘restitution’ appears in early decisions, but general recognition probably began with the publication of the Restatement of Restitution [in 1937]. The term is not wholly apt since it suggests restoration to the successful party of some benefit obtained from him. Usually this will be the case where relief is given, but by no means always. There are cases in which the successful party obtains restitution of something he did not have before, for example a benefit received by the defendant from a third person which justly should go to the plaintiff.” 1 George E. Palmer, *The Law of Restitution* § 1.1, at 4 (1978).

“ ‘Restitution’ is an ambiguous term, sometimes referring to the disgorging of something which has been taken and at times referring to compensation for injury done. Often, the result under either meaning of the term would be the same. If the plaintiff has been defrauded into paying \$1,000 to the defendant, his loss and the defendant's gain coincide. Where they do not coincide, as where the plaintiff is out of pocket more than the defendant has gained and the defendant's conduct is tortious, the plaintiff will recover his loss in a quasi-contractual or equitable action for restitution. Unjust impoverishment as well as unjust enrichment is a ground for restitution. If the defendant is guilty of a non-tortious misrepresentation, the measure of recovery is not rigid but, as in other cases of restitution, such factors as relative fault, the agreed upon risks, and the fairness of alternative risk allocations not agreed upon and not attributable to the fault of either party need to be weighed.” John D. Calamari & Joseph M. Perillo, *The Law of Contracts* § 9-23, at 376 (3d ed. 1987).

#### RESTITUTIONARY REDRESS

restitutionary redress.See REDRESS.

#### RESTITUTION DAMAGES

restitution damages.See DAMAGES.

#### RESTITUTIONE EXTRACTI AB ECCLESIA

restitutione extracti ab ecclesia (res-t<<schwa>>-t[y]oo-shee-oh-nee ek-strak-t I ab e-klee-z[h]ee-<<schwa>>). [Latin] Eccles. law. A writ restoring someone who had been suspected or accused of a felony to the church.

#### RESTITUTIONE TEMPORALIUM

restitutione                      temporalium                      (res-t<<schwa>>-t[y]oo-shee-oh-nee  
 tem-p<<schwa>>-ray-lee-<<schwa>>m). [Latin] Eccles. law. A writ directing the sheriff to restore  
 the temporalities of a diocese to a bishop. See TEMPORALITY(2).

#### RESTITUTION INTEREST

restitution interest. See INTEREST(2).

#### RESTITUTORY INTERDICT

restitutory interdict. See INTERDICT(1).

#### RESTITUTORY RIGHT

restitutory right. See RIGHT.

#### RESTOR

restor. See RESTAUR.

#### RESTORATIVE JUSTICE

restorative justice. An alternative delinquency sanction that focuses on repairing the harm done, meeting the victim's needs, and holding the offender responsible for his or her actions. • Restorative-justice sanctions use a balanced approach, producing the least restrictive disposition while stressing the offender's accountability and providing relief to the victim. The offender may be ordered to make restitution, to perform community service, or to make amends in some other way that the court orders.

#### RESTORATIVE MOTION

restorative motion. See MOTION(2).

#### RESTORATORY MOTION

restoratory motion. See restorative motion under MOTION(2).

#### RESTRAINING ORDER

restraining order. 1. A court order prohibiting family violence; esp., an order restricting a person from harassing, threatening, and sometimes merely contacting or approaching another specified person. • This type of order is issued most commonly in cases of domestic violence. A court may grant an ex parte restraining order in a family-violence case if it is necessary to (1) achieve the government's interest in protecting victims of family violence from further abuse, (2) ensure prompt action where there is an immediate threat of danger, and (3) provide governmental control by ensuring that judges grant such orders only where there is an immediate danger of such abuse. *Fuentes v. Shevin*, 407 U.S. 67, 92 S.Ct. 1983 (1972). — Also termed protection order; protective order; stay-away order. See ex parte motion under MOTION. [Cases: Breach of The Peace 15. C.J.S. Breach of the Peace §§ 14, 18, 21, 25; Domestic Abuse and Violence §§ 2–3.] 2. TEMPORARY RESTRAINING ORDER. 3. A court order entered to prevent the dissipation or loss of property.

---

**RESTRAINING POWER**

restraining power. See POWER(3).

**RESTRAINING STATUTE**

restraining statute. See disabling statute under STATUTE.

**RESTRAINT**

restraint, n. 1. Confinement, abridgment, or limitation <a restraint on the freedom of speech>. See PRIOR RESTRAINT. 2. Prohibition of action; holding back <the victim's family exercised no restraint — they told the suspect exactly what they thought of him>. 3. RESTRAINT OF TRADE. 4. FORFEITURE RESTRAINT .

**RESTRAINT OF MARRIAGE**

restraint of marriage. A condition (esp. in a gift or bequest) that nullifies the grant to which it applies if the grantee marries or remarries. • Restraints of marriage are usu. void if they are general or unlimited in scope. [Cases: Contracts 111. C.J.S. Contracts §§ 245–248.]

**RESTRAINT OF PRINCES**

restraint of princes. Archaic. An embargo. • The phrase still occasionally appears in marine-insurance contexts. — Also termed restraint of princes and rulers; restraint of princes, rulers, and people. See EMBARGO.

**RESTRAINT OF TRADE**

restraint of trade. 1. A limitation on business dealings or professional or gainful occupations. 2. Antitrust. An agreement between or combination of businesses intended to eliminate competition, create a monopoly, artificially raise prices, or otherwise adversely affect the free market. • Restraints of trade are usu. illegal, but may be declared reasonable if they are in the best interests of both the parties and the public. — Often shortened to restraint. — Also termed conspiracy in restraint of trade. See PER SE RULE; RULE OF REASON. [Cases: Monopolies 12. C.J.S. Monopolies §§ 19, 26–27, 62–63.]

horizontal restraint. A restraint of trade imposed by agreement between competitors at the same level of distribution. • The restraint is horizontal not because it has horizontal effects, but because it is the product of a horizontal agreement. — Also termed horizontal agreement.

unreasonable restraint of trade. A restraint of trade that produces a significant anticompetitive effect and thus violates antitrust law.

vertical restraint. A restraint of trade imposed by agreement between firms at different levels of distribution (as between manufacturer and retailer).

**RESTRAINT ON ALIENATION**

restraint on alienation. 1. A restriction, usu. in a deed of conveyance, on a grantee's ability to sell or transfer real property; a provision that conveys an interest and that, even after the interest



has become vested, prevents or discourages the owner from disposing of it at all or from disposing of it in particular ways or to particular persons. • Restraints on alienation are generally unenforceable as against public policy favoring the free alienability of land. — Also termed unreasonable restraint on alienation. 2. A trust provision that prohibits or penalizes alienation of the trust corpus. [Cases: Perpetuities 6. C.J.S. Perpetuities § 65.]

#### RESTRICTED INDORSEMENT

restricted indorsement. See conditional indorsement under INDORSEMENT.

#### RESTRICTED INTERPRETATION

restricted interpretation. See restrictive interpretation under INTERPRETATION.

#### RESTRICTED SECURITY

restricted security. See SECURITY.

#### RESTRICTED STOCK

restricted stock. See restricted security under SECURITY.

#### RESTRICTED SURPLUS

restricted surplus. See SURPLUS.

#### RESTRICTED VISITATION

restricted visitation. See supervised visitation under VISITATION.

#### RESTRICTION

restriction. 1. A limitation or qualification. 2. A limitation (esp. in a deed) placed on the use or enjoyment of property. See restrictive covenant under COVENANT(4). [Cases: Covenants 49–52, 69.] 3. Military law. A deprivation of liberty involving moral and legal, rather than physical, restraint. • A military restriction is imposed as punishment either by a commanding officer's nonjudicial punishment or by a summary, special, or general court-martial. Restriction is a lesser restraint because it permits the restricted person to perform full military duties. See nonjudicial punishment under PUNISHMENT. [Cases: Military Justice 526, 1322.1. C.J.S. Military Justice §§ 28–30.]

restriction in lieu of arrest. A restriction in which a person is ordered to stay within specific geographical limits, such as a base or a ship, and is permitted to perform full military duties. [Cases: Military Justice 935.1.]

4. Patents. A patent examiner's ruling that a patent application comprises two or more patentably distinct or independent inventions; the requirement that the applicant elect one invention to continue prosecuting under the original application by abandoning some of the original claims. • The applicant may defend the claims by traversing the requirement, abandon any nonelected invention, or continue prosecuting any nonelected invention under a separate divisional application. — Also termed requirement for restriction; requirement for division; restriction

---

requirement; division. Cf. OBJECTION(2); REJECTION (4). [Cases: Patents 120.]

**RESTRICTION APPLICATION**

restriction application. See divisional application under PATENT APPLICATION.

**RESTRICTION REQUIREMENT**

restriction requirement. See RESTRICTION(4).

**RESTRICTIVE CONDITION**

restrictive condition. See negative condition under CONDITION(2).

**RESTRICTIVE COVENANT**

restrictive covenant. 1. See noncompetition covenant under COVENANT(1). 2. COVENANT(4).

**RESTRICTIVE COVENANT IN EQUITY**

restrictive covenant in equity. See restrictive covenant under COVENANT(4).

**RESTRICTIVE INDORSEMENT**

restrictive indorsement. See INDORSEMENT.

**RESTRICTIVE INTERPRETATION**

restrictive interpretation. See INTERPRETATION.

**RESTRICTIVE PRINCIPLE OF SOVEREIGN IMMUNITY**

restrictive principle of sovereign immunity. The doctrine by which a foreign nation's immunity does not apply to claims arising from the nation's private or commercial acts, but protects the nation only from claims arising from its public functions. See COMMERCIAL-ACTIVITY EXCEPTION; JURE GESTIONIS; JURE IMPERII . [Cases: International Law 10.33. C.J.S. International Law §§ 46–48.]

“[T]he [Foreign Sovereign] Immunities Act codified the so-called ‘restrictive’ principle of sovereign immunity, as recognized in international law. Under this doctrine, the immunity of a foreign state in the courts of the United States is ‘restricted’ to claims involving the foreign state's public acts and does not extend to suits based on its commercial or private conduct.” 14A Charles Alan Wright et al., *Federal Practice and Procedure* § 3662, at 161–62 (3d ed. 1998).

**RESTRICTIVE TITLE**

restrictive title. See TITLE(3).

**RESULTING POWER**

resulting power. See POWER(3).

**RESULTING TRUST**

resulting trust. See TRUST.

#### RESULTING USE

resulting use. See USE(4).

#### RESUME CONSIDERATION

resume consideration. See TAKE FROM THE TABLE.

#### RESUMMONS

resummons. A second or renewed summons to a party or witness already summoned. See SUMMONS.

#### RESUMPTION

resumption. 1. The taking back of property previously given up or lost. 2. Hist. The retaking by the Crown or other authority of lands or rights previously given to another (as because of false suggestion or other error).

#### RES UNIVERSITATIS

res universitatis (rays yoo-n<<schwa>>-v<<schwa>>r-s<<schwa>>-tay-tis), n. pl. [Latin] Roman law. Things belonging to a community or corporate body and free to be used by all its members.

#### RESURRENDER

resurrender, n. Hist. The return of a copyhold estate to a mortgagor by the mortgagee after the debt has been repaid. See SURRENDER OF COPYHOLD.

#### RETAIL

retail, n. The sale of goods or commodities to ultimate consumers, as opposed to the sale for further distribution or processing. — retail, adj. Cf. WHOLESALE. — retail, vb.

#### RETAILER

retailer, n. A person or entity engaged in the business of selling personal property to the public or to consumers, as opposed to selling to those who intend to resell the items.

#### RETAIL INSTALLMENT CONTRACT

retail installment contract. See CONTRACT.

#### RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT

retail installment contract and security agreement. See retail installment contract under CONTRACT.

#### RETAIL INSTALLMENT SALE

retail installment sale. See INSTALLMENT SALE.

---

**RETAIL SALES TAX**

retail sales tax. See sales tax under TAX.

**RETAINAGE**

retainage (ri-tayn-ij). A percentage of what a landowner pays a contractor, withheld until the construction has been satisfactorily completed and all mechanic's liens are released or have expired. — Also termed retained fund. [Cases: Contracts 214, 221(3). C.J.S. Contracts §§ 356, 578–579, 584.]

**RETAINED EARNINGS**

retained earnings. See EARNINGS.

**RETAINED FUND**

retained fund. See RETAINAGE.

**RETAINED INCOME TRUST**

retained income trust. See grantor-retained income trust under TRUST.

**RETAINER**

retainer, n. 1. A client's authorization for a lawyer to act in a case <the attorney needed an express retainer before making a settlement offer>. [Cases: Attorney and Client 64. C.J.S. Attorney and Client §§ 166, 169.] 2. A fee that a client pays to a lawyer simply to be available when the client needs legal help during a specified period or on a specified matter. 3. A lump-sum fee paid by the client to engage a lawyer at the outset of a matter. — Also termed engagement fee. 4. An advance payment of fees for work that the lawyer will perform in the future. — Also termed retaining fee. Cf. ATTORNEY'S FEES. [Cases: Attorney and Client 137. C.J.S. Attorney and Client §§ 282, 331.] — retain, vb.

“Over the years, attorneys have used the term ‘retainer’ in so many conflicting senses that it should be banished from the legal vocabulary.... If some primordial urge drives you to use the term ‘retainer,’ at least explain what you mean in terms that both you and the client will understand.” Mortimer D. Schwartz & Richard C. Wydick, *Problems in Legal Ethics* 100, 101 (2d ed. 1988).

general retainer. A retainer for a specific length of time rather than for a specific project. [Cases: Attorney and Client 64. C.J.S. Attorney and Client §§ 166, 169.]

special retainer. A retainer for a specific case or project. [Cases: Attorney and Client 64. C.J.S. Attorney and Client §§ 166, 169.]

**RETAINING FEE**

retaining fee. See RETAINER.

**RETAINING LIEN**

retaining lien. See LIEN.

---

**RETALIATORY DISCHARGE**

retaliatory discharge. See DISCHARGE(7).

**RETALIATORY EVICTION**

retaliatory eviction. See EVICTION.

**RETALIATORY LAW**

retaliatory law. A state law restraining another state's businesses — as by levying taxes — in response to similar restraints imposed by the second state on the first state's businesses.

**RETALIATORY TARIFF**

retaliatory tariff. See TARIFF(2).

**RETALLIA**

retallia (ri-tal-ee-*<<schwa>>*). [Law Latin] Hist. The sale of goods or commodities in small quantities; retail.

**RETENEMENTUM**

retenementum (ri-ten-*<<schwa>>*-men-t*<<schwa>>*m). Hist. A withholding; restraint or detainment.

**RETENTA POSSESSIONE**

retenta possessione (ri-ten-t*<<schwa>>* p*<<schwa>>*-zes[h]-ee-oh-nee). [Latin] Hist. Possession being retained.

**RETENTION**

retention. Scots law. A possessor's right to keep a movable until the possessor's claim against the movable or its owner is satisfied; a lien. — Also termed right of retention.

general retention. Scots law. A possessor's right to keep all property owned by a debtor as security for the debt.

special retention. Scots law. A possessor's right to keep property owned by another until reimbursed for expenditures on the property for its repair or for its care and maintenance.

**RETINUE**

retinue. A group of persons who are retained to follow and attend to a sovereign, noble, or other distinguished person.

**RETIRED STOCK**

retired stock. See treasury stock under STOCK.

**RETIREMENT**

retirement,n.1. Voluntary termination of one's own employment or career, esp. upon reaching a certain age <she traveled around the world after her retirement>.2. Withdrawal from action or for privacy <Carol's retirement to her house by the lake>.3. Withdrawal from circulation; payment of a debt <retirement of a series of bonds>. See REDEMPTION. — retire,vb.

#### RETIREMENT ANNUITY

retirement annuity.See ANNUITY.

#### RETIREMENT EQUITY ACT OF 1984

Retirement Equity Act of 1984.A federal law that requires private pension plans to comply with the court-ordered division of a pension between spouses and permits the plan administrator to pay all or part of a worker's pensions and survivor benefits directly to a former spouse if the plan has been served with a court order that meets the federal requirements for a qualified domestic-relations order. 29 USCA § 1056(d)(3). See QUALIFIED DOMESTIC-RELATIONS ORDER R.

#### RETIREMENT-INCOME INSURANCE

retirement-income insurance.See INSURANCE.

#### RETIREMENT PLAN

retirement plan.See EMPLOYEE BENEFIT PLAN.

#### RETORNA BREVIUM

retorna brevium (ri-tor-n<<schwa>> bree-vee-<<schwa>>m). [Law Latin] Hist. The return of a writ. • This was the indorsement on a writ by a sheriff or other officer, reporting on the writ's execution.

