

Black's Law Dictionary[®]

Seventh Edition

Bryan A. Garner
Editor in Chief



ST. PAUL, MINN., 1999

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Preface

When Henry Campbell Black published the first edition of *Black's Law Dictionary* back in 1891, the *Oxford English Dictionary* had not yet been completed. Nor was the *OED* finished when Black prepared his second edition in 1910. By today's standards, the "gentle art of lexicography,"¹ as it has been called, was yet to experience the tremendous dictionary-making developments that the 20th century had in store, the highlights being the *OED* (1928), *Webster's Second* (1934), *Webster's Third* (1961), and the second edition of the *OED* (1989). Largely through the influence of these major works, dictionaries today are much better than they used to be.

Legal scholarship has also made tremendous strides — even in describing pre-19th-century law. The great legal historians Pollock, Maitland, and Holdsworth had not yet produced their monumental works when Black put out the first edition. Our understanding of Roman law is better today than it was a century ago. Our understanding of feudal law is much better. Meanwhile, our precedent-based system still has not entirely escaped the influence of Roman and feudal law.

At the same time, modern law hurtles headlong into decade after decade of new statutes, new doctrines, and new tripartite tests. The world — as well as the law that tries to govern it — is changing at a dizzying pace. If you want evidence of this change, look inside for the hundreds of new entries such as *cyberstalking*, *jurimetrics*, *parental kidnapping*, *quid pro quo sexual harassment*, *reproductive rights*, and *viatical settlement*.

Given all these developments — both in lexicography and in law — it is hardly surprising that, by the end of the 20th century, *Black's Law Dictionary* had come to need a major overhaul. This edition is the result of that effort.

New Features in the Seventh Edition

Significant strides have been made both in modernizing this edition and in improving its historical depth. The editors' goal was to make it at once the most scholarly and the most practical edition ever published. More than 4,500 entries in the book are entirely new. (Some of the new entries are surprising: previous editions had omitted some commonplace terms such as *act of Congress*, *circuit judge*, *motion for summary judgment*, *senatorial courtesy*, and *sidebar comment*.) Of the remaining 20,000 entries, all have been thoroughly revised: sharpened and tightened.

Aside from the thousands of new entries and subentries, the differences between earlier editions and this one are many. The headwords show whether a term should be uppercase or lowercase, roman or italic.

¹ Eric Partridge, *The Gentle Art of Lexicography, as Pursued and Experienced by an Addict* (1963).

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The pronunciation symbols are easy to understand. For the first time ever, etymologies systematically appear. Senses of words are analytically broken down and given numbers — as never before. Definitions are clearer than ever (though the battle for clarity, when the subject is feudal law, can never be completely won). Bullets now appear within definitions to help differentiate definitional information (before the bullet) from encyclopedic information (after the bullet). More than 2,000 newly added quotations from some 400 important works of Anglo-American legal scholarship appear throughout the text to help convey the nuances of the legal vocabulary. (More about these in a moment.) The 2,200 legal maxims (mostly Latin) are conveniently collected in an appendix, instead of cluttering the main lexicon. In addition, my colleagues and I have:

- Attempted a thorough marshaling of the language of the law from original sources.
- Examined the writings of specialist scholars rather than looking only at judicial decisions.
- Considered entries entirely anew rather than merely accepting what previous editions have said. We have often checked Westlaw and other sources when trying to decide which of two competing forms now predominates in legal usage.
- Imposed analytical rigor on entries by avoiding duplicative definitions and by cataloguing and numbering senses.
- Ensured that specialized vocabularies are included — from bankruptcy to securities law, from legal realism to critical legal studies.

This modern approach to legal lexicography is only a beginning. To its great credit, the West Group has now made the editing of *Black's Law Dictionary*, in its various editions, an ongoing project. This means that *Black's*, like all major dictionaries outside the law, will be a continuing work in progress. As the law continues its rapid evolution, *Black's Law Dictionary* will keep apace.

The Inclusion of Scholarly Quotations

In a novel feature, more than 2,000 quotations from scholarly works appear throughout the text to help round out the treatment of various terms. In selecting these quotations, my colleagues and I have sought a blend of characteristics: temporal and geographic range, aptness, and insight. Some scholars show great astuteness in discussing terminology — particularly Blackstone (English law), Glanville Williams (criminal law and jurisprudence), Rollin Perkins (criminal law), and Charles Alan Wright (federal procedure). Although Blackstone and Wright are well known to American lawyers, Williams and Perkins are not: their work deserves more widespread attention.