#### RETORNO HABENDO

retorno habendo.See DE RETORNO HABENDO.

#### RETORSION

retorsion (ri-tor-sh<<schwa>>n).Int'l law. An act of lawful retaliation in kind for another nation's unfriendly or unfair act. • Examples of retorsion include suspending diplomatic relations, expelling foreign nationals, and restricting travel rights. — Also spelled retortion. Cf. REPRISAL(2).

#### RETRACTION

retraction,n.1. The act of taking or drawing back <retraction of anticipatory repudiation before breach of contract>.2. The act of recanting; a statement in recantation <retraction of a defamatory remark>. [Cases: Libel and Slander 66. C.J.S. Libel and Slander; Injurious Falsehood§ 195.] 3.Wills & estates. A withdrawal of a renunciation <because of her retraction, she took property under her uncle's will>. See RENUNCIATION(3).4.Copyright. The right of authors and artists to renounce their creative works and to forbid their sale or display. • Retraction is one

of the moral rights of artists recognized in civil-law countries and much of Europe, but largely unavailable in the United States. — Also termed (in sense 4) withdrawal. — retract,vb.

#### RETRACTUS FEUDALIS

retractus feudalis (ri-trak-t<<schwa>>s fyoo-day-lis). [Law Latin “a recall of the fee”] Scots law. A superior's right to pay a debt of a vassal's lands in exchange for the return of the conveyance.

#### RETRAXIT

retraxit (ri-trak-sit). [Latin “he has withdrawn”] A plaintiff's voluntary withdrawal of a lawsuit in court so that the plaintiff forever forfeits the right of action. • In modern practice, retraxit is called voluntary dismissal with prejudice. A dismissal without prejudice does not operate as a retraxit. See judgment of retraxit under JUDGMENT.

#### RETREAT RULE

retreat rule.Criminal law. The doctrine holding that the victim of a murderous assault must choose a safe retreat instead of resorting to deadly force in self-defense, unless (1) the victim is at home or in his or her place of business (the so-called castle doctrine), or (2) the assailant is a person whom the victim is trying to arrest. • A minority of American jurisdictions have adopted this rule. Cf. NO-RETREAT RULE. [Cases: Homicide 798.]

“The rationale for the retreat rule is not difficult to ascertain, at least in part. It rests upon the view that human life, even the life of an aggressor, is sufficiently important that it should be preserved when to do so requires only the sacrifice of the much less important interest in standing one's ground.” George E. Dix, “Justification: Self-defense,” in 3 Encyclopedia of Crime and Justice 946, 948–49 (Sanford H. Kadish ed., 1983).

#### RETRIAL

retrial,n. A new trial of an action that has already been tried. See trial de novo under TRIAL. [Cases: Federal Civil Procedure 2311; New Trial 0.5.] — retry,vb.

#### RETRIBUTION

retribution,n.1.Criminal law. Punishment imposed as repayment or revenge for the offense committed; requital. Cf. DETERRENCE; REHABILITATION(1). [Cases: Sentencing and Punishment 44.] 2. Something justly deserved; repayment; reward. — retributive,adj. — retribute,vb.

#### RETRIBUTIVE DANGER

retributive danger.See DANGER.

#### RETRIBUTIVE PUNISHMENT

retributive punishment.See PUNISHMENT.

#### RETRIBUTIVISM

retributivism (ri-trib-y<<schwa>>-t<<schwa>>-viz-<<schwa>>m). The legal theory by which criminal punishment is justified, as long as the offender is morally accountable, regardless of whether deterrence or other good consequences would result. • According to retributivism, a criminal is thought to have a debt to pay to society, which is paid by punishment. The punishment is also sometimes said to be society's act of paying back the criminal for the wrong done. Opponents of retributivism sometimes refer to it as “vindictive theory.” Cf. hedonistic utilitarianism under UTILITARIANISM; UTILITARIAN-DETERRENCE THEORY Y. [Cases: Sentencing and Punishment 44.]

maximalist retributivism. The classical form of retributivism, espoused by scholars such as Immanuel Kant, under which it is argued that society has a duty, not just a right, to punish a criminal who is guilty and culpable, that is, someone who has no justification or excuse for the illegal act.

minimalist retributivism. The more contemporary form of retributivism, which maintains that no one should be punished in the absence of guilt and culpability (that is, unless punishment is deserved), and that a judge may absolve the offender from punishment, wholly or partially, when doing so would further societal goals such as rehabilitation or deterrence.

#### RETROACTIVE

retroactive, adj. (Of a statute, ruling, etc.) extending in scope or effect to matters that have occurred in the past. — Also termed retrospective. Cf. PROSPECTIVE(1). [Cases: Administrative Law and Procedure 419; Courts 100(1); Statutes 261–278. C.J.S. Courts §§ 147–148; Public Administrative Law and Procedure §§ 89, 98; Statutes §§ 407–431.] — retroactivity, n.

“ ‘Retroactivity’ is a term often used by lawyers but rarely defined. On analysis it soon becomes apparent, moreover, that it is used to cover at least two distinct concepts. The first, which may be called ‘true retroactivity,’ consists in the application of a new rule of law to an act or transaction which was completed before the rule was promulgated. The second concept, which will be referred to as ‘quasi-retroactivity,’ occurs when a new rule of law is applied to an act or transaction in the process of completion.... [T]he foundation of these concepts is the distinction between completed and pending transactions ....” T.C. Hartley, *The Foundations of European Community Law* 129 (1981).

#### RETROACTIVE LAW

retroactive law. A legislative act that looks backward or contemplates the past, affecting acts or facts that existed before the act came into effect. • A retroactive law is not unconstitutional unless it (1) is in the nature of an ex post facto law or a bill of attainder, (2) impairs the obligation of contracts, (3) divests vested rights, or (4) is constitutionally forbidden. — Also termed retrospective law; retroactive statute; retrospective statute. [Cases: Constitutional Law 186–196; Statutes 261–278. C.J.S. Constitutional Law §§ 390–404, 406–408, 421; Statutes §§ 407–431.]

#### RETROCESSION

retrocession. 1. The act of ceding something back (such as a territory or jurisdiction). [Cases:



United States 3. C.J.S. United States §§ 9–15.] 2. The return of a title or other interest in property to its former or rightful owner. 3. The process of transferring all or part of a reinsured risk to another reinsurance company; reinsurance of reinsurance. • Subsequent retrocessions are referred to as first retrocession, second retrocession, and so on. 4. The amount of risk that is so transferred.

#### RETROCESSIONAIRE

retrocessionaire.Reinsurance. A reinsurer of a reinsurer. See RETROCESSION.

#### RETROCESSIONAL AGREEMENT

retrocessional agreement.An agreement providing for reinsurance of reinsurance.

#### RETROSPECTANT EVIDENCE

retrospectant evidence.See EVIDENCE.

#### RETROSPECTIVE

retrospective,adj. See RETROACTIVE.

#### RETROSPECTIVE LAW

retrospective law.See RETROACTIVE LAW.

#### RETROSPECTIVE STATUTE

retrospective statute.See RETROSPECTIVE LAW.

#### RETURN

return,n.1. A court officer's bringing back of an instrument to the court that issued it; RETURN OF WRIT <a sheriff's return of citation>. [Cases: Execution 330–347. C.J.S. Executions §§ 320–334.] 2. A court officer's indorsement on an instrument brought back to the court, reporting what the officer did or found <a return of nulla bona>. See FALSE RETURN(1).3.TAX RETURN <file your return before April 15>.4. (usu. pl.) An official report of voting results <election returns>.5. Yield or profit <return on an investment>. See RATE OF RETURN. — return,vb.

capital return.Tax. Revenue that represents the repayment of cost or capital and thus is not taxable as income. — Also termed return of capital.

fair return on investment.The usual or reasonable profit in a business, esp. a public utility.

net return.The profit on an investment after deducting all investment expenses.

return of capital.See capital return.

#### RETURN DATE

return date.See return day under DAY.

---

**RETURN DAY**

return day.See DAY.

**RETURNEE**

returnee. A refugee whom authorities have returned to the country of origin; one who has fled from the home country and then been sent back.

**RETURNING BOARD**

returning board.An official body or commission that canvasses election returns.

**RETURN OF PROCESS**

return of process.See PROOF OF SERVICE.

**RETURN OF SERVICE**

return of service.See PROOF OF SERVICE.

**RETURN OF WRIT**

return of writ.The sheriff's bringing back a writ to the court that issued it, with a short written account (usu. on the back) of the manner in which the writ was executed. — Often shortened to return. See RETURN(1). [Cases: Execution 334; Sheriffs and Constables 87. C.J.S. Executions §§ 324–325; Sheriffs and Constables §§ 80–88.]

**REUNIFICATION**

reunification. The return of a child who has been removed from his or her parents because of abuse or neglect by one or both of them. • When a child has been removed from the home because of abuse or neglect, the state's primary goal is family reunification as long as this is in the best interests of the child. The state is required, in most instances, to provide the parent or parents with services that will enable them to provide adequately for their child upon his or her return. After the enactment of the Adoption and Safe Families Act in 1997, states became more concerned with limiting the time that children are in foster care and less concerned with lengthy reunification plans. — Also termed family reunification. See ADOPTION AND SAFE FAMILIES ACT ; PERMANENCY PLAN; ADOPTION ASSISTANCE AND CHILD WELFARE ACT . — reunify,vb.

**RE-UP**

re-up,vb.1. To reenlist in one of the armed forces <the soldier re-upped the day after being discharged>. [Cases: Armed Services 18. C.J.S. Armed Services §§ 43, 45–46.] 2. To sign an extension to a contract, esp. an employment agreement <the star athlete re-upped in a three-year deal worth \$12 million>.

**REUS**

reus (ree-<<schwa>>s). [Latin] Roman & civil law. 1. A defendant. Cf. ACTOR (3).2. A

party to a suit, whether plaintiff or defendant. 3. A party to a contract or transaction, esp. one assuming a debt or obligation. 4. Roman law. In criminal law, an accused or convicted person. Pl. rei. Fem. rea, pl. reae.

#### REUS PROMITTENDI

reus promittendi (ree-<<schwa>>s proh-mi-ten-dI). [Latin “party promising”] Roman law. The answerer in a Roman-law stipulation. — Also termed promissor. See STIPULATION(3).

#### REUS STIPULANDI

reus stipulandi (ree-<<schwa>>s stip-y<<schwa>>-lan-dI). [Latin “party stipulating”] Roman law. The questioner in a Roman-law stipulation. — Also termed stipulator. See STIPULATION(3).

#### REVALIDATION

revalidation. See REPUBLICATION(2).

#### REVALUATION

revaluation, n. An increase in the value of one currency in relation to another currency. Cf. DEVALUATION. — revalue, vb.

#### REVALUATION SURPLUS

revaluation surplus. See SURPLUS.

#### REV'D

rev'd. abbr. Reversed.

#### REVE

reve (reev). Hist. The bailiff of a franchise or manor. See REEVE.

#### REVENDICATION

revendication, n. 1. The recovery or claiming back of something by a formal claim or demand. 2. Civil law. An action to recover real rights in and possession of property that is wrongfully held by another. • This is analogous to the common-law replevin. [Cases: Replevin 1. C.J.S. Replevin §§ 2–7.] — revendicate, vb.

#### REVENDICATORY ACTION

revendicatory action. See petitory action under ACTION(4).

#### REVENUE

revenue. Gross income or receipts.

general revenue. The income stream from which a state or municipality pays its obligations unless a law calls for payment from a special fund. See general fund under FUND(1). [Cases:

Municipal Corporations 886; States 126. C.J.S. Municipal Corporations § 1627; States § 228.]

land revenue. Revenue derived from lands owned by the Crown in Great Britain. • Since, over the years, crown lands have been largely granted to subjects, they are now transferred within very narrow limits. See Crown land under LAND.

marginal revenue. The amount of revenue earned from the sale of one additional unit.

public revenue. A government's income, usu. derived from taxes, levies, and fees.

#### REVENUE AGENT'S REPORT

revenue agent's report. A report indicating any adjustments made to a tax return as a result of an IRS audit. • After an audit, this report is mailed to the taxpayer along with a thirty-day letter. — Abbr. RAR. See THIRTY-DAY LETTER .

#### REVENUE BILL

revenue bill. See BILL(3).

#### REVENUE BOND

revenue bond. See BOND(3).

#### REVENUE PROCEDURE

Revenue Procedure. An official statement by the IRS regarding the administration and procedures of the tax laws. — Abbr. Rev. Proc. [Cases: Internal Revenue 3048.]

#### REVENUE RULING

Revenue Ruling. An official interpretation by the IRS of the proper application of the tax law to a specific transaction. • Revenue Rulings carry some authoritative weight and may be relied on by the taxpayer who requested the ruling. — Abbr. Rev. Rul. [Cases: Internal Revenue 3043, 3049.]

#### REVENUE STAMP

revenue stamp. A stamp used as evidence that a tax has been paid. [Cases: Internal Revenue 4406; Taxation 1215. C.J.S. Taxation § 2007.]

#### REVENUE TARIFF

revenue tariff. See TARIFF(2).

#### RE, VERBIS, LITERIS, CONSENSU

re, verbis, literis, consensu (ree, v<<schwa>>r-bis, lit-<<schwa>>r-is, k<<schwa>>n-sen-s[y]oo). [Latin] Roman law. By the performance (namely, handing over), by words, by writing, by consent. • The phrase appeared in reference to the four classes of Roman contract.

#### REVERSAL

reversal,n.1. An appellate court's overturning of a lower court's decision. [Cases: Appeal and Error 1156–1180; Federal Courts 932.C.J.S. Appeal and Error §§ 757, 800, 830, 906, 911–960.]  
2.Securities. A change in a security's near-term market-price trend.

#### REVERSE

reverse,vb. To overturn (a judgment) on appeal. • Sometimes, the verb is used without a direct object <We reverse>. The equivalent expression in British English is to allow the appeal.

#### REVERSE ANNUITY MORTGAGE

reverse annuity mortgage.See MORTGAGE.

#### REVERSE BEAR HUG

reverse bear hug.See BEAR HUG.

#### REVERSE BONUS

reverse bonus.See reverse contingent fee under CONTINGENT FEE.

#### REVERSE CONDEMNATION

reverse condemnation.See inverse condemnation under CONDEMNATION.

#### REVERSE CONFUSION

reverse confusion.See CONFUSION.

#### REVERSE-CONFUSION DOCTRINE

reverse-confusion doctrine.Intellectual property. The rule that it is unfair competition if the defendant's use of a title that is confusingly similar to the one used by the plaintiff leads the public to believe that the plaintiff's work is the same as the defendant's, or that it is derived from or associated in some manner with the defendant. • Under the conventional passing-off form of unfair competition, similarity of titles leads the public to believe that the defendant's work is the same as the plaintiff's work, or is in some manner derived from the plaintiff. But in reverse confusion, the unfair competition results from the confusion created about the origin of the plaintiff's work. [Cases: Trade Regulation 334. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 87.]

#### REVERSE CONSENSUS

reverse consensus.Intellectual property. In a dispute-settlement procedure under TRIPs, an agreement between the parties that a dispute should not be submitted to a World Trade Organization panel for adjudication. • Before TRIPs, any party could delay formation of a WTO panel or adoption of its report by withholding consensus. Under TRIPs, each process is automatic unless all parties agree not to go forward.

#### REVERSE CONTINGENT FEE

reverse contingent fee.See CONTINGENT FEE.

---

**REVERSE DISCOVERY**

reverse discovery. See reverse Jencks material under JENCKS MATERIAL.

**REVERSE DISCRIMINATION**

reverse discrimination. See DISCRIMINATION.

**REVERSE DOCTRINE OF EQUIVALENTS**

reverse doctrine of equivalents. See DOCTRINE OF EQUIVALENTS.

**REVERSE-ENGINEERING**

reverse-engineering, n. Intellectual property. The process of discovering how an invention works by inspecting and studying it, esp. by taking it apart in order to learn how it works and how to copy it and improve it. • Reverse-engineering is a proper means of discovering trade secrets, according to the Uniform Trade Secrets Act, and is a defense against a suit for misappropriation of trade secrets. But it is not a defense in a suit for patent infringement. — reverse-engineer, vb.

**REVERSE-ERIE DOCTRINE**

reverse-Erie doctrine. Maritime law. The rule that a case in admiralty and maritime jurisdiction may be brought in state court, but the state court must follow federal statutory and general maritime law. *Offshore Logistics, Inc. v. Tallentire*, 477 U.S. 207, 106 S.Ct. 2485 (1986). See ERIE DOCTRINE.