The List of Works Cited (Appendix G) sets forth the 400-plus lawbooks cited in these pages. We have tried to locate the best scholarly discussions of legal terminology and to give snippets of them. In future edi-

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tions, we intend to continue this practice, and we encourage readers to submit published quotations for this purpose.

The Challenge of Legal Lexicography

Law dictionaries have a centuries-old tradition of apologizing in advance for errors and omissions. Some of the apologies are moving — especially to one who understands the arduousness of lexicography — and a few border on the humorous:

- 1607:** “[I]f I have either omitted any hard word within my circuit, or set it downe not expounded, I give you good leave to impute the one to my negligence, the other to mine ignorance: and so commend these my paines to your best profit, and you unto God.”²
- 1670:** “If I have sometimes committed a *Jeofaile*, or hunted Counter in any explication or Etymology, in so large a field of words, and stor’d with such variety of Game, it will be no wonder, and, I hope, will draw no censure upon me from the Ingenuous [I]f I leave some words with a *Quaere* . . . to be resolved or corrected by the more learned; it is but what Cowell frequently, and Spelman has sometimes done.”³
- 1732:** “[W]here there is such great Variety of Learning and abundant Quantity of Nice Matter, with the utmost Care, there must be some Faults and Failings to be Pardon’d by the Reader.”⁴
- 1839:** “To those who are aware of the difficulties of the task, the author deems it unnecessary to make any apology for the imperfections which may be found in the work. His object has been to be useful; if that has been accomplished in any degree, he will be amply rewarded for his labour; and he relies upon the generous liberality of the members of the profession to overlook the errors which may have been committed in his endeavours to serve them.”⁵
- 1848:** “It is not without very considerable diffidence, that this Lexicon is submitted to the indulgence of the Profession and the Public, for no man can be more conscious of the difficulties besetting such a subject — of the many requisites of the task — and above all, of the great discrepancy usually exhibited between what a book *ought to be*, and what it *is* — than the Author of the present undertaking.”⁶
- 1859:** “[T]he work is now submitted to the examination of the profession. That its execution has fallen far short of its design, is already but too apparent to the author’s own observation. Of the defects that may be discovered in its pages, some seem to be inseparable from the task of first compiling any matter of the kind from sources so numerous, and scattered over so wide a field.”⁷

² John Cowell, *The Interpreter* 5 (1607).

³ Thomas Blount, *Nomo-Lexicon: A Law-Dictionary* [n.p.] (1670).

⁴ Giles Jacob, *A New Law-Dictionary* 4 (2d ed. 1732).

⁵ John Bouvier, *A Law Dictionary* viii (1839).

⁶ J.J.S. Wharton, *The Legal Lexicon, or Dictionary of Jurisprudence* iii (1st Am. ed. 1848).

⁷ Alexander M. Burrill, *A Law Dictionary and Glossary* xv (1859).

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1874: “[W]ithout craving the indulgence of the public, whose servant he is, and to whom, therefore, if he serve up anything he should in all conscience serve up a proper dish, [the Author] is reluctant to acknowledge that an unaccustomed feeling of diffidence has once or twice assailed him, lest his work should not prove so absolutely faultless or so generally useful as it has been his wish to make it.”⁸

In the first edition of this book (1891), Henry Campbell Black broke the tradition, boldly asserting the exhaustiveness of his work:

“The dictionary now offered to the profession is the result of the author’s endeavor to prepare a concise and yet comprehensive book of definitions of the terms, phrases, and maxims used in American and English law and necessary to be understood by the working lawyer and judge, as well as those important to the student of legal history or comparative jurisprudence. . . . Of the most esteemed law dictionaries now in use, each will be found to contain a very considerable number of words not defined in any other. None is quite comprehensive in itself. The author has made it his aim to include *all* these terms and phrases here, together with some not elsewhere defined.” Henry Campbell Black, *A Dictionary of Law* iii (1891).

There is no lack of confidence expressed anywhere in his preface.

Yet in putting forth this seventh edition, I confess that my feelings incline more to those of Black’s predecessors than to those of Black himself.

A Lot of Help from Our Friends

Diffidence, though, can lead to safeguards. And so it has in this work. I engaged several distinguished scholars who thoroughly vetted the entire manuscript:

- Tony Honoré, former holder of the Regius Professorship in Civil Law at Oxford University, and author of many important books, including *Causation in the Law* (with H.L.A. Hart).
- Joseph F. Spaniol, Jr., former Clerk of the Supreme Court of the United States, whose wide-ranging experience includes decades of service in federal rulemaking as a consultant to the Standing Committee on Rules of Practice and Procedure.
- David M. Walker, former holder of the Regius Professorship in Law at Glasgow University, perhaps the most prolific legal writer in the British Isles, and author of the renowned *Oxford Companion to Law* (1980).

Additionally, in about a third of the manuscript, we had the help of Hans W. Baade, holder of the Hugh Lamar Stone Chair in Civil Law at the University of Texas. He is a comparativist of the first rank whose expertise ranges from domestic relations to international transactions to conflict of laws.

⁸ Archibald Brown, *A New Law Dictionary* vi (1874).

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On the editorial side, several of my colleagues at LawProse, Inc. played crucial roles. David W. Schultz, a seasoned editor who joined the *Black's* team in 1995, was invaluable in producing both the pocket edition (which appeared in 1996) and this unabridged edition. His editorial judgments have improved every page. Lance A. Cooper, an aspiring legal historian, joined the team in 1997, working skillfully on thousands of entries for more than 18 months. Elizabeth C. Powell arrived in 1998, bringing with her a keen intellect, ten years of lawyerly experience, and an amazing capacity for hard work. All three — Schultz, Cooper, and Powell — are splendid lawyers who, not so long ago, never imagined they would one day be legal lexicographers. Yet they learned dictionary-making as the best lexicographers do: on the job. And they've become quite accomplished.

When it came to pronunciations, though, I knew we needed someone already expert in the art. This dictionary presents extraordinary challenges to a pronunciation editor, being full of Latin and French as well as Law Latin (the impure Latin of Renaissance lawyers) and Law French (the Norman French of medieval lawyers). Fortunately, Charles Harrington Elster of San Diego, an orthoepist with several excellent books to his credit, was willing to take on the task. He wisely guided us through the confusing mazes of Anglo-Latin, the only type of Latin with a continuous tradition in Anglo-American law. Even if some of the pronunciations strike you at first as odd, you can be sure that there is sound authority for them.

On translating Greek, Latin, and French, we had the benefit of many scholars' expertise. Professors Honoré and Walker supplied many of our etymologies. So did Edwin Carawan and Alison Parker, both of whom hold Ph.D.s in Classics; they examined all the maxims listed in Appendix A and supplied new translations and annotations for them.

As the manuscript deadline approached, I asked 30 judges, lawyers, and academics — mostly practicing lawyers — to read and comment on a batch of 150 pages of manuscript each. All of them generously agreed. I am enormously grateful to each of these learned lawyers:

Paul H. Anderson	Joseph Kimble
Beverly Ray Burlingame	Edward J. Kionka
Jordan B. Cherrick	Kent N. Mastores
Charles Dewey Cole, Jr.	Lann G. McIntyre
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James K. Logan	Randall M. Tietjen
Margaret I. Lyle	Carla L. Wheeler
Susan L. Karamanian	Richard C. Wydick

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What I hadn't fully reckoned, when sending out batches of manuscript, was how challenging it would be to integrate more than 4,500 pages of lightly to heavily edited text. Evaluating and entering the edits into our database took three full-time lawyers the better part of six weeks. Fortunately, Beverly Ray Burlingame of Dallas, an immensely talented editor and prodigiously hard worker, took time off from her busy law practice to help complete the project. She made huge contributions during the final stage.

But hers was not the only extraordinary act on behalf of the cause. During the final months, Michael L. Atchley of Dallas, upon learning of our deadline, began sending us draft entries for several hundred terms that were missing from the sixth edition. His broad legal knowledge, as well as his natural aptitude for lexicography, showed in all his work. Then he generously read and commented on large stacks of manuscript.