**REVERSE FOIA SUIT**

reverse FOIA suit (foy-*<<schwa>>*). A lawsuit by the owner of a trade secret to prevent an agency from releasing that secret to the general public. See FREEDOM OF INFORMATION ACT. [Cases: Records 31, 63. C.J.S. Criminal Law §§ 449–450; Records §§ 74–92, 113, 118, 122, 127.]

**REVERSEJENCKS**

reverse Jencks. See reverse Jencks material under JENCKS MATERIAL.

**REVERSE MORTGAGE**

reverse mortgage. See reverse annuity mortgage under MORTGAGE.

**REVERSE PALMING OFF**

reverse palming off. See PASSING OFF.

**REVERSE PASSING OFF**

reverse passing off. See PASSING OFF.

**REVERSE SPOT ZONING**

reverse spot zoning. See ZONING.

**REVERSE STOCK SPLIT**

reverse stock split. See STOCK SPLIT.

**REVERSE SUBSIDIARY MERGER**

reverse subsidiary merger. See reverse triangular merger under MERGER.

**REVERSE TRANSFER STATUTE**

reverse transfer statute. See TRANSFER STATUTE.

**REVERSE TRIANGULAR MERGER**

reverse triangular merger. See MERGER.

**REVERSIBLE ERROR**

reversible error. See ERROR(2).

**REVERSIO**

reversio (ri-v<<schwa>>r-shee-oh). [Law Latin] Hist. The returning of land to the grantor.

**REVERSION**

reversion, n. 1. The interest that is left after subtracting what the transferor has parted with from what the transferor originally had; specif., a future interest in land arising by operation of law whenever an estate owner grants to another a particular estate, such as a life estate or a term of years, but does not dispose of the entire interest. • A reversion occurs automatically upon termination of the prior estate, as when a life tenant dies. — Also termed reversionary estate; estate in reversion; equitable reversion. [Cases: Reversions 1. C.J.S. Estates §§ 103–104.] 2. Loosely, REMAINDER. Cf. POSSIBILITY OF REVERTER; REMAINDER. — reversionary, adj. — revert, vb.

**REVERSIONARY ESTATE**

reversionary estate. See REVERSION.

**REVERSIONARY INTEREST**

reversionary interest. See INTEREST(2).

**REVERSIONARY LEASE**

reversionary lease. See LEASE.

**REVERSIONER**

reversioner. 1. One who possesses the reversion to an estate; the grantor or heir in reversion. [Cases: Reversions 1. C.J.S. Estates §§ 103–104.] 2. Broadly, one who has a lawful interest in land but not the present possession of it.

**REVERSOR**

reversor.Scots law. A debtor who secures a debt by pledging property to a creditor and retaining a right of reversion.

**REVERTER**

reverter. See POSSIBILITY OF REVERTER.

**REVERTER GUARANTEE**

reverter guarantee.Real estate. A mortgage clause protecting the mortgagee against a loss occasioned by the occurrence of a terminating event under a possibility of reverter. See POSSIBILITY OF REVERTER. [Cases: Mortgages 211. C.J.S. Mortgages §§ 274–276.]

**REVEST**

revest,vb. To vest again or anew <revesting of title in the former owner>.

**REV'G**

rev'g.abbr.Reversing.

**REVIEW**

review,n.1. Consideration, inspection, or reexamination of a subject or thing. 2. Plenary power to direct and instruct an agent or subordinate, including the right to remand, modify, or vacate any action by the agent or subordinate, or to act directly in place of the agent or subordinate <Subject to the Assembly's review, the Council enjoys the same powers of review and delegation as the Assembly.>. — review,vb.

administrative review. 1. Judicial review of an administrative proceeding. [Cases: Administrative Law and Procedure 651. C.J.S. Public Administrative Law and Procedure §§ 172, 174.] 2. Review of an administrative proceeding within the agency itself. [Cases: Administrative Law and Procedure 513. C.J.S. Public Administrative Law and Procedure §§ 166–171.]

appellate review.Examination of a lower court's decision by a higher court, which can affirm, reverse, or modify the decision. [Cases: Appeal and Error 836; Federal Courts 751. C.J.S. Appeal and Error § 702.]

discretionary review.The form of appellate review that is not a matter of right but that occurs only with the appellate court's permission. See CERTIORARI. [Cases: Appeal and Error 366; Federal Courts 660.1. C.J.S. Appeal and Error §§ 86–87, 151, 312, 316.]

judicial review.See JUDICIAL REVIEW.

**REVIEWABLE ISSUE**

reviewable issue.See appealable decision under DECISION.

**REVIEW HEARING**

review hearing.See HEARING.



---

**REVISED STATUTES**

revised statutes. See STATUTE.

**REVISED UNIFORM LIMITED PARTNERSHIP ACT**

Revised Uniform Limited Partnership Act. See UNIFORM LIMITED PARTNERSHIP ACT.

**REVISION**

revision, n. 1. A reexamination or careful review for correction or improvement. 2. Parliamentary law. A general and thorough rewriting of a governing document, in which the entire document is open to amendment <bylaws revision>. 3. Military law. The reconvening of a general or special court-martial to revise its action or to correct the record because of an improper or inconsistent action concerning the findings or the sentence. • A revision can occur only if it will not materially prejudice the accused. [Cases: Military Justice 1397. C.J.S. Military Justice § 449.]

**REVIVAL**

revival, n. 1. Restoration to current use or operation; esp., the act of restoring the validity or legal force of an expired contract or dormant judgment. — Also termed (for a dormant judgment) revival of judgment. Cf. RENEWAL(2). [Cases: Federal Civil Procedure 2399; Judgment 857–872. C.J.S. Judgments §§ 640–655.] 2. Wills & estates. The reestablishment of the validity of a revoked will by revoking the will that invalidated the original will or in some other way manifesting the testator's intent to be bound by the earlier will. Cf. REPUBLICATION(2). [Cases: Wills 196–202. C.J.S. Wills §§ 429–440.] 3. Patents. Renewal of a patent prosecution that has been deemed abandoned because the applicant did not respond to an office action within the statutory period. • The applicant can petition for revival on the basis of unavoidable or unintentional delay. [Cases: Patents 107. C.J.S. Patents §§ 157–158.] — revive, vb.

**REVIVAL STATUTE**

revival statute. See STATUTE.

**REVIVOR**

revivor. A proceeding to revive an action ended because of either the death of one of the parties or some other circumstance. [Cases: Abatement and Revival 75; Equity 303–309. C.J.S. Abatement and Revival § 169.]

**REVOCABLE**

revocable (rev-⟨schwa⟩-k⟨schwa⟩-b⟨schwa⟩l), adj. Capable of being canceled or withdrawn <a revocable transfer>. [Cases: Licenses 58. C.J.S. Licenses §§ 95–96.]

**REVOCABLE GUARANTY**

revocable guaranty. See GUARANTY.

**REVOCABLE LETTER OF CREDIT**

revocable letter of credit. See LETTER OF CREDIT.

#### REVOCABLE TRUST

revocable trust. See TRUST.

#### REVOCATION

revocation (rev-*<<schwa>>-kay-sh<<schwa>>n*), n.1. An annulment, cancellation, or reversal, usu. of an act or power. 2. Contracts. Withdrawal of an offer by the offeror. Cf. REPUDIATION(2); RESCISSION; REJECTION(1). [Cases: Contracts 19; Sales 22(2), 23(2). C.J.S. Contracts § 63; Sales § 32.] 3. Wills & estates. Invalidation of a will by the testator, either by destroying the will or by executing a new one. • A will, or parts of a will, may be revoked by operation of law. For example, most states have a statute providing for the revocation, upon divorce, of all provisions relating to the testator's former spouse. [Cases: Wills 167–195. C.J.S. Wills §§ 386–428, 1621, 2026, 2030, 2036, 2039–2046, 2057–2062.] — revoke, vb.

#### REVOCATION HEARING

revocation hearing. See HEARING.

#### REVOCATORY ACTION

revocatory action (rev-*<<schwa>>-k<<schwa>>-tor-ee* or *ri-vok<<schwa>>-tor-ee*). Civil law. An action brought by a creditor to annul a contract that has been entered into by the debtor and that will increase the debtor's insolvency. La. Civ. Code art. 2036. [Cases: Fraudulent Conveyances 205–328.]

#### REVOCATUR

revocatur (*ree-voh-kay-t<<schwa>>r*). [Latin] Hist. It is recalled. • In former English practice, this was used as a notation on a judgment that was set aside because of a factual error (as opposed to being reversed because of legal error).

#### REVOLUTION

revolution, n. An overthrow of a government, usu. resulting in fundamental political change; a successful rebellion. — revolutionary, adj. & n. — revolt, vb.

#### REVOLVER LOAN

revolver loan. See LOAN.

#### REVOLVING CHARGE ACCOUNT

revolving charge account. See revolving credit under CREDIT(4).

#### REVOLVING CREDIT

revolving credit. See CREDIT(4).

#### REVOLVING FUND

revolving fund.See FUND(1).

**REVOLVING LETTER OF CREDIT**

revolving letter of credit.See LETTER OF CREDIT.

**REVOLVING LOAN**

revolving loan.See LOAN.

**REVOLVING PERFORMANCE BOND**

revolving performance bond.See PERFORMANCE BOND.

**REV. PROC.**

Rev. Proc.abbr.REVENUE PROCEDURE.

**REV. RUL.**

Rev. Rul.abbr.REVENUE RULING.

**REV. STAT.**

Rev. Stat.See revised statutes under STATUTE.

**REWARD**

reward,n.1. Something of value, usu. money, given in return for some service or achievement, such as recovering property or providing information that leads to the capture of a criminal. [Cases: Rewards 0.5.] 2.SALVAGE (3). — reward,vb.

**REWRITTEN SPECIFICATION**

rewritten specification.See substitute specification under SPECIFICATION(3).

**REX**

rex (reks). (usu. cap.) 1. A king. 2. The official title of a king. 3. The prosecution side (as representatives of the king) in criminal proceedings in a monarchy. — Abbr. R. Cf. REGINA.

**REZONE**

rezone,vb. To change the zoning boundaries or restrictions of (an area) < rezone the neighborhood>. See ZONING. [Cases: Zoning and Planning 151–199. C.J.S. Zoning and Land Planning §§ 44, 65–97.]

**RFA**

RFA.abbr.REQUEST FOR ADMISSION.

**RFI**

RFI.abbr.REQUEST FOR INSTRUCTIONS.

## RFP

RFP.abbr.REQUEST FOR PRODUCTION.

## R.G.

r.g.abbr.REGULA GENERALIS.

## RHADAMANTHINE

rhadamanthine (rad-*<<schwa>>*-man-thin), adj. (often cap.) (Of a judge) rigorous and inflexible <the judge's rhadamanthine interpretation of procedural requirements makes it essential to study the local rules before appearing in court>.

## RHODIAN LAW

Rhodian law (roh-dee-*<<schwa>>*n). As legend would have it, the earliest known system or code of maritime law, supposedly dating from 900 B.C. and adopted intact by the Romans. • Rhodian law was purportedly developed by the people of the island Rhodes, located in the Aegean Sea and now belonging to Greece. The ancient inhabitants of Rhodes are said to have controlled the seas because of their commercial prosperity and naval superiority. Despite the uncertainties about its history, Rhodian law has often been cited as a source of admiralty and maritime law.

“A strong tradition says that a maritime code was promulgated by the Island of Rhodes, in the Eastern Mediterranean, at the height of its power; the ridiculously early date of 900 B.C. has even been assigned to this suppositious code — a date accepted uncritically by some legal scholars. But even the existence of such a code has been pretty well cast in doubt, and we know next to nothing of its contents, if it existed. It is interesting to note, however, that the root-principle of the highly distinctive maritime-law system of general average ... is clearly stated in Justinian's Digest, and that the Rhodian Law is invoked as authority.” Grant Gilmore & Charles L. Black Jr., *The Law of Admiralty* § 1-2, at 3–4 (2d ed. 1975).

## RHS

RHS.abbr. RURAL HOUSING SERVICE.

## RIBBON-MATCHING RULE

ribbon-matching rule.See MIRROR-IMAGE RULE.

## RICHARD ROE

Richard Roe.A fictitious name for a male party to a legal proceeding, used because the party's true identity is unknown or because his real name is being withheld; esp., the second of two such parties. Cf. JOHN DOE. [Cases: Federal Civil Procedure 101; Parties 67, 73. C.J.S. Parties §§ 170, 172.]

## RICO

RICO (ree-koh).abbr.RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

**RIDER**

rider. An attachment to some document, such as a legislative bill or an insurance policy, that amends or supplements the document. [Cases: Insurance 1845(1). C.J.S. Insurance §§ 305, 381.]

**RIEN CULP**

rien culp (ryan k<<schwa>>lp). [Law French “not guilty”] Hist. A plea of not guilty.

**RIEN DIT**

rien dit (ryan dee). [Law French “says nothing”] Hist. A plea of nihil dicit. See NIHIL DICIT.

**RIEN LUY DOIT**

rien luy doit (ryan lwee dwah). [Law French “owes him nothing”] Hist. A plea of nil debet. See NIL DEBET.

**RIENS EN ARRIÈRE**

riens en arrière (ryan aw-nah-ree-air). [Law French “nothing in arrear”] Hist. A plea in a debt action for arrearages of account.

**RIENS PASSA PER LE FAIT**

riens passa per le fait (ryan pah-sah pair l<<schwa>> fay). [Law French “nothing passed by the deed”] Hist. A plea by which a party seeks to avoid the operation of a deed that has been enrolled or acknowledged in court.

**RIENS PER DESCENT**

riens per descent (ryan pair day-sawn). [Law French “nothing by descent”] Hist. The plea of an heir who is sued for the ancestor's debt and who received no land or assets from the ancestor.

**RIER COUNTY**

rier county. See RERE-COUNTY.

**RIF**

RIF.abbr.Reduction in force. See LAYOFF.

rif,vb. Slang. To lay off (a worker). • The word derives from the acronym for reduction in force.

**RIGGING THE MARKET**

rigging the market. The practice of artificially inflating stock prices, by a series of bids, so that the demand for those stocks appears to be high and investors will therefore be enticed into buying the stocks. See MANIPULATION. [Cases: Securities Regulation 60.25. C.J.S. Securities Regulation §§ 214, 226–227.]

**RIGHT**

right,n.1. That which is proper under law, morality, or ethics <know right from wrong>.2. Something that is due to a person by just claim, legal guarantee, or moral principle <the right of liberty>.3. A power, privilege, or immunity secured to a person by law <the right to dispose of one's estate>.4. A legally enforceable claim that another will do or will not do a given act; a recognized and protected interest the violation of which is a wrong <a breach of duty that infringes one's right>.5. (often pl.) The interest, claim, or ownership that one has in tangible or intangible property <a debtor's rights in collateral> <publishing rights>.6. The privilege of corporate shareholders to purchase newly issued securities in amounts proportionate to their holdings. 7. The negotiable certificate granting such a privilege to a corporate shareholder.

“Right is a correlative to duty; where there is no duty there can be no right. But the converse is not necessarily true. There may be duties without rights. In order for a duty to create a right, it must be a duty to act or forbear. Thus, among those duties which have rights corresponding to them do not come the duties, if such there be, which call for an inward state of mind, as distinguished from external acts or forbearances. It is only to acts and forbearances that others have a right. It may be our duty to love our neighbor, but he has no right to our love.” John Chipman Gray, *The Nature and Sources of the Law* 8–9 (2d ed. 1921).

“[T]he word ‘right’ is one of the most deceptive of pitfalls; it is so easy to slip from a qualified meaning in the premise to an unqualified one in the conclusion. Most rights are qualified.” *American Bank & Trust Co. v. Federal Reserve Bank of Atlanta*, 256 U.S. 350, 358, 41 S.Ct. 499, 500 (1921)(Holmes, J.).

“[In Hohfeldian terminology,] A is said to have a right that B shall do an act when, if B does not do the act, A can initiate legal proceedings that will result in coercing B. In such a situation B is said to have a duty to do the act. Right and duty are therefore correlatives, since in this sense there can never be a duty without a right.” E. Allen Farnsworth, *Contracts* § 3.4, at 114 n.3 (3d ed. 1999).

absolute right. 1. A right that belongs to every human being, such as the right of personal liberty; a natural right. 2. An unqualified right; specif., a right that cannot be denied or curtailed except under specific conditions <freedom of thought is an absolute right>. • For example, a plaintiff has an absolute right to voluntarily nonsuit a case before it is finally submitted; after final submission, the court has discretion to grant or deny a voluntary nonsuit. Cf. relative right.

accessory right.A supplementary right that has been added to the main right that is vested in the same owner. • For example, the right in a security is accessory to the right that is secured; a servitude is accessory to the ownership of the land for whose benefit the servitude exists. Cf. principal right.

accrued right.A matured right; a right that is ripe for enforcement (as through litigation).

acquired right.A right that a person does not naturally enjoy, but that is instead procured, such as the right to own property.

civil right.See CIVIL RIGHT.

conditional right. A right that depends on an uncertain event; a right that may or may not exist. • For example, parents have the conditional right to punish their child, the condition being that the punishment must be reasonable.

conjugal rights. See CONJUGAL RIGHTS.

equitable right. A right cognizable within a court of equity. • If a legal right and an equitable right conflict, the legal right ordinarily prevails over and destroys the equitable right even if the legal right arose after the equitable right. With the merger of law and equity in federal and most state courts, the procedural differences between legal and equitable rights have been largely abolished. Cf. legal right. [Cases: Equity 3. C.J.S. Equity §§ 7, 11–16, 36–37.]

expectant right. A right that depends on the continued existence of present conditions until some future event occurs; a contingent right.

fundamental right. See FUNDAMENTAL RIGHT.

imperfect right. A right that is recognized by the law but is not enforceable. • Examples include time-barred claims and claims exceeding the local limits of a court's jurisdiction.

“[T]here are certain rights, sometimes called imperfect rights, which the law recognizes but will not enforce directly. Thus a statute-barred debt cannot be recovered in a court of law, but for certain purposes the existence of the debt has legal significance. If the debtor pays the money, he cannot later sue to recover it as money paid without consideration; and the imperfect right has the faculty of becoming perfect if the debtor makes an acknowledgment of the debt from which there can be inferred a promise to pay.” George Whitecross Paton, *A Textbook of Jurisprudence* 286 (G.W. Paton & David P. Derham eds., 4th ed. 1972).

imprescriptible right. A right that cannot be lost to prescription.

inalienable right. A right that cannot be transferred or surrendered; esp., a natural right such as the right to own property. — Also termed inherent right.

incorporeal right. A right to intangible, rather than tangible, property. • A right to a legal action (a chose in action) is an incorporeal right. See CHOSE IN ACTION.

inherent right. See inalienable right.

legal right. 1. A right created or recognized by law. 2. A right historically recognized by common-law courts. Cf. equitable right. 3. The capacity of asserting a legally recognized claim against one with a correlative duty to act.

natural right. A right that is conceived as part of natural law and that is therefore thought to exist independently of rights created by government or society, such as the right to life, liberty, and property. See NATURAL LAW.

negative right. A right entitling a person to have another refrain from doing an act that might harm the person entitled.

patent right. A right secured by a patent. [Cases: Patents 1. C.J.S. Patents §§ 1–5, 10–12,

---

15.]

perfect right. A right that is recognized by the law and is fully enforceable.

peripheral right. A right that surrounds or springs from another right.

personal right. 1. A right that forms part of a person's legal status or personal condition, as opposed to the person's estate. 2. See right in personam.

political right. The right to participate in the establishment or administration of government, such as the right to vote or the right to hold public office. — Also termed political liberty. [Cases: Constitutional Law 82(8); Elections 1; Officers and Public Employees 18. C.J.S. Constitutional Law §§ 461–462, 612, 614–619, 624–626; Elections §§ 1(1, 10), 2; Officers and Public Employees §§ 21–22.]

positive right. A right entitling a person to have another do some act for the benefit of the person entitled.

precarious right. A right enjoyed at the pleasure of another; a right that can be revoked at any time.

primary right. A right prescribed by the substantive law, such as a right not to be defamed or assaulted. • The enforcement of a primary right is termed specific enforcement.

principal right. A right to which has been added a supplementary right in the same owner. Cf. accessory right.

private right. A personal right, as opposed to a right of the public or the state. Cf. public right.

procedural right. A right that derives from legal or administrative procedure; a right that helps in the protection or enforcement of a substantive right. Cf. substantive right.

property right. A right to specific property, whether tangible or intangible. [Cases: Constitutional Law 277. C.J.S. Constitutional Law § 982.]

proprietary right. A right that is part of a person's estate, assets, or property, as opposed to a right arising from the person's legal status.

public right. A right belonging to all citizens and usu. vested in and exercised by a public office or political entity. Cf. private right.

real right. 1. Civil law. A right that is connected with a thing rather than a person. • Real rights include ownership, use, habitation, usufruct, predial servitude, pledge, and real mortgage.

“The term ‘real rights’ (*jura in re*) is an abstraction unknown to classical Roman law. The classical jurists were preoccupied with the availability of remedies rather than the existence of substantive rights, and did not have a generic term to include all ‘rights’ which civilian scholars of following generations classified as ‘real.’ The expression (‘real rights’) was first coined by medieval writers elaborating on the Digest in an effort to explain ancient procedural forms of action in terms of substantive rights.” A.N. Yiannopoulos, *Real Rights in Louisiana and*



---

Comparative Law, 23 La. L. Rev. 161, 163 (1963).

2.JUS IN RE. 3. See right in rem.

relative right.A right that arises from and depends on someone else's right, as distinguished from an absolute right. Cf. absolute right.

remedial right.The secondary right to have a remedy that arises when a primary right is broken.

restitutory right.A right to restitution.

right in personam (in p<<schwa>>r-soh-n<<schwa>>m). An interest protected solely against specific individuals. — Also termed personal right; jus in personam. See IN PERSONAM.

right in rem (in rem). A right exercisable against the world at large. — Also termed real right; jus in rem. See IN REM.

“A right in rem need not relate to a tangible res. Thus a right that one's reputation should not be unjustifiably attacked is today described as a right in rem, since it is a right that avails against persons generally. This shows how far the conception has developed from the Roman notion of actio in rem, for one who sues to protect his reputation is not asking for judgment for a specific res. It should also be noticed that on breach of a right in rem, a right in personam arises against the aggressor.” George Whitecross Paton, *A Textbook of Jurisprudence* 300 (G.W. Paton & David P. Derham eds., 4th ed. 1972).

secondary right.A right prescribed by procedural law to enforce a substantive right, such as the right to damages for a breach of contract. • The enforcement of a secondary right is variously termed secondary enforcement, remedial enforcement, or sanctional enforcement. — Also termed remedial right; sanctioning right.

substantial right.An essential right that potentially affects the outcome of a lawsuit and is capable of legal enforcement and protection, as distinguished from a mere technical or procedural right.

substantive right (s<<schwa>>b-st<<schwa>>n-tiv). A right that can be protected or enforced by law; a right of substance rather than form. Cf. procedural right.

vested right.A right that so completely and definitely belongs to a person that it cannot be impaired or taken away without the person's consent. [Cases: Constitutional Law 92–112. C.J.S. Constitutional Law §§ 228–276.]

#### RIGHT AGAINST SELF-INCRIMINATION

right against self-incrimination.A criminal defendant's or a witness's constitutional right — under the Fifth Amendment, but waivable under certain conditions — guaranteeing that a person cannot be compelled by the government to testify if the testimony might result in the person's being criminally prosecuted. • Although this right is most often asserted during a criminal prosecution, a person can also “plead the Fifth” in a civil, legislative, administrative, or grand-jury

proceeding. — Also termed privilege against self-incrimination; right to remain silent. See SELF-INCRIMINATION N. [Cases: Criminal Law 393; Witnesses 297.C.J.S. Criminal Law § 645; Witnesses § 522.]

“The right against self-incrimination, protected by the Fifth Amendment, is central to the accusatorial system of criminal justice: together with the presumption of innocence, the right against self-incrimination ensures that the state must bear the burden of prosecution.... The right against self-incrimination is personal. It may be claimed only by the person who himself might be at risk for testifying. It may not be claimed on behalf of another ....” Jethro K. Lieberman, *The Evolving Constitution* 481–82 (1992).

#### RIGHT-AND-WRONG TEST

right-and-wrong test. See MCNAGHTEN RULES.

#### RIGHTFUL

rightful, adj. 1. (Of an action) equitable; fair <a rightful dispossession>. 2. (Of a person) legitimately entitled to a position <a rightful heir>. 3. (Of an office or piece of property) that one is entitled to <her rightful inheritance>.

#### RIGHT HEIR

right heir. See HEIR.

#### RIGHT IN PERSONAM

right in personam. See RIGHT.

#### RIGHT IN RE ALIENA

right in re aliena. See JUS IN RE ALIENA.

#### RIGHT IN REM

right in rem. See RIGHT.

#### RIGHT IN RE PROPRIA

right in re propria. See JUS IN RE PROPRIA.

#### RIGHT NOT TO BE QUESTIONED

right not to be questioned. See privilege against self-incrimination under PRIVILEGE(3).

#### RIGHT OF ACTION

right of action. 1. The right to bring a specific case to court. [Cases: Action 1, 2. C.J.S. Actions §§ 2–9, 11, 17, 21, 26, 31–33, 36.] 2. A right that can be enforced by legal action; a chose in action. Cf. CAUSE OF ACTION. [Cases: Action 1, 2; Property 5.5. C.J.S. Actions §§ 2–9, 11, 17, 21, 26, 31–33, 36; Property § 22; Trading Stamps and Coupons § 2.]

#### RIGHT OF ANGARY

right of angary.See ANGARY.

#### RIGHT OF APPROACH

right of approach.Int'l law. The right of a warship on the high seas to draw near another vessel to determine its nationality. [Cases: War and National Emergency 20. C.J.S. War and National Defense §§ 26, 28.]

#### RIGHT OF ASSEMBLY

right of assembly.The constitutional right — guaranteed by the First Amendment — of the people to gather peacefully for public expression of religion, politics, or grievances. — Also termed freedom of assembly; right to assemble. Cf. FREEDOM OF ASSOCIATION; unlawful assembly under ASSEMBLY. [Cases: Constitutional Law 91. C.J.S. Constitutional Law §§ 461–462, 466, 612–629.]

#### RIGHT OF AUDIENCE

right of audience.A right to appear and be heard in a given court. • The term is chiefly used in England to denote the right of a certain type of lawyer to appear in a certain type of court.

#### RIGHT OF COMMON

right of common.See PROFIT à PRENDRE.

#### RIGHT OF CONTRIBUTION

right of contribution.See CONTRIBUTION(1).

#### RIGHT OF DISCLOSURE

right of disclosure.See PUBLICATION RIGHT.

#### RIGHT OF DISCUSSION

right of discussion.Scots law. See BENEFIT OF DISCUSSION.

#### RIGHT OF DISSENT AND APPRAISAL

right of dissent and appraisal.See APPRAISAL REMEDY.

#### RIGHT OF DIVISION

right of division.Scots law. See BENEFIT OF DIVISION.

#### RIGHT OF ELECTION

right of election.Wills & estates. A surviving spouse's statutory right to choose either the gifts given by the deceased spouse in the will or a forced share or a share of the estate as defined in the probate statute. — Also termed widow's election. See ELECTION(2); augmented estate under ESTATE (3). [Cases: Descent and Distribution 64; Wills 778–818.C.J.S. Wills §§ 1719–1741, 1841–1879.]

---

**RIGHT OF ENTRY**

right of entry. 1. The right of taking or resuming possession of land or other real property in a peaceable manner. 2. **POWER OF TERMINATION**. 3. The right to go into another's real property for a special purpose without committing trespass. • An example is a landlord's right to enter a tenant's property to make repairs. [Cases: Trespass 24. C.J.S. Trespass §§ 57–61, 167.] 4. The right of an alien to go into a jurisdiction for a special purpose. • An example is an exchange student's right to enter another country to attend college. [Cases: Aliens 39, 53.9. C.J.S. Aliens §§ 53–60, 63–64, 75–76, 84–87, 135, 170, 197–198, 249.]

**RIGHT OF ENTRY FOR BREACH OF CONDITION**

right of entry for breach of condition. See **POWER OF TERMINATION**.

**RIGHT OF ENTRY FOR CONDITION BROKEN**

right of entry for condition broken. See **POWER OF TERMINATION**.

**RIGHT OF EXONERATION**

right of exoneration. See **EQUITY OF EXONERATION**.

**RIGHT OF FAMILY INTEGRITY**

right of family integrity. A fundamental and substantive due-process right for a family unit to be free of unjustified state interference. • While not specifically mentioned in the U.S. Constitution, this right is said to emanate from it. The contours of the right are nebulous and incompletely defined, but it at least includes the right to bear children, to rear them, and to guide them according to the parents' beliefs, as well as the right of children to be raised by their parents free of unwarranted interference by state officials. The right restricts state action under the Fourteenth Amendment. Interference is not permitted in the absence of a compelling state interest and is reviewed under a strict-scrutiny standard. Most courts require a state to establish by clear and convincing evidence that interference in a familial relationship is justified. — Also termed right to family integrity. See **PARENTAL-AUTONOMY DOCTRINE**; **PARENTAL-PRIVILEGE DOCTRINE**. Cf. freedom of intimate association under **FREEDOM OF ASSOCIATION**.

**RIGHT OF FIRST PUBLICATION**

right of first publication. See common-law copyright under **COPYRIGHT**.

**RIGHT OF FIRST REFUSAL**

right of first refusal. A potential buyer's contractual right to meet the terms of a third party's higher offer. • For example, if Beth has a right of first refusal on the purchase of Sam's house, and if Terry offers to buy the house for \$300,000, then Beth can match this offer and prevent Terry from buying it. Cf. **RIGHT OF PREEMPTION**. [Cases: Contracts 16, 172; Sales 24, 64; Vendor and Purchaser 18(.5), 57. C.J.S. Contracts §§ 37–41, 44, 46, 55–56, 58, 341, 506; Sales §§ 41–42, 82; Trading Stamps and Coupons §§ 7–9; Vendor and Purchaser §§ 98–106, 115–116.]

**RIGHT OF FISHERY**

right of fishery. See FISHERY(1).

#### RIGHT OF INNOCENT PASSAGE

right of innocent passage. See INNOCENT PASSAGE.

#### RIGHT OF OCCUPANCY

right of occupancy. See INDIAN TITLE.

#### RIGHT OF PETITION

right of petition. See RIGHT TO PETITION.

#### RIGHT OF POSSESSION

right of possession. The right to hold, use, occupy, or otherwise enjoy a given property; esp., the right to enter real property and eject or evict a wrongful possessor. [Cases: Forcible Entry and Detainer 9(2).]

#### RIGHT OF PREEMPTION

right of preemption. A potential buyer's contractual right to have the first opportunity to buy, at a specified price, if the seller chooses to sell within the contracted period. • For example, if Beth has a right of preemption on Sam's house for five years at \$100,000, Sam can either keep the house for five years (in which case Beth's right expires) or, if he wishes to sell during those five years, offer the house to Beth, who can either buy it for \$100,000 or refuse to buy, but if she refuses, Sam can sell to someone else. — Also termed first option to buy. Cf. RIGHT OF FIRST REFUSAL. [Cases: Contracts 16; Sales 24; Vendor and Purchaser 18(.5). C.J.S. Contracts §§ 37–41, 44, 46, 55–56, 58; Sales §§ 41–42; Vendor and Purchaser §§ 98–100, 103–106, 115–116.]

#### RIGHT OF PRIVACY

right of privacy. 1. The right to personal autonomy. • The U.S. Constitution does not explicitly provide for a right of privacy or for a general right of personal autonomy, but the Supreme Court has repeatedly ruled that a right of personal autonomy is implied in the “zones of privacy” created by specific constitutional guarantees. [Cases: Constitutional Law 82(7)–82(13). C.J.S. Constitutional Law §§ 461–470, 584, 612, 614–619, 623–628, 630–648; Right to Die § 2.] 2. The right of a person and the person's property to be free from unwarranted public scrutiny or exposure. — Also termed right to privacy. See INVASION OF PRIVACY.

#### RIGHT OF PUBLICITY

right of publicity. The right to control the use of one's own name, picture, or likeness and to prevent another from using it for commercial benefit without one's consent. [Cases: Torts 8.5(6). C.J.S. Right of Privacy and Publicity §§ 9–16, 40–43, 45.]

“The right of publicity is a state-law created intellectual property right whose infringement is a commercial tort of unfair competition. It is a distinct legal category, not just a ‘kind of’ trademark, copyright, false advertising or right of privacy.” 1 J. Thomas McCarthy, *The Rights of*

---

Publicity and Privacy § 1:3, at 1–2 (2d ed. 2000).

**RIGHT OF REDEMPTION**

right of redemption.1.EQUITY OF REDEMPTION. 2.STATUTORY RIGHT OF REDEMPTION.

**RIGHT OF REENTRY**

right of reentry.See POWER OF TERMINATION.

**RIGHT OF RELIEF**

right of relief.Scots law. See EQUITY OF SUBROGATION.

**RIGHT OF REPRODUCTION**

right of reproduction.See REPRODUCTION RIGHT.

**RIGHT OF RESCISSION**

right of rescission.See RIGHT TO RESCIND.