Several lawyers made important contributions beyond those I've already described. Ann Taylor Schwing of Sacramento painstakingly culled through the 90 volumes of *Words and Phrases* for possible inclusions, and she read large portions of the manuscript. Elizabeth Sturdivant Kerr of Fort Worth contributed drafts of many entries for the letters E, H, and T, and she read much of the manuscript. Michelle D. Monse of Dallas contributed drafts of many L entries. Stephen W. Kotara of Dallas contributed to the letters F and G. Meanwhile, Terrence W. Kirk of Austin submitted many useful drafts of criminal-law definitions.

As the work progressed, I occasionally ran queries by scholars in various legal specialties, and they all responded helpfully. Many thanks to J.H. Baker, Peter Butt, Robert W. Hamilton, Herbert J. Hammond, Geoffrey C. Hazard, Jr., Gideon Kanner, Robert E. Keeton, John S. Lowe, Neil MacCormick, Joseph W. McKnight, Sir Robert Megarry, Richard A. Posner, William C. Powers, Jr., Thomas M. Reavley, Christoph Schreuer, Sir David Williams, and Charles Alan Wright. In a specialized review, Marc I. Steinberg commented on the business-law terms throughout the book.

Several universities provided significant assistance. While working on the project, I was an adjunct professor at Southern Methodist University School of Law. Meanwhile, I had stints as a visiting scholar at the University of Glasgow (July 1996), under the sponsorship of Professor David M. Walker; at the University of Cambridge (July 1997), under the sponsorship of Vice-Chancellor Emeritus Sir David Williams; and at the University of Salzburg (July 1998), under the sponsorship of Professors Wolfram Karl and Christoph Schreuer. I used the libraries at each of those universities to good advantage. I also made good use of the renowned Tarlton Law Library at the University of Texas (thanks to Professor Roy M. Mersky and his colleagues). And the entire *Black's* team constantly used the Underwood Law Library at Southern Methodist University (thanks to Professor Gail Daly and her colleagues). Also, I was able to carry out some research at the Langdell Law Library at Harvard University. To all of these libraries and their staffs, I am grateful for the cordial help they unflinchingly gave.

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Professor Mersky helped in another notable way: he and several of his colleagues — Beth Youngdale, Marlyn Robinson, and Monika Szakassits — generously verified the accuracy of our List of Works Cited (Appendix G).

Five research assistants — extraordinarily talented law students at Southern Methodist University School of Law — verified citations throughout the book. The editors are much indebted to Daniel Alexander, Julie Buffington, Nicole Schauf Gambrell, Peggy Glenn-Summitt, and Kenneth E. Shore. I especially thank Julie Buffington for organizing this team and ensuring the timely completion of a complex task.

Karen Magnuson of Portland, who has worked on several of my other books, courageously proofread the entire 3,500-page single-spaced manuscript as we worked through the final draft. Her talents as a proofreader are, in my experience, unmatched.

Many others contributed to the book in various ways: the late Alexander Black of Rochester began a reading program to gather illustrative quotations for our files; Thomas M. Fleming of Rochester continued that program for most of its duration; Caroline B. Garner of Dallas located historical legal terms in early dictionaries; E.N. Genovese of San Diego helped supply some foreign pronunciations; Tanya Glenn of Dallas typed the initial list of maxims; Michael Greenwald of Philadelphia helped on terms relating to the American Law Institute; and Tinh T. Nguyen of Dallas, with unusual enthusiasm, carried out the tedious but necessary task of checking cross-references and alphabetization.

While the project has been housed at LawProse, Inc. — as it will be through at least the next edition — Pan Garner, vice president of the company, has handled its business operations with energy, enthusiasm, and care. This included, over several years, working with me to acquire one of the most comprehensive collections of law-related dictionaries anywhere to be found. This collection has been invaluable in our work.

At the West Group, David J. Oliveiri, Doug Powell, John Perovich, and Brendan Bauer had the imagination and the forcefulness to make the book a reality. Their logistical support, not to mention their moral support, helped everyone involved in the project. In the production department, Kathy Walters worked wonders to produce the book within a tight deadline.

Tremendous amounts of talent and toil have gone into the making of this book. Yet the worries of early lexicographers have a haunting ring: this work might not prove as absolutely faultless as it has been my wish to make it. If that turns out to be so, as it inevitably will, I can only hope that readers will recognize the genuine merits residing in these pages.