**RIGHT OF RETAINER**

right of retainer.A trustee's power to withhold trust funds or property from distribution, exercisable when the beneficiary owes money to the trust.

**RIGHT OF RETENTION**

right of retention.See RETENTION.

**RIGHT OF REVOLUTION**

right of revolution.The inherent right of a people to cast out their rulers, change their polity, or effect radical reforms in their system of government or institutions, by force or general uprising, when the legal and constitutional methods of making such changes have proved inadequate or are so obstructed as to be unavailable.

**RIGHT OF SEARCH**

right of search.Int'l law. The right to stop, visit, and examine vessels on the high seas to discover whether they or the goods they carry are liable to capture; esp., a belligerent state's right to stop any merchant vessel of a neutral state on the high seas and to search as reasonably necessary to determine whether the ship has become liable to capture under the international law of naval warfare. • This right carries with it no right to destroy without full examination, unless those on a given vessel actively resist. — Also termed right of visit; right of visit and search; right of visitation; right of visitation and search. See VISIT.

**RIGHT OF SUBROGATION**

right of subrogation.1.SUBROGATION. 2.EQUITY OF SUBROGATION.

---

**RIGHT OF SUIT**

right of suit. A person's right to seek redress in a court.

**RIGHT OF SUPPORT**

right of support. Property. 1. A landowner's right to have the land supported by adjacent land and by the underlying earth. [Cases: Adjoining Landowners 2. C.J.S. Adjoining Landowners §§ 9–10, 14.] 2. A servitude giving the owner of a house the right to rest timber on the walls of a neighboring house.

**RIGHT OF SURVIVORSHIP**

right of survivorship. A joint tenant's right to succeed to the whole estate upon the death of the other joint tenant. — Also termed *jus accrescendi*. See **SURVIVORSHIP**; joint tenancy under **TENANCY**. [Cases: Joint Tenancy 6. C.J.S. Joint Tenancy §§ 3, 5, 7, 10–15, 19–20, 38–40.]

**RIGHT OF TERMINATION**

right of termination. A remedy involving the ending of contractual relations, accorded to a party to a contract when the other party breaches a duty that arises under the contract. • The right of termination is contrasted with a right to rescind, which arises when the other party breaches a duty that arises independently of the contract. — Also termed right to terminate. [Cases: Contracts 217; Sales 84. C.J.S. Contracts §§ 436–443, 446, 448–449, 500–501; Sales §§ 108, 119.]

**RIGHT OF TRANSIT PASSAGE**

right of transit passage. See **TRANSIT PASSAGE**.

**RIGHT OF VISIT**

right of visit. See **RIGHT OF SEARCH**.

**RIGHT OF VISIT AND SEARCH**

right of visit and search. See **RIGHT OF SEARCH**.

**RIGHT OF VISITATION**

right of visitation. 1. **VISITATION RIGHT**. 2. **RIGHT OF SEARCH**.

**RIGHT OF VISITATION AND SEARCH**

right of visitation and search. See **RIGHT OF SEARCH**.

**RIGHT-OF-WAY**

right-of-way. 1. The right to pass through property owned by another. • A right-of-way may be established by contract, by longstanding usage, or by public authority (as with a highway). Cf. **EASEMENT**. [Cases: Easements 1. C.J.S. Easements §§ 2–8, 13–14, 21–22, 24, 53–55, 57–58, 89.] 2. The right to build and operate a railway line or a highway on land belonging to another, or the land so used. [Cases: Railroads 69. C.J.S. Railroads §§ 182–189.] 3. The right to take

precedence in traffic. [Cases: Automobiles 154, 171(4); Highways 99; C.J.S. Motor Vehicles §§ 729–739, 741–746, 748, 1299.] 4. The strip of land subject to a nonowner's right to pass through. — Also written right of way. Pl. rights-of-way.

private right-of-way. See EASEMENT.

public right-of-way. The right of passage held by the public in general to travel on roads, freeways, and other thoroughfares.

#### RIGHT OF WHARFING OUT

right of wharfing out. A right to the exclusive use of submerged lands, as by establishing a permanent structure or wharf on the land to dock oceangoing vessels. [Cases: Navigable Waters 43(2).]

#### RIGHTS ARBITRATION

rights arbitration. See grievance arbitration under ARBITRATION.

#### RIGHTS-CONSCIOUSNESS

rights-consciousness. See CLAIMS-CONSCIOUSNESS.

#### RIGHTS-MANAGEMENT INFORMATION

rights-management information. Intellectual property. Information about an intellectual-property right, affixed to the subject matter when it is communicated to the public, esp. in electronic form, and identifying the right's owner, terms of use, indexing numbers or codes, or other identifying information. • The information facilitates contracting with the owner of the rights. In digital technology, laws may ban the removal or alteration of rights-management information as a form of intellectual-property protection.

#### RIGHT OF ATTRIBUTION

right of attribution. See ATTRIBUTION RIGHT.

#### RIGHTS OFF

rights off. See EX RIGHTS.

#### RIGHTS OFFERING

rights offering. See OFFERING.

#### RIGHTS ON

rights on. See CUM RIGHTS.

#### RIGHT TO ASSEMBLE

right to assemble. See RIGHT OF ASSEMBLY.

#### RIGHT TO BEAR ARMS



right to bear arms.The constitutional right of persons to own firearms.U.S. Const. amend II. See SECOND AMENDMENT. [Cases: Weapons 1.C.J.S. Weapons §§ 1–8, 61–62.]

#### RIGHT TO CHOOSE

right to choose.See FREEDOM OF CHOICE.

#### RIGHT-TO-CONVEY COVENANT

right-to-convey covenant.See covenant of seisin under COVENANT(4).

#### RIGHT TO COUNSEL

right to counsel. 1.Criminal law. A criminal defendant's constitutional right, guaranteed by the Sixth Amendment, to representation by a court-appointed lawyer if the defendant cannot afford to hire one. • The Supreme Court has recognized a juvenile delinquent defendant's right to counsel. In re Gault, 387 U.S. 1, 87 S.Ct. 1428 (1967). — Also termed benefit of counsel; right to assistance of counsel. [Cases: Criminal Law 641.1. C.J.S. Criminal Law §§ 277–278, 281.] 2.Family law. The right of a defendant in a suit for termination of parental rights to representation by a court-appointed lawyer if the defendant cannot afford to hire one. • Although some states appoint counsel for indigent defendants in a suit for termination of parental rights, the Supreme Court has held that the Constitution does not require that counsel be appointed for indigent defendants in all termination suits, but if a criminal charge may be made, the right to counsel may attach. Lassiter v. Department of Soc. Servs., 452 U.S. 18, 101 S.Ct. 2153 (1981). See ASSISTANCE OF COUNSEL.

#### RIGHT TO DIE

right to die.The right of a terminally ill person to refuse life-sustaining treatment. — Also termed right to refuse treatment. See ADVANCE DIRECTIVE. [Cases: Health 914.]

#### RIGHT TO EXCLUDE

right to exclude.Patents. A patentee's right to prevent others from making, using, selling, or offering for sale the patentee's invention. [Cases: Patents 191. C.J.S. Patents §§ 217, 314, 339.]

#### RIGHT TO FAMILY INTEGRITY

right to family integrity.See RIGHT OF FAMILY INTEGRITY.

#### RIGHT-TO-KNOW ACT

right-to-know act.A federal or state statute requiring businesses (such as chemical manufacturers) that produce hazardous substances to disclose information about the substances both to the community where they are produced or stored and to employees who handle them. — Also termed right-to-know statute. [Cases: Environmental Law 415.]

#### RIGHT TO PETITION

right to petition.The constitutional right — guaranteed by the First Amendment — of the people to make formal requests to the government, as by lobbying or writing letters to public

officials. — Also termed right of petition; freedom of petition. [Cases: Constitutional Law 91.C.J.S. Constitutional Law §§ 461–462, 466, 612–629.]

**RIGHT TO PRIVACY**

right to privacy.See **RIGHT OF PRIVACY**.

**RIGHT TO REFUSE TREATMENT**

right to refuse treatment.See **RIGHT TO DIE**.

**RIGHT TO REMAIN SILENT**

right to remain silent.See **RIGHT AGAINST SELF-INCRIMINATION**.

**RIGHT TO RESCIND**

right to rescind.The remedy accorded to a party to a contract when the other party breaches a duty that arises independently of the contract. • The right to rescind is contrasted with a right of termination, which arises when the other party breaches a duty that arises under the contract. — Also termed right of rescission. [Cases: Contracts 258. C.J.S. Contracts §§ 456, 461–463, 465–467, 472, 476.]

**RIGHT TO TERMINATE**

right to terminate.See **RIGHT OF TERMINATION**.

**RIGHT TO TRAVEL**

right to travel.A person's constitutional right — guaranteed by the Privileges and Immunities Clause — to travel freely between states.

**RIGHT TO VOTE**

right to vote.See **SUFFRAGE**.

**RIGHT-TO-WORK LAW**

right-to-work law.A state law that prevents labor–management agreements requiring a person to join a union as a condition of employment. See open shop under **SHOP**. [Cases: Labor Relations 243. C.J.S. Labor Relations §§ 10, 219.]

**RIGHT-WRONG TEST**

right-wrong test.See **MCNAGHTEN RULES**.

**RIGID CONSTITUTION**

rigid constitution.See **CONSTITUTION**.

**RIGOR JURIS**

rigor juris (rig-<<schwa>>r joor-is). [Latin] Strictness of law. Cf. **GRATIA CURIAE** .

---

**RIGOR MORTIS**

rigor mortis (rig-*<<schwa>>r mor-tis*). The temporary stiffening of a body's joints and muscles after death. • The onset of rigor mortis can vary from 15 minutes to several hours after death, depending on the body's condition and on atmospheric factors.

**RINGING OUT**

ringing out. See RINGING UP.

**RINGING THE CHANGES**

ringing the changes. Fraud consisting in the offender's using a large bill to pay for a small purchase, waiting for the shopkeeper to put change on the counter, and then, by a series of maneuvers involving changes of mind — such as asking for some other article of little value or for smaller change for some of the money on the counter — creating a confused situation in which the offender picks up much more of the money than is really due. [Cases: Larceny 14(1). C.J.S. Larceny §§ 1(4), 20, 32.]

**RINGING UP**

ringing up. A method by which a group of commodities dealers discharge contracts for future delivery in advance by using offsets, cancellations, and price adjustments, thus saving the cost of actual delivery and change of possession. — Also termed ringing out.

**RIOT**

riot, n. 1. An assemblage of three or more persons in a public place for the purpose of accomplishing by concerted action — and in a turbulent and disorderly manner — a common purpose (regardless of the lawfulness of that purpose). 2. An unlawful disturbance of the peace by an assemblage of usu. three or more persons acting with a common purpose in a violent or tumultuous manner that threatens or terrorizes the public. Cf. unlawful assembly under ASSEMBLY; CIVIL COMMOTION; ROUT; AFFRAY. [Cases: Riot 1. C.J.S. Riot; Insurrection §§ 2–10.] — riotous, adj. — riot, vb.

“A riot is defined as an unlawful assembly (i.e. an assembly come together in pursuance of an unlawful purpose), consisting of at least three persons, which has begun to create a breach of the peace. At Common Law it is an indictable misdemeanour, punishable by a fine and imprisonment. But the statutory form of it, introduced by the Riot Act of 1714, is better known. By that statute, passed to deal with Jacobite disturbances, it was provided that the members of a riotous assembly of twelve or more persons which does not disperse within an hour after the reading by a magistrate of the proclamation contained in the Act, become guilty of felony, which, at the time of the passing of the Act, was a capital offence, and is, even now, punishable with imprisonment for life.” Edward Jenks, *The Book of English Law* 136 (P.B. Fairest ed., 6th ed. 1967).

“A riot is a tumultuous disturbance of the peace by three or more persons acting together (a) in the commission of a crime by open force, or (b) in the execution of some enterprise, lawful or unlawful, in such a violent, turbulent and unauthorized manner as to create likelihood of public

terror and alarm.... When they come together for this purpose they are guilty of unlawful assembly. When they start on their way to carry out their common design they are guilty of rout. In the actual execution of their design they are guilty of riot." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 483 (3d ed. 1982).

#### RIOU ACT

Riot Act. A 1714 English statute that made it a capital offense for 12 or more rioters to continue together for an hour after a magistrate has officially proclaimed that rioters must disperse.

- This statute was not generally accepted in the United States and did not become a part of American common law. It did, however, become a permanent part of the English language in the slang phrase reading the Riot Act (meaning "to reprimand vigorously"), which originally referred to the official command for rioters to disperse.

#### RIOUOUS ASSEMBLY

riotous assembly. See ASSEMBLY.

#### RIPAE MUNIENDAE CAUSA

ripae muniendae causa (rI-pee myoo-nee-en-dee kaw-z<<schwa>>). [Latin] Hist. For the purpose of strengthening a riverbank.

#### RIPARIAN

riparian (ri-pair-ee-<<schwa>>n or rI-), adj. Of, relating to, or located on the bank of a river or stream (or occasionally another body of water, such as a lake) <riparian land> <a riparian owner>. Cf. LITTORAL. [Cases: Navigable Waters 39–46; Waters and Water Courses 34–49, 109. C.J.S. Navigable Waters §§ 82–102, 111, 126–131, 134; Waters §§ 3–17, 20, 91, 238–240, 243–244, 760–761, 926.]

#### RIPARIAN LAND

riparian land. See LAND.

#### RIPARIAN PROPRIETOR

riparian proprietor. A person who is in possession of riparian land or who owns an estate in it; a landowner whose property borders on a stream or river. See riparian land under LAND. [Cases: Navigable Waters 39(1); Waters and Water Courses 39. C.J.S. Navigable Waters § 83; Waters § 11.]

#### RIPARIAN RIGHT

riparian right. (often pl.) The right of a landowner whose property borders on a body of water or watercourse.

- Such a landowner traditionally has the right to make reasonable use of the water.

— Also termed water right. [Cases: Navigable Waters 39–46; Waters and Water Courses 34–47. C.J.S. Navigable Waters §§ 82–102, 111, 126–131, 134; Waters §§ 3–14, 20, 91, 760–761, 926.]

#### RIPARIAN-RIGHTS DOCTRINE

riparian-rights doctrine. The rule that owners of land bordering on a waterway have equal rights to use the water passing through or by their property. Cf. PRIOR-APPROPRIATION DOCTRINE. [Cases: Navigable Waters 39; Waters and Water Courses 40. C.J.S. Navigable Waters § 82; Waters § 12.]

#### RIPENESS

ripeness, n. 1. The circumstance existing when a case has reached, but has not passed, the point when the facts have developed sufficiently to permit an intelligent and useful decision to be made. 2. The requirement that this circumstance must exist before a court will decide a controversy. See JUSTICIABILITY. Cf. MOOTNESS DOCTRINE; PREMATURITY(1). [Cases: Action 6; Federal Courts 12.1. C.J.S. Actions §§ 38–45.] — ripe, adj. — ripen, vb.

#### RIPPER ACT

ripper act. Slang. A statute that gives a government's chief executive broad powers to appoint and remove department heads or other subordinate officials.

#### RISE

rise, vb. 1. (Of a court) to adjourn finally at the end of a term. 2. (Of spectators and participants in a courtroom) to stand when the judge enters or exits. 3. (Of a court) to take a recess or temporary break, as at the end of a day. 4. Parliamentary law. (Of a special committee that has exhausted its business) to dissolve and send a report to the referring body. • A committee's rising is equivalent to a deliberative assembly's adjourning sine die. — Also termed rise and report. Cf. adjourn sine die under ADJOURN(2).

#### RISING VOTE

rising vote. See VOTE(4).

#### RISING VOTE OF THANKS

rising vote of thanks. See rising vote under VOTE(4).

#### RISK

risk, n. 1. The uncertainty of a result, happening, or loss; the chance of injury, damage, or loss; esp., the existence and extent of the possibility of harm <many feel that skydiving is not worth the risk>. See ASSUMPTION OF THE RISK. 2. Liability for injury, damage, or loss if it occurs <the consumer-protection statute placed the risk on the manufacturer instead of the buyer>. 3. Insurance. The chance or degree of probability of loss to the subject matter of an insurance policy <the insurer undertook the risk in exchange for a premium>. Cf. PERIL(2). [Cases: Insurance 1542. C.J.S. Insurance § 67.] 4. Insurance. The amount that an insurer stands to lose <the underwriter took steps to reduce its total risk>. 5. Insurance. A person or thing that an insurer considers a hazard; someone or something that might be covered by an insurance policy <she's a poor risk for health insurance>. [Cases: Insurance 1542(3).] 6. Insurance. The type of loss covered by a policy; a hazard from a specified source <this homeowner's policy covers fire risks and flood risks>. [Cases: Insurance 2097. C.J.S. Insurance §§ 282–283, 395, 860.] — risk, vb.

absorbable risk.A potential loss that a corporation believes that it can cover either with available capital or with self-insurance.

assigned risk.One who is a poor risk for insurance but whom an insurance company is forced to insure because of state law. • For example, an accident-prone driver is an assigned risk in a state with a compulsory motor-vehicle-insurance statute. [Cases: Insurance 1528. C.J.S. Insurance § 63.]

classified risk.In life and health policies, the risk created by a policyholder's substandard health or other peril.

noninsurable risk.A risk for which insurance will not be written because the risk is too uncertain to be the subject of actuarial analysis.

pure risk.A risk that always results in a loss.

shifting risk.The changing risk covered under an insurance policy insuring a stock of goods or similar property that varies in amount and composition in the course of trade. [Cases: Insurance 2138(1). C.J.S. Insurance § 417.]

speculative risk.A risk that can result in either a loss or a gain.

#### RISK ARBITRAGE

risk arbitrage.See ARBITRAGE.

#### RISK ASSESSMENT

risk assessment.Family law. A process for ascertaining the likelihood that a person, usu. a parent, will harm a child. • Before a child can be removed from his or her family by a governmental entity, a risk assessment should be performed to determine the likelihood of the child's being harmed in the future.

#### RISK-AVERSE

risk-averse,adj. (Of a person) uncomfortable with volatility or uncertainty; not willing to take risks; very cautious <a risk-averse investor>.

#### RISK-BENEFIT TEST

risk-benefit test.See RISK-UTILITY TEST.

#### RISK CAPITAL

risk capital.See CAPITAL.

#### RISK-CAPITAL TEST

risk-capital test.Securities. A test of whether a transaction constitutes the sale of a security (and is thus subject to securities laws) based on whether the seller is soliciting risk capital with which to develop a business venture. Cf. CAPITAL-RISK TEST. [Cases: Securities Regulation 5, 248, 249. C.J.S. Securities Regulation §§ 3, 9, 379–380, 384–387, 389–390, 392–393.]

---

**RISK DISTRIBUTION**

risk distribution. The method by which a legal system allocates the risk of harm between the person who suffers it and the loss.

**RISK FACTOR**

risk factor. Insurance. In life-insurance ratemaking, the estimated cost of present and future claims, based on a mortality table. • The risk factor is one element that a life insurer uses to calculate premium rates. See PREMIUM RATE . Cf. INTEREST FACTOR; MORTALITY FACTOR. [Cases: Insurance 1542. C.J.S. Insurance § 67.]

**RISK MANAGEMENT**

risk management. The procedures or systems used to minimize accidental losses, esp. to a business.

**RISK MANAGEMENT AGENCY**

Risk Management Agency. An agency in the U.S. Department of Agriculture responsible for administering the programs of the Federal Crop Insurance Corporation and for overseeing other programs relating to the risk management of crops and commodities. — Abbr. RMA.

**RISK OF JURY DOUBT**

risk of jury doubt. See BURDEN OF PERSUASION.

**RISK OF LOSS**

risk of loss. The danger or possibility that a party will have to bear the costs and expenses for the damage, destruction, or inability to locate goods or other property.

**RISK OF NONPERSUASION**

risk of nonpersuasion. See BURDEN OF PERSUASION.

**RISK-STOPS-HERE RULE**

risk-stops-here rule. See DOCTRINE OF SUPERIOR EQUITIES.

**RISK-UTILITY TEST**

risk-utility test. A method of imposing product liability on a manufacturer if the evidence shows that a reasonable person would conclude that the benefits of a product's particular design versus the feasibility of an alternative safer design did not outweigh the dangers inherent in the original design. — Also termed danger-utility test; risk-benefit test. Cf. CONSUMER-CONTEMPLATION TEST T. [Cases: Products Liability 11. C.J.S. Products Liability §§ 19–21.]

**RIT**

RIT. abbr. Rochester Institute for Technology. See NATIONAL TECHNICAL INSTITUTE

## FOR THE DEAF .

## RIVER

river. A natural, flowing body of water that empties into another body of water, such as a lake, sea, or channel.

international river. A river that flows through or between two or more countries.

national river. A river wholly contained within a single country. • That country has exclusive territorial rights over the river.

private river. A river to which a riparian owner may claim ownership of the riverbed because the river is unnavigable or navigable only by vessels with shallow drafts. • A navigable private river is not wholly owned by a private person and cannot be closed to public use; people may still make ordinary use of the river for transportation and navigation.

## RL/C

RL/C. See revolving letter of credit under LETTER OF CREDIT.

## RMA

RMA. abbr. RISK MANAGEMENT AGENCY.

## RMS

RMS. abbr. REPRESSED-MEMORY SYNDROME.

## ROADSTEAD

roadstead. Maritime law. A convenient or safe place where vessels usu. anchor.

## ROBBERY

robbery, n. The illegal taking of property from the person of another, or in the person's presence, by violence or intimidation; aggravated larceny. • Robbery is usu. a felony, but some jurisdictions classify some robberies as high misdemeanors. — Also termed (in Latin) *crimen roberiae*. See LARCENY; THEFT. Cf. BURGLARY. [Cases: Robbery 1. C.J.S. Robbery §§ 2, 4, 12, 90–91.] — rob, vb.

“Robbery is larceny from the person by violence or intimidation. It is a felony both at common law and under modern statutes. Under some of the new penal codes robbery does not require an actual taking of property. If force or intimidation is used in the attempt to commit theft this is sufficient.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 343 (3d ed. 1982).

aggravated robbery. Robbery committed by a person who either carries a dangerous weapon — often called armed robbery — or inflicts bodily harm on someone during the robbery. • Some statutes also specify that a robbery is aggravated when the victim is a member of a protected class, such as children or the elderly. [Cases: Robbery 11. C.J.S. Robbery §§ 24–28, 79, 82, 90.]

armed robbery. Robbery committed by a person carrying a dangerous weapon, regardless of



whether the weapon is revealed or used. • Most states punish armed robbery as an aggravated form of robbery rather than as a separate crime. [Cases: Robbery 11. C.J.S. Robbery §§ 24–28, 79, 82, 90.]

conjoint robbery (k<<schwa>>n-joynt). A robbery committed by two or more persons. [Cases: Robbery 15. C.J.S. Robbery §§ 31–33, 78, 90.]

highway robbery. 1. Robbery committed against a traveler on or near a public highway. [Cases: Robbery 1. C.J.S. Robbery §§ 2, 4, 12, 90–91.] 2. Figuratively, a price or fee that is unreasonably high; excessive profit or advantage.

simple robbery. Robbery that does not involve an aggravating factor or circumstance. [Cases: Robbery 1. C.J.S. Robbery §§ 2, 4, 12, 90–91.]

#### ROBE

robe. 1. The gown worn by a judge while presiding over court. • In the U.S., judges generally wear plain black gowns. In the U.K., judicial robes vary in color and adornment, depending on the judge's rank, the season, and the court, and are traditionally worn with white horsehair wigs. — Also termed judicial robe. 2. (often cap.) The legal or judicial profession <eminent members of the robe>.

#### ROBERT'S RULES

Robert's Rules. 1. A parliamentary manual titled Robert's Rules of Order, originally written in 1875–1876 by Henry M. Robert (1837–1923). • The manual went through three editions under its original title and three more (beginning in 1915) under the title Robert's Rules of Order Revised. Since 1970 it has been titled Robert's Rules of Order Newly Revised. It is the best selling and most commonly adopted parliamentary manual in the United States. 2. Any parliamentary manual that includes “Robert's Rules” in its title. • The copyright on the first several editions has expired, and many imitators have adapted those editions in varying degrees of faithfulness to the original. 3. (sing.) RULE(3). See PARLIAMENTARY MANUAL.

#### ROBINSON–PATMAN ACT

Robinson–Patman Act. A federal statute (specif., an amendment to the Clayton Act) prohibiting price discrimination that hinders competition or tends to create a monopoly. 15 USCA § 13. See ANTITRUST LAW; CLAYTON ACT. [Cases: Trade Regulation 911–914. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 382–383, 385.]

#### ROCHIN<TT> RULE

Rochin rule. The now-rejected principle that unconstitutionally obtained evidence is admissible against the accused unless the evidence was obtained in a manner that shocks the conscience (such as pumping the stomach of a suspect to obtain illegal drugs that the suspect has swallowed, as occurred in the Rochin v. California case). • The Supreme Court handed down Rochin before the Fourth Amendment exclusionary rule applied to the states. Rochin v. California, 342 U.S. 165, 72 S.Ct. 205 (1952).

---

**ROCKET DOCKET**

rocket docket. 1. An accelerated dispute-resolution process. 2. A court or judicial district known for its speedy disposition of cases. 3. A similar administrative process, in which disputes must be decided within a specified time (such as 60 days).

**ROGATIO TESTIUM**

rogatio testium. The production of a witness who can testify to the making of a nuncupative will. • The witness must confirm that the testator declared or expressed that the words spoken were a will. See nuncupative will under WILL.

**ROGATORY LETTER**

rogatory letter (rog-*<<schwa>>*-tor-ee). See LETTER OF REQUEST.

**ROLL**

roll, n. 1. A record of a court's or public office's proceedings. [Cases: Judgment 277; Records 6, 32. C.J.S. Judgments § 130; Records §§ 9–14, 17–18, 65, 67–73.] 2. An official list of the persons and property subject to taxation. — Also termed (in sense 2) tax roll; tax list; assessment roll. Cf. TAXPAYERS' LISTS. [Cases: Taxation 408. C.J.S. Taxation § 580.] 3. Parliamentary law. The roster of those entitled to vote. — Also termed roll of delegates; roll of members.

**ROLL CALL**

roll call. See CALL(1).

**ROLL-CALL VOTE**

roll-call vote. See VOTE(4).

**ROLLED-UP PLEA**

rolled-up plea. See PLEA(3).

**ROLLING STOCK**

rolling stock. Movable property, such as locomotives and rail cars, owned by a railroad.

**ROLL OF DELEGATES**

roll of delegates. See ROLL(3).

**ROLL OF MEMBERS**

roll of members. See ROLL(3).

**ROLLOVER**

rollover, n. 1. The extension or renewal of a short-term loan; the refinancing of a maturing loan or note. 2. The transfer of funds (such as IRA funds) to a new investment of the same type, esp. so as to defer payment of taxes. [Cases: Internal Revenue 3587, 3594. C.J.S. Internal

---

Revenue §§ 206–208, 313, 319–326.] — roll over,vb.

#### ROLLOVER MORTGAGE

rollover mortgage.See renegotiable-rate mortgage under MORTGAGE.

#### ROMAN–DUTCH LAW

Roman–Dutch law.A system of law in Holland from the mid-15th century to the early 19th century, based on a mixture of Germanic customary law and Roman law as interpreted in medieval and Renaissance lawbooks. • This law forms the basis of modern South African law, the law of several other countries in southern Africa, and the law of Sri Lanka.

“The phrase ‘Roman–Dutch Law’ was invented by Simon van Leeuwen, who employed it as the sub-title of his work entitled *Paratitla Juris Novissimi*, published at Leyden in 1652. Subsequently his larger and better known treatise on the ‘Roman–Dutch Law’ was issued under that name in the year 1664.

“The system of law thus described is that which obtained in the province of Holland from the middle of the fifteenth to the early years of the nineteenth century. Its main principles were carried by the Dutch into their settlements in the East and West Indies; and when some of these, namely, the Cape of Good Hope, Ceylon, and part of Guiana, at the end of the eighteenth and the beginning of the nineteenth century, passed under the dominion of the Crown of Great Britain, the old law was retained as the common law of the territories which now became British colonies. With the expansion of the British Empire in South Africa, the sphere of the Roman–Dutch Law has extended its boundaries, until the whole of the area comprised within the Union of South Africa ... has adopted this system as its common law. This is the more remarkable since in Holland itself and in the Dutch colonies of the present day the old law has been replaced by codes ....” R.W. Lee, *An Introduction to Roman–Dutch Law* 2 (4th ed. 1946).

#### ROMANESQUE LAW

Romanesque law.See CIVIL LAW(1).

#### ROMANIST

Romanist,n. One who is versed in or practices Roman law; a Roman-law specialist.

#### ROMAN LAW

Roman law.The legal system of the ancient Romans, forming the basis of the modern civil law; CIVIL LAW(1).

“The Roman law is the body of rules that governed the social relations of many peoples in Europe, Asia, and Africa for some period between the earliest prehistoric times and 1453 A.D. This date should perhaps be extended to 1900 A.D., or even to the present time, and we might include America in the territory concerned.... Yet the essential fact is that no present-day community ... consciously applies as binding upon its citizens the rules of Roman law in their unmodified form. That law is an historical fact. It would have only a tepid historical interest ... if it

were not for the circumstance that, before it became a purely historical fact, it was worked into the foundation and framework of what is called the civil law ....” Max Radin, *Handbook of Roman Law* 1 (1927).

“Roman law is not only the best-known, the most highly developed, and the most influential of all legal systems of the past; apart from English law, it is also the only one whose entire and unbroken history can be traced from early and primitive beginnings to a stage of elaborate perfection in the hands of skilled specialists.” Hans Julius Wolff, *Roman Law: An Historical Introduction* 5 (1951).

#### ROME ACT

Rome Act. Copyright. A 1928 revision of the Berne Convention adding the moral rights of attribution and integrity to the minimum standards of protection that member nations must recognize, creating a compulsory license of recorded performances for radio broadcasting, and specifying that the term of protection for joint works must be measured from the death of the last surviving coauthor. — Also termed Rome Act of 1928; 1928 Rome Act.

#### ROME CONVENTION

Rome Convention. See ROME CONVENTION ON RELATED RIGHTS.

#### ROME CONVENTION ON RELATED RIGHTS

Rome Convention on Related Rights. Copyright. A 1961 treaty setting minimum standards for neighboring rights of performers, producers, and broadcasters. • The United States is not a signatory. Neighboring rights were not protected under the Paris Convention or the Berne Convention. They are part of the copyright protection under TRIPs. — Often shortened to Rome Convention. — Also termed Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. See NEIGHBORING RIGHT .

#### ROOKER–FELDMAN DOCTRINE

Rooker–Feldman doctrine. The rule that a federal court cannot consider claims actually decided by a state court or claims inextricably intertwined with an earlier state-court judgment. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415–16, 44 S.Ct. 149, 150 (1923); *District of Columbia Ct. of App. v. Feldman*, 460 U.S. 462, 476, 103 S.Ct. 1303, 1311 (1983). • This doctrine precludes “a party losing in state court ... from seeking what in substance would be appellate review of [a] state judgment in a United States district court, based on the losing party's claim that the state judgment itself violates the loser's federal rights.” *Johnson v. De Grandy*, 512 U.S. 997, 1005–06, 114 S.Ct. 2647, 2654 (1994).

#### ROOT

root. Civil law. A descendant.

#### ROOT OF TITLE

root of title. The recorded land transaction, usu. at least 40 years old, that is used to begin a

---

title search. See CHAIN OF TITLE; TITLE SEARCH.

**ROR**

ROR.abbr.RELEASE ON RECOGNIZANCE.

**ROTH IRA**

Roth IRA.See INDIVIDUAL RETIREMENT ACCOUNT.

**ROUND LOT**

round lot.See LOT(3).

**ROUP**

roup.Scots law. A sale by auction (usu. public).

**ROUT**

rou (rowt), n. The offense that occurs when an unlawful assembly makes some move toward the accomplishment of its participants' common purpose. Cf. RIOT. [Cases: Riot 1. C.J.S. Riot; Insurrection §§ 2–10.]

“The word ‘rou’ comes from the same source as the word ‘route.’ It signifies that three or more who have gathered together in unlawful assembly are ‘on their way.’ It is not necessary for guilt of this offense that the design be actually carried out, nor that the journey be made in a tumultuous manner.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 483 (3d ed. 1982).

**ROUTINE-ACTIVITIES THEORY**

routine-activities theory.The theory that criminal acts occur when (1) a person is motivated to commit the offense, (2) a vulnerable victim is available, and (3) there is insufficient protection to prevent the crime. Cf. CONTROL THEORY; RATIONAL-CHOICE THEORY; STRAIN THEORY.

**ROYAL MARRIAGES ACT**

Royal Marriages Act.A 1772 statute (12 Geo. 3, ch. 1) forbidding members of the royal family from marrying without the sovereign's permission, except on certain conditions.