Bryan A. Garner
Dallas, Texas
June 1999

Guide to the Dictionary

1. Alphabetization

All headwords, including abbreviations, are alphabetized letter by letter, not word by word. Spaces, apostrophes, hyphens, virgules, and the like do not count. For example:

co-
co
c/o
COA
coadjutor
coal note
Coase Theorem
co-assignee
coasting trade
coast water

Numbers in headwords are ordered as follows: spelled-out numbers are alphabetized letter by letter; numbers written as numerals are arranged in ascending numerical order. Thus:

Nineteenth Amendment
1933 Act
1934 Act
ninety-day letter
Ninth Amendment
nisi

Commas break the letter-by-letter alphabetization if they are backward-looking (e.g., *perpetuities*, *rule against*), but not if they are forward-looking (e.g., *right*, *title*, and *interest*).

2. Pronunciations

A word may have more than one acceptable pronunciation. When that is so, the preferred pronunciation appears first. Pronunciations are separated by *or* if each of them is standard among English-speaking lawyers. A pronunciation is introduced by *also* if it is either non-standard or not as widely accepted as the first pronunciation. Thus:

lessor (**les-or** or **le-sor**).
voir dire (vwahr **deer** *also* vor **deer** or vor **dir**), *n*.

Boldface syllables receive primary stress. For variably pronounced syllables, often only the changed syllables are included. For example:

scienter (sI-**en**-tər or see-), *n*.

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Brackets in a pronunciation indicate an optional sound, as in *fiduciary* (fi-**d**[y]**oo**-shee-er-ee).

For handy reference, the pronunciation guide is located inside the front cover.

3. Etymologies

The origins of most foreign words and phrases are given in brackets. By far the most frequent etymologies are “Latin” (i.e., the classical Latin used during the time of ancient Rome) and “Law Latin” (i.e., the Anglicized Latin formerly used in legal documents and proceedings). Essentially, the *Law Latin* tag corresponds to what some dictionaries call *Late Latin*, and others *Medieval Latin*. Other languages of origin are listed as well, including French, Law French, Old English, Greek, German, and Dutch.

4. Tags

Two types of tags appear. First, there are usage tags:

Hist. = historical; no longer current in law

Archaic = old-fashioned and declining in use

Rare = very infrequent in modern usage

Slang = very informal

Second, there are many subject-matter tags that identify the field of law that a particular term or sense belongs to (e.g., *Antitrust*, *Commercial law*, and *Wills & estates*). Two of these tags deserve special mention. *Roman law* indicates a term that can be traced back to the legal system of the ancient Romans. *Civil law* indicates a term that is used in modern civil-law systems, including much of the law in Louisiana.

5. Angle Brackets

Contextual illustrations of a headword are given in angle brackets:

taxable, *adj.* **1.** Subject to taxation <interest earned on a checking account is taxable income>. **2.** (Of legal costs or fees) assessable <expert-witness fees are not taxable court costs>.

6. Bullets

Bullets are used to separate definitional information (before the bullet) from information that is not purely definitional (after the bullet), such as encyclopedic information or usage notes.

7. Cognate Forms

This dictionary lists corresponding parts of speech. For example, under the definition of *confirmation*, the corresponding verb (*confirm*) and adjective (*confirmatory*) are listed.

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If a cognate form applies to only one sense of a headword, that form is denoted as follows:

construction, *n.* **1.** The act of building by combining or arranging parts or elements; the thing so built. **2.** The act or process of interpreting or explaining the sense or intention of something (usu. a statute, opinion, or instrument). — **construct** (for sense 1), *vb.* — **construe** (for sense 2), *vb.*

delegation, *n.* **1.** The act of entrusting another with authority or empowering another to act as an agent or representative <delegation of contractual duties>. **2.** A group of representatives <a large delegation from Texas>. — **delegate** (**del-ə-gayt**) (for sense 1), *vb.* — **delegable** (**del-ə-gə-bəl**) (for sense 1), *adj.*

8. Cross-references

a. See

The signal “See” is used in three ways:

- (1) To indicate that the definition is at another location in the dictionary:

secondary boycott. See **BOYCOTT.**

assembly, right of. See **RIGHT OF ASSEMBLY.**

- (2) To refer to closely related terms:

mercy. Compassionate treatment, as of criminal offenders or of those in distress; esp., imprisonment, rather than death, imposed as punishment for capital murder. See **CLEMENCY.**

investment banker. A person or institution that underwrites, sells, or assists in raising capital for businesses, esp. for new issues of stocks or bonds; a trader at an investment bank. See *investment bank* under **BANK.**

- (3) To refer to a synonymous subentry:

pure easement. See *easement appurtenant* under **EASEMENT.**

b. Cf.