“Royal Marriages Act .... An Act occasioned by George III's fear of the effect on the dignity and honour of the royal family of members thereof contracting unsuitable marriages, two of his brothers having done so .... It provided that marriages of descendants of George II, other than the issue of princesses who marry into foreign families, should not be valid unless they had the consent of the King in Council, or, if the parties were aged over 25, they had given 12 months' notice to the Privy Council, unless during that time both Houses of Parliament expressly declare disapproval of the proposed marriage.” David M. Walker, *The Oxford Companion to Law* 1091 (1980).

**ROYALTY**

royalty. 1. A payment made to an author or inventor for each copy of a work or article sold under a copyright or patent. [Cases: Copyrights and Intellectual Property 48; Patents 217.1. C.J.S. Copyrights and Intellectual Property §§ 27, 29, 33–34, 93; Patents § 364.]

established royalty. A royalty set at an agreed-on price. • In the absence of an established royalty, a court will determine a remedy for infringement based on what a reasonable royalty would have been.

reasonable royalty. A royalty that a licensee would be willing to pay the holder of the thing's intellectual-property rights while still making a reasonable profit from its use. • The reasonable-royalty standard often serves as the measure of damages in a claim of patent, copyright, or trademark infringement, or for misappropriation of trade secrets. In deciding what royalty is reasonable in a trade-secrets suit, courts consider the unique circumstances of the case, as well as (1) how the use affected the parties' ability to compete; (2) the cost of past licenses; (3) the cost to develop the secret and its present value; (4) how the defendant intends to use the information; and (5) the availability of alternatives. [Cases: Patents 319(1). C.J.S. Patents §§ 565, 567–568.]

2. Oil & gas. A share of the product or profit from real property, reserved by the grantor of a mineral lease, in exchange for the lessee's right to mine or drill on the land. — Also termed (in sense 2) override. [Cases: Mines and Minerals 70, 79. C.J.S. Mines and Minerals §§ 218, 223–224, 289–290, 296, 298–299, 303.]

haulage royalty. A royalty paid to a landowner for moving coal via a subterranean passageway under the landowner's land from a mine located on an adjacent property. • The payment is calculated at a certain amount per ton of coal.

landowner's royalty. A share of production or revenues provided for the lessor in the royalty clause of the oil-and-gas lease and paid at the well free of any costs of production. • Traditionally, except in California, the landowner's royalty has been 1/8 of gross production for oil and 1/8 of the proceeds received from the sale of gas. But today the size is often negotiated. — Also termed leaseholder royalty.

mineral royalty. A right to a share of income from mineral production. [Cases: Mines and Minerals 70, 79. C.J.S. Mines and Minerals §§ 218, 223–224, 289–290, 296, 298–299, 303.]

nonparticipating royalty. A share of production — or of the revenue from production free its costs — carved out of the mineral interest. • A nonparticipating-royalty holder is entitled to the stated share of production or cash without regard to the terms of any lease. Nonparticipating royalties are often retained by mineral-interest owners who sell their rights.

overriding royalty. A share of either production or revenue from production (free of the costs of production) carved out of a lessee's interest under an oil-and-gas lease. • Overriding-royalty interests are often used to compensate those who have helped structure a drilling venture. An overriding-royalty interest ends when the underlying lease terminates. [Cases: Mines and Minerals 74. C.J.S. Mines and Minerals § 308.]

shut-in royalty. A payment made by an oil-and-gas lessee to the lessor to keep the lease in

force when a well capable of producing is not utilized because there is no market for the oil or gas.

- Generally, without such a payment, the lease will terminate at the end of the primary term unless actual production has begun. [Cases: Mines and Minerals 78.1(3). C.J.S. Mines and Minerals §§ 269–270.]

#### ROYALTY INTEREST

royalty interest.Oil & gas. A share of production — or the value or proceeds of production, free of the costs of production — when and if there is production. • A royalty interest is usu. expressed as a fraction (such as 1/6). A royalty-interest owner has no right to operate the property and therefore no right to lease the property or to share in bonuses or delay rentals. In some states a royalty owner has the right of ingress and egress to take the royalty production. Authorities are split over what costs are costs of production. Several different but related kinds of royalty interests are commonly encountered. See ROYALTY(2).

#### RPTR.

rptr.abbr.REPORTER.

#### RRB

RRB.abbr. RAILROAD RETIREMENT BOARD.

#### R.S.

R.S. See revised statutes under STATUTE.

#### RSPA

RSPA.abbr.RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.

#### RTC

RTC.abbr.RESOLUTION TRUST CORPORATION.

#### RUBBER CHECK

rubber check.See bad check under CHECK.

#### RUBBER-STAMP SEAL

rubber-stamp seal.See NOTARY SEAL.

#### RUBRIC

rubric (roo-brik).1. The title of a statute or code <the rubric of the relevant statute is the Civil Rights Act of 1964>.2. A category or designation <assignment of rights falls under the rubric of contract law>.3. An authoritative rule, esp. for conducting a public worship service <the rubric dictates whether the congregation should stand or kneel>.4. An introductory or explanatory note; a preface <a well-known scholar wrote the rubric to the book's fourth edition>.5. An established rule, custom, or law <what is the rubric in the Northern District of Texas regarding appearance at docket call?>.

## RULE

rule,n.1. Generally, an established and authoritative standard or principle; a general norm mandating or guiding conduct or action in a given type of situation.

default rule.A legal principle that fills a gap in a contract in the absence of an applicable express provision but remains subject to a contrary agreement. Cf. GAP-FILLER.

general rule.A rule applicable to a class of cases or circumstances.

mandatory rule.A legal rule that is not subject to contrary to contrary agreement. • For example, the UCC obligation of good faith and fair dealing cannot be disclaimed.

peremptory rule.A court order that must be obeyed without an opportunity to respond. • No objections may be lodged or arguments made.

special rule.See SPECIAL RULE(1).

2. A regulation governing a court's or an agency's internal procedures. [Cases: Administrative Law and Procedure 381; Courts 85; Federal Civil Procedure 21. C.J.S. Courts § 130; Evidence § 7; Public Administrative Law and Procedure §§ 87, 91.] 3.Parliamentary law. A procedural rule (sense 1) for the orderly conduct of business in a deliberative assembly. — Also termed rule of order (often pl.).

Cordon rule.See CORDON RULE.

joint rule.A rule adopted by both houses of a bicameral legislature for the conduct of business or relations between them, such as when they meet in joint session, or for other matters in which they share an interest. See joint session under SESSION(1).

ordinary standing rule.See standing rule (1).

Ramseyer rule.See RAMSEYER RULE.

special rule.1.SPECIAL RULE(2).2.SPECIAL RULE(3).

standing rule. 1. A rule that relates to an organization's administration or operation rather than to its procedure in meetings. • For example, a rule about the time and place of regular meetings, or about a committee's jurisdiction, is a standing rule. — Also termed ordinary standing rule. 2. A special rule of continuing force. • Many conventions and other deliberative assemblies collect both their administrative and procedural rules into a set titled “standing rules.” See SPECIAL RULE(1).

rule,vb.1. To command or require; to exert control <the dictator ruled the country>.2. To decide a legal point <the court ruled on the issue of admissibility>.

## RULE, THE

rule, the.An evidentiary and procedural rule by which all witnesses are excluded from the courtroom while another witness is testifying <invoking “the rule”>. • The phrase “the rule” is used chiefly in the American South and Southwest, but it is a universal practice to exclude



witnesses before they testify. [Cases: Criminal Law 665; Federal Civil Procedure 2012; Trial 41. C.J.S. Criminal Law § 1195; Trial § 155.]

#### RULE 1.53 APPLICATION

Rule 1.53 application. See continued-prosecution application under PATENT APPLICATION .

#### RULE 10B-5

Rule 10b-5. The SEC rule that prohibits deceptive or manipulative practices (such as material misrepresentations or omissions) in the buying or selling of securities. — Also termed antifraud rule. [Cases: Securities Regulation 60.10–60.70. C.J.S. Securities Regulation §§ 105–106, 164–165, 169–228.]

#### RULE 11

Rule 11. Civil procedure. 1. In federal practice, the procedural rule requiring the attorney of record or the party (if not represented by an attorney) to sign all pleadings, motions, and other papers filed with the court and — by this signing — to represent that the paper is filed in good faith after an inquiry that is reasonable under the circumstances. • This rule provides for the imposition of sanctions, upon a party's or the court's own motion, if an attorney or party violates the conditions stated in the rule. Fed. R. Civ. P. 11. [Cases: Federal Civil Procedure 2750–2831.] 2. In Texas practice, the procedural rule requiring agreements between attorneys or parties concerning a pending suit to be in writing, signed, and filed in the court's record or made on the record in open court. Tex. R. Civ. P. 11. [Cases: Compromise and Settlement 5; Judgment 72. C.J.S. Compromise and Settlement § 19; Judgments §§ 183–184.]

#### RULE 109 STATEMENT

Rule 109 statement. Patents. A statement by a patent examiner of the reasons for allowing a patent claim. • An examiner may file a Rule 109 statement at any time if it appears that the record does not adequately reflect the reasons for allowance. It should state how the claim differs from prior art and why that difference is nonobvious. PTO Reg. § 1.109. — Also termed reasons for allowance. [Cases: Patents 104. C.J.S. Patents §§ 145–147, 149–151, 173–175.]

#### RULE 116 AMENDMENT

Rule 116 amendment. See amendment after final action under PATENT-APPLICATION AMENDMENT .

#### RULE 312 AMENDMENT

Rule 312 amendment. See amendment after allowance under PATENT-APPLICATION AMENDMENT .

#### RULE ABSOLUTE

rule absolute. See decree absolute under DECREE.

---

**RULE AGAINST ACCUMULATIONS**

rule against accumulations. See ACCUMULATIONS, RULE AGAINST.

**RULE AGAINST INALIENABILITY**

rule against inalienability. The principle that property must not be made nontransferable. — Also termed rule against trusts of perpetual duration. Cf. RULE AGAINST PERPETUITIES.

**RULE AGAINST PERPETUITIES**

rule against perpetuities. (sometimes cap.) Property. The common-law rule prohibiting a grant of an estate unless the interest must vest, if at all, no later than 21 years (plus a period of gestation to cover a posthumous birth) after the death of some person alive when the interest was created. • The purpose of the rule was to limit the time that title to property could be suspended out of commerce because there was no owner who had title to the property and who could sell it or exercise other aspects of ownership. If the terms of the contract or gift exceeded the time limits of the rule, the gift or transaction was void. See MEASURING LIFE. Cf. ACCUMULATIONS, RULE AGAINST. [Cases: Perpetuities 4. C.J.S. Perpetuities §§ 2, 12.]

“The true form of the Rule against Perpetuities is believed to be this: — NO INTEREST SUBJECT TO A CONDITION PRECEDENT IS GOOD, UNLESS THE CONDITION MUST BE FULFILLED, IF AT ALL, WITHIN TWENTY-ONE YEARS AFTER SOME LIFE IN BEING AT THE CREATION OF THE INTEREST.” John Chipman Gray, *The Rule Against Perpetuities* 144 (1886).

“Another scholar who spent a substantial part of an academic lifetime attempting to bring order and add sense to the rule [against perpetuities], W. Barton Leach, described the rule as a ‘technicality-ridden legal nightmare’ and a ‘dangerous instrumentality in the hands of most members of the bar.’” Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 178 (2d ed. 1984) (quoting Leach, *Perpetuities Legislation, Massachusetts Style*, 67 *Harv. L. Rev.* 1349 (1954)).

“The Rule Against Perpetuities is a rule against remoteness of vesting. A contingent future interest is invalid under the orthodox rule if, at the time of the creation of the interest, the circumstances are such that the contingency may go unresolved for too long a time. The Rule is not concerned with the duration of interests, that is, the length of time that they endure. It is not a rule against suspension of the power of alienation, nor a rule against restraints on alienation. It is not a rule that directly limits the duration of trusts .... The orthodox rule is satisfied if all contingent future interests are so created that they must vest, if they vest at all, within the perpetuities period.” Robert J. Lynn, *The Modern Rule Against Perpetuities* 9 (1966).

“The common law Rule Against Perpetuities (modified by statute in some states) provides that no interest is valid unless it must vest within 21 years after lives in being when the interest was created. The rule is something of a misnomer. It does not limit the duration of a condition in a bequest, but rather limits the testator's power to earmark gifts for remote descendants.” Richard A. Posner, *Economic Analysis of Law* § 18.7, at 394 (2d ed. 1977).

---

**RULE AGAINST PYRAMIDING INFERENCES**

rule against pyramiding inferences. See PYRAMIDING, RULE AGAINST.

**RULE AGAINST TRUSTS OF PERPETUAL DURATION**

rule against trusts of perpetual duration. See RULE AGAINST INALIENABILITY.

**RULE DAY**

rule day. See return day (3) under DAY.

**RULE IN HEYDON'S CASE**

Rule in Heydon's case. See MISCHIEF RULE.

**RULE IN SHELLEY'S CASE**

Rule in Shelley's Case. Property. The rule that if — in a single grant — a freehold estate is given to a person and a remainder is given to the person's heirs, the remainder belongs to the named person and not the heirs, so that the person is held to have a fee simple absolute. • The rule, which dates from the 14th century but draws its name from the famous 16th-century case, has been abolished in most states. *Wolfe v. Shelley*, 76 Eng. Rep. 206 (K.B. 1581). [Cases: Estates in Property 8. C.J.S. Estates § 7.]

“[T]he rule in Shelley's Case, the Don Quixote of the law, which, like the last knight errant of chivalry, has long survived every cause that gave it birth and now wanders aimlessly through the reports, still vigorous, but equally useless and dangerous.” *Stamper v. Stamper*, 28 S.E. 20, 22 (N.C. 1897).

**RULE IN WILD'S CASE**

Rule in Wild's Case. Property. The rule construing a grant to “A and A's children” as a fee tail if A's children do not exist at the effective date of the instrument, and as a joint tenancy if A's children do exist at the effective date. • The rule has been abolished along with the fee tail in most states.

**RULEMAKING**

rulemaking, n. The process used by an administrative agency to formulate, amend, or repeal a rule or regulation. — Also termed administrative rulemaking. Cf. ADMINISTRATIVE ADJUDICATION; INFORMAL AGENCY ACTION. [Cases: Administrative Law and Procedure 381–427. C.J.S. Public Administrative Law and Procedure §§ 87–114.] — rulemaking, adj.

formal rulemaking. Agency rulemaking that, when required by statute or the agency's discretion, must be on the record after an opportunity for an agency hearing, and must comply with certain procedures, such as allowing the submission of evidence and the cross-examination of witnesses. Cf. informal rulemaking. [Cases: Administrative Law and Procedure 381–427. C.J.S. Public Administrative Law and Procedure §§ 87–114.]

informal rulemaking. Agency rulemaking in which the agency publishes a proposed

regulation and receives public comments on the regulation, after which the regulation can take effect without the necessity of a formal hearing on the record. • Informal rulemaking is the most common procedure followed by an agency in issuing its substantive rules. — Also termed notice-and-comment rulemaking. See NOTICE-AND-COMMENT PERIOD. Cf. formal rulemaking. [Cases: Administrative Law and Procedure 381–427. C.J.S. Public Administrative Law and Procedure §§ 87–114.]

#### RULE NISI

rule nisi. See decree nisi under DECREE.

#### RULE OF CAPTURE

rule of capture. 1. The doctrine that if the donee of a general power of appointment manifests an intent to assume control of the property for all purposes and not just for the purpose of appointing it to someone, the donee captures the property and the property goes to the donee's estate. • One common way for the donee to show an intent to assume control for all purposes is to include provisions in his or her will blending the appointing property with the donee's own property. 2. Property. The principle that wild animals belong to the person who captures them, regardless of whether they were originally on another person's land. [Cases: Animals 2. C.J.S. Animals §§ 4–9.] 3. Water law. The principle that a surface landowner can extract and appropriate all the groundwater beneath the land by drilling or pumping, even if doing so drains away groundwaters to the point of drying up springs and wells from which other landowners benefit. • This doctrine has been widely abolished or limited by legislation. [Cases: Waters and Water Courses 101. C.J.S. Waters §§ 193, 195–197, 201–204.] 4. Oil & gas. A fundamental principle of oil-and-gas law holding that there is no liability for drainage of oil and gas from under the lands of another so long as there has been no trespass and all relevant statutes and regulations have been observed. — Also termed doctrine of capture; law of capture. Cf. AD COELUM DOCTRINE. [Cases: Mines and Minerals 47. C.J.S. Mines and Minerals §§ 140, 142.]

#### RULE OF COMPLETENESS

rule of completeness. See RULE OF OPTIONAL COMPLETENESS.

#### RULE OF CONSTRUCTION

rule of construction. See canon of construction under CANON(1).