“Cf.” is used to refer to related but contrastable terms:

strategic alliance. A coalition formed by two or more persons in the same or complementary businesses to gain long-term financial, operational, and marketing advantages without jeopardizing competitive independence <through their strategic alliance, the manufacturer and distributor of a co-developed product shared development costs>. Cf. **JOINT VENTURE; PARTNERSHIP.**

testacy (**tes-tə-see**), *n.* The fact or condition of leaving a valid will at one's death. Cf. **INTESTACY.**

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c. Also termed

The phrase “also termed” at the end of an entry signals a synonymous word or phrase. Variations on “also termed” include “also spelled,” “also written,” and “often shortened to.”

d. Terms with multiple senses

If the cross-referenced term has multiple senses, the particular sense referred to is indicated in parentheses:

appropriation bill. See BILL (3).

common mistake. See *mutual mistake* (2) under MISTAKE.

9. Quotations

Quotations are set off in small type. Most quotations are included because they provide nuances that would otherwise not be available within the strict confines of a traditional definition. Older quotations show what scholars said about legal terminology at particular points in history. The editors have selected quotations on the basis of aptness, insight, and clarity. Please note that some of the older quotations might not fully reflect current law.

10. Subentries

Many terms in this dictionary are collected by topic. For example, the different types of contracts, such as *bilateral contract* and *gratuitous contract*, are defined under the main term *contract*. (Cross-references in B and G will refer readers who look up *bilateral contract* and *gratuitous contract* to *contract*.) If a term has more than one sense, then the corresponding subentries are placed under the appropriate sense of that term.

11. Typefaces

Most of the typefaces used in this dictionary are self-explanatory. For instance, all headwords and cognate forms are in boldface type and all subentries are italicized. As for headwords of foreign origin, those that are fully naturalized are in boldface Roman type, while those that are not fully naturalized are in boldface italics. Generally, small caps are used with “See” and “Cf.” cross-references. Three other uses of small caps deserve special mention:

- a. Small caps refer to a synonymous headword. In the following example, the small caps suggest that you review the definition at *contiguous* for more information:

adjoining (ə-**joyn**-ing), *adj.* Touching; sharing a common boundary; CONTIGUOUS. — **adjoin** (ə-**joyn**), *vb.* Cf. ADJACENT.

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- b.** Small caps also refer to the predominant form when it may be phrased or spelled in more than one way. For example, the following uses of small caps direct you to the entries at *perjury* and *payor*:

false swearing. See PERJURY.

payer. See PAYOR.

- c.** Small caps also refer to the spelled-out form of abbreviations (the term is defined at the spelled-out headword, not the abbreviated form). For example:

FDIC. *abbr.* FEDERAL DEPOSIT INSURANCE CORPORATION.

Federal Deposit Insurance Corporation. An independent governmental agency that insures bank deposits up to a statutory amount per depositor at each participating bank. ● The insurance fund is financed by a premium paid by the participating banks. — *Abbr.* FDIC.



List of Abbreviations

abbr.	=	abbreviated as; abbreviation for
adj.	=	adjective
adv.	=	adverb
BrE	=	British English
ca.	=	circa
cap.	=	capitalized
cf.	=	(<i>confer</i>) compare with
ch.	=	chapter
conj.	=	conjunction
ed.	=	edition; editor
e.g.	=	(<i>exempli gratia</i>) for example
esp.	=	especially
et seq.	=	(<i>et sequentes</i>) and those (pages or sections) that follow
fr.	=	from; derived from
<i>id.</i>	=	(<i>idem</i>) in the same work
i.e.	=	(<i>id est</i>) that is
l.c.	=	lowercase
n.	=	noun; note
no.	=	number
¶	=	paragraph
pl.	=	plural
pp.	=	pages
p.pl.	=	past participle
prep.	=	preposition
prob.	=	probably
pt.	=	part
repr.	=	reprinted
rev.	=	revised by; revision
§	=	section
sing.	=	singular
specif.	=	specifically
usu.	=	usually
vb.	=	verb