#### RULE OF COURT

rule of court. A rule governing the practice or procedure in a given court < federal rules of court >. See LOCAL RULE. [Cases: Courts 85; Federal Civil Procedure 21. C.J.S. Courts § 130; Evidence § 7.]

#### RULE OF DECISION

rule of decision. A rule, statute, body of law, or prior decision that provides the basis for deciding or adjudicating a case. [Cases: Courts 88. C.J.S. Courts § 139; Trade-Marks, Trade-Names, and Unfair Competition § 187.]

---

**RULE OF DOUBT**

rule of doubt. 1. Copyright. The doctrine that unreadable or incomprehensible identifying material deposited with the U.S. Copyright Office may not be protected under copyright law because it cannot be easily examined to determine whether it qualifies. • This rule usu. applies to computer object code. Unlike a certificate of registration, a filing under the rule of doubt is not prima facie evidence of a valid copyright. [Cases: Copyrights and Intellectual Property 4. C.J.S. Copyrights and Intellectual Property §§ 9–10, 16.] 2. Patents. An abandoned judicial doctrine holding that when there is doubt whether an invention is patentable, the patent should be issued so that the inventor can test its validity in court.

**RULE OF EVIDENCE**

rule of evidence. See EVIDENCE(4).

**RULE OF FOUR**

rule of four. The convention that for certiorari to be granted by the U.S. Supreme Court, four justices must vote in favor of the grant. See CERTIORARI. [Cases: Federal Courts 452, 509.]

**RULE OF INCONVENIENCE**

rule of inconvenience. The principle of statutory interpretation holding that a court should not construe a statute in a way that will jeopardize an important public interest or produce a serious hardship for anyone, unless that interpretation is unavoidable. — Often shortened to inconvenience. [Cases: Statutes 181(2). C.J.S. Statutes § 318.]

**RULE OF INTERPRETATION**

rule of interpretation. See canon of construction under CANON(1).

**RULE OF JUSTICE**

rule of justice. A jurisprudential principle that determines the sphere of individual liberty in the pursuit of individual welfare, so as to confine that liberty within limits that are consistent with the general welfare of humankind.

**RULE OF LAW**

rule of law. 1. A substantive legal principle <under the rule of law known as respondeat superior, the employer is answerable for all wrongs committed by an employee in the course of the employment>. 2. The supremacy of regular as opposed to arbitrary power <citizens must respect the rule of law>. — Also termed supremacy of law. 3. The doctrine that every person is subject to the ordinary law within the jurisdiction <all persons within the United States are within the American rule of law>. 4. The doctrine that general constitutional principles are the result of judicial decisions determining the rights of private individuals in the courts <under the rule of law, Supreme Court caselaw makes up the bulk of what we call “constitutional law”>. 5. Loosely, a legal ruling; a ruling on a point of law <the ratio decidendi of a case is any rule of law reached by the judge as a necessary step in the decision>. [Cases: Courts 87. C.J.S. Courts §§ 135–136.]

---

**RULE OF LENITY**

rule of lenity (len-<<schwa>>-tee). The judicial doctrine holding that a court, in construing an ambiguous criminal statute that sets out multiple or inconsistent punishments, should resolve the ambiguity in favor of the more lenient punishment. — Also termed lenity rule. [Cases: Statutes 241(1).]

**RULE OF MARSHALING ASSETS**

rule of marshaling assets. An equitable doctrine that requires a senior creditor, having two or more funds to satisfy its debt, to first dispose of the fund not available to a junior creditor. • It prevents the inequity that would result if the senior creditor could choose to satisfy its debt out of the only fund available to the junior creditor and thereby exclude the junior creditor from any satisfaction. — Also termed marshaling doctrine; rule of marshaling securities; rule of marshaling remedies. [Cases: Debtor and Creditor 13. C.J.S. Assignments for Benefit of Creditors § 27; Creditor and Debtor §§ 110–112, 114, 118–119.]

**RULE OF MARSHALING LIENS**

rule of marshaling liens. See INVERSE-ORDER-OF-ALIENATION DOCTRINE.

**RULE OF MARSHALING REMEDIES**

rule of marshaling remedies. See RULE OF MARSHALING ASSETS.

**RULE OF MARSHALING SECURITIES**

rule of marshaling securities. See RULE OF MARSHALING ASSETS.

**RULE OF NECESSITY**

rule of necessity. A rule requiring a judge or other official to hear a case, despite bias or conflict of interest, when disqualification would result in the lack of any competent court or tribunal. — Often shortened to necessity. [Cases: Judges 39. C.J.S. Judges §§ 62, 98, 100–102, 107.]

**RULE OF OPERATION**

rule of operation. Patents. A method of using a machine to produce its intended useful result. • A rule of operation and moving parts generally distinguish a machine from an article of manufacture.

**RULE OF OPTIONAL COMPLETENESS**

rule of optional completeness. The evidentiary rule providing that when a party introduces part of a writing or an utterance at trial, the opposing party may require that the remainder of the passage be read to establish the full context. • The rule has limitations: first, no utterance can be received if it is irrelevant, and second, the remainder of the utterance must explain the first part. In many jurisdictions, the rule applies to conversations, to an opponent's admissions, to confessions, and to all other types of writings — even account books. But the Federal Rules of Evidence limit

the rule to writings and recorded statements. Fed. R. Evid. 106. In most jurisdictions, including federal, the remainder is admissible unless its admission would be unfair or misleading. — Also termed rule of completeness; doctrine of completeness; doctrine of optional completeness; completeness doctrine; optional-completeness rule; optional-completeness doctrine. [Cases: Criminal Law 396(2); Evidence 155, 383(12).C.J.S. Criminal Law § 758; Evidence §§ 248–250, 816–817.]

#### RULE OF ORDER

rule of order. See RULE(3).

#### RULE OF RANK

rule of rank. A doctrine of statutory construction holding that a statute dealing with things or persons of an inferior rank cannot by any general words be extended to things or persons of a superior rank. • Blackstone gives the example of a statute dealing with deans, prebendaries, parsons, vicars, and others having spiritual promotion. According to Blackstone, this statute is held not to extend to bishops, even though they have spiritual promotion, because deans are the highest persons named, and bishops are of a higher order. Cf. *EJUSDEM GENERIS*; *EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS*; *NOSCITUR A SOCIIS* .

#### RULE OF REASON

rule of reason. Antitrust. The judicial doctrine holding that a trade practice violates the Sherman Act only if the practice is an unreasonable restraint of trade, based on economic factors. See *SHERMAN ANTITRUST ACT*; *RESTRAINT OF TRADE* . Cf. *PER SE RULE*. [Cases: Monopolies 12(1.10). C.J.S. Monopolies §§ 47–52, 72, 78, 80–82, 105.]

#### RULE OF RECOGNITION

rule of recognition. In the legal theory of H.L.A. Hart, a legal system's fundamental rule, by which all other rules are identified and understood. • In *The Concept of Law* (1961), Hart contends that a society's legal system is centered on rules. There are primary rules of obligation, which prescribe how a person should act in society, and secondary rules, by which the primary rules are created, identified, changed, and understood. A “rule of recognition” is a secondary rule, and serves to instruct citizens on when a pronouncement or societal principle constitutes a rule of obligation. Cf. *RULES OF CHANGE*; basic norm under *NORM*. — Sometimes shortened to recognition.

“This rule [the rule of recognition] may amount to no more than specifying a list of primary rules carved on a public monument. Or it may actually be a complete set of rules ....” Martin P. Golding, *Philosophy of Law* 44 (1975).

#### RULE OF RIGHT

rule of right. The source of a right; the rule that gives rise to a right.

#### RULE OF 72

rule of 72.A method for determining how many years it takes to double money invested at a compound interest rate. • For example, at a compound rate of 6%, it takes 12 years (72 divided by 6) for principal to double.

#### RULE OF 78

rule of 78.A method for computing the amount of interest that a borrower saves by paying off a loan early, when the interest payments are higher at the beginning of the loan period. • For example, to determine how much interest is saved by prepaying a 12-month loan after 6 months, divide the sum of the digits for the remaining six payments (21) by the sum of the digits for all twelve payments (78) and multiply that percentage by the total interest. — Also termed rule of the sum of the digits.

#### RULE OF THE FLOATING SUBTRAHEND

rule of the floating subtrahend.The common-law doctrine that a plaintiff whose damage was not caused entirely by the defendant must prove the amount of damage that is not attributable to the defendant (the subtrahend) or else recover nothing. • The reasoning behind the rule is that damage is an essential element of a tort claim, and the plaintiff has the burden of proof. If proved, the subtrahend is subtracted from the total damage to determine the plaintiff's recovery.

#### RULE OF THE LAST ANTECEDENT

rule of the last antecedent.An interpretative principle by which a court determines that qualifying words or phrases modify the words or phrases immediately preceding them and not words or phrases more remote, unless the extension is necessary from the context or the spirit of the entire writing. • For example, an application of this rule might mean that, in the phrase Texas courts, New Mexico courts, and New York courts in the federal system, the words in the federal system might be held to modify only New York courts and not Texas courts or New Mexico courts. — Also termed doctrine of the last antecedent; doctrine of the last preceding antecedent. [Cases: Statutes 196. C.J.S. Statutes §§ 331, 333.]

#### RULE OF THE SHORTER TERM

rule of the shorter term.Copyright. A provision of the Universal Copyright Convention stating that no member country is required to extend a longer term of protection than the work receives in the country where it is first published. — Also termed shorter-term rule.

#### RULE OF THE SUM OF THE DIGITS

rule of the sum of the digits.See RULE OF 78.

#### RULE OF UNIVERSAL INHERITANCE

rule of universal inheritance.See UNIVERSAL-INHERITANCE RULE.

#### RULES COMMITTEE

rules committee.See COMMITTEE.



---

**RULES OF CHANGE**

rules of change. In the legal theory of H.L.A. Hart, the fundamental rules by which a legal system's other rules are altered. • In Hart's theory, a legal system's primary rules are subject to identification and change by secondary rules. Among those rules are "rules of change," which prescribe how laws are altered or repealed. Cf. **RULE OF RECOGNITION**.

**RULES OF COURT**

rules of court. See **COURT RULES**.

**RULES OF DECISION ACT**

Rules of Decision Act. A federal statute (28 USCA § 1652) providing that a federal court, when exercising diversity jurisdiction, must apply the substantive law of the state in which the court sits. See diversity jurisdiction under **JURISDICTION**. [Cases: Federal Courts 373.]

**RULES OF EVIDENCE**

rules of evidence. 1. **EVIDENCE**(4). 2. **FEDERAL RULES OF EVIDENCE**.

**RULES OF NAVIGATION**

rules of navigation. Maritime law. The principles and regulations that govern the steering and sailing of vessels to avoid collisions. • Examples include the International Rules governing conduct on the high seas and the Inland Rules governing navigation on the inland waters of the United States and U.S. vessels on the Canadian waters of the Great Lakes. 33 USCA §§ 1602–1608, 2001–73. [Cases: Collision 3–16. C.J.S. Collision §§ 9, 13–16, 22–24, 26–35.]

**RULES OF ORDER**

rules of order. See **RULE**(3).

**RULES OF PROCEDURE**

rules of procedure. See **PROCEDURE**(2).

**RULE TO SHOW CAUSE**

rule to show cause. 1. **SHOW-CAUSE PROCEEDING**. 2. See show-cause order under **ORDER**(2).

**RULING**

ruling, n. 1. The outcome of a court's decision either on some point of law or on the case as a whole. — Also termed legal ruling. Cf. **JUDGMENT**(1); **OPINION**(1). [Cases: Courts 88. C.J.S. Courts § 139; Trade-Marks, Trade-Names, and Unfair Competition § 187.]

“A distinction is sometimes made between rules and rulings. Whether or not a formal distinction is declared, in common usage ‘legal ruling’ (or simply ‘ruling’) is a term ordinarily used to signify the outcome of applying a legal test when that outcome is one of relatively narrow

impact. The immediate effect is to decide an issue in a single case. This meaning contrasts, for example, with the usual meaning of 'legal rule' (or simply 'rule'). The term 'rule' ordinarily refers to a legal proposition of general application. A 'ruling' may have force as precedent, but ordinarily it has that force because the conclusion it expresses (for example, 'objection sustained') explicitly depends upon and implicitly reiterates a 'rule' — a legal proposition of more general application ...." Robert E. Keeton, *Judging* 67–68 (1990).

2.Parliamentary law. The chair's decision on a point of order. — rule,vb.

#### RULING CASE

ruling case.See LEADING CASE(3).

#### RULING LETTER

ruling letter.See DETERMINATION LETTER.

#### RULPA

RULPA.abbr.Revised Uniform Limited Partnership Act. See UNIFORM LIMITED PARTNERSHIP ACT .

#### RUN

run,vb.1. To expire after a prescribed period <the statute of limitations had run, so the plaintiff's lawsuit was barred>.2. To accompany a conveyance or assignment of (land) <the covenant runs with the land>. [Cases: Covenants 53–84. C.J.S. Covenants §§ 6, 25–37.] 3. To apply < the injunction runs against only one of the parties in the dispute>.

#### RUNAWAY

runaway. A person (usu. a juvenile) who has fled from the custody of legal guardians without permission and who has failed to return within a reasonable time; esp., an unemancipated minor who has left home, usu. indefinitely. Cf. THROWAWAY. — run away,vb.

#### RUNAWAY GRAND JURY

runaway grand jury.See GRAND JURY.

#### RUNNER

runner. 1. A law-office employee who delivers papers between offices and files papers in court. 2. One who solicits personal-injury cases for a lawyer. — Also termed capper. 3. A smuggler. 4.BrE. Slang. An escape; flight (from something); a voluntary disappearance.

#### RUNNING ACCOUNT

running account.See ACCOUNT.

#### RUNNING-DOWN CLAUSE

---

running-down clause. Marine insurance. A provision for the hull insurer's paying a proportion of the damages sustained by the other vessel in a collision.

**RUNNING OBJECTION**

running objection. See continuing objection under **OBJECTION**.

**RUNNING POLICY**

running policy. See floating policy under **INSURANCE POLICY**.

**RUNNING WITH THE LAND**

running with the land. Property. See covenant running with the land under **COVENANT(4)**.

**RUNOFF ELECTION**

runoff election. See **ELECTION(3)**.

**RURAL BUSINESS-COOPERATIVE SERVICE**

Rural Business-Cooperative Service. An agency in the U.S. Department of Agriculture responsible for making loans and grants to public agencies and private parties to develop rural businesses. — Abbr. RBS.

**RURAL ELECTRIFICATION ADMINISTRATION**

Rural Electrification Administration. A former agency in the U.S. Department of Agriculture responsible for making or guaranteeing loans to rural electric and telephone utilities. • Its duties were transferred to the Rural Utilities Service in 1994. — Abbr. REA. See **RURAL UTILITIES SERVICE**.

**RURAL HOUSING SERVICE**

Rural Housing Service. An agency in the U.S. Department of Agriculture responsible for making or guaranteeing loans for rural housing. — Abbr. RHS.

**RURAL SERVITUDE**

rural servitude. See **SERVITUDE(2)**.

**RURAL UTILITIES SERVICE**

Rural Utilities Service. An agency in the U.S. Department of Agriculture responsible for making or guaranteeing loans to rural electric and telecommunication utilities. • The agency is the successor to the Rural Electrification Administration. — Abbr. RUS.

**RUS**

RUS. abbr. **RURAL UTILITIES SERVICE**.

**RUSTICA ET URBANA**

---

rustica et urbana (r<<schwa>>s-ti-k<<schwa>> et <<schwa>>r-bay-n<<schwa>>). [Latin] Hist. Rural and urban. • The phrase appeared in reference to servitudes. See SERVITUS.

#### RUSTICUM FORUM

rusticum forum (r<<schwa>>s-ti-k<<schwa>>m for-<<schwa>>m). Any nonjudicial body (such as an arbitral panel or workers'-compensation review board) that has authority to make a binding decision. — Also termed poor man's court.

#### RUSTICUM JUDICIUM

rusticum judicium (r<<schwa>>s-ti-k<<schwa>>m joo-dish-ee-<<schwa>>m). 1. The division of liability so that one party (usu. a defendant) must pay only part (usu. half) of another party's (usu. the plaintiff's) loss. • Rusticum judicium originated in 17th century maritime law as a means of efficiently resolving collision cases in which both ships were at fault. In maritime law, damages were equally divided. — Also termed rusticum jus. Cf. comparative negligence under NEGLIGENCE. 2. Rare. Rough justice; a rustic tribunal. • This is a literal translation of the term, used colloquially rather than accurately. — Sometimes misspelled rusticum judicum.

#### RUSTICUM JUS

rusticum jus (r<<schwa>>s-ti-k<<schwa>>m j<<schwa>>s). Maritime law. See RUSTICUM JUDICIUM(1).