

**J.**

J.abbr.1.JUDGE. 2.JUSTICE(2).3.JUDGMENT. 4.JUS. 5.JOURNAL.

JA

JA.abbr.1.JUDGE ADVOCATE. 2. See joint account under ACCOUNT.

JAC.

Jac.abbr.Jacobus — the Latin form of the name James, used principally in citing statutes enacted during the reigns of English kings of that name (e.g., “St. 1 Jac. 2”).

JACENS

jacens (jay-senz). [Latin] Lying; fallen; in abeyance. See hereditas jacens under HEREDITAS.

JACKSON–DENNO HEARING

Jackson–Denno hearing.A court proceeding held outside the jury's presence, to determine whether the defen-dant's confession was voluntary and therefore admissible as evidence. *Jackson v. Denno*, 378 U.S. 368, 84 S.Ct. 1774 (1964). — Also termed *Jackson v. Denno* hearing. [Cases: Criminal Law 531–532. C.J.S. Criminal Law §§ 932, 938–939, 941.]

JACKSON<TT> STANDARD

Jackson standard.Criminal law. The principle that the standard of review on appeal — when a criminal defen-dant claims that there is insufficient evidence to support the conviction — is to determine whether, after consi-dering the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781 (1979). [Cases: Criminal Law 1144.13(3), 1159.2(7).]

JACKSON V. DENNO<TT> HEARING

*Jackson v. Denno* hearing.See JACKSON–DENNO HEARING.

JACTITATION

jactitation (jak-ti-tay-sh<<schwa>>n).1. A false boasting or claim that causes injury to another. [Cases: Libel and Slander 132. C.J.S. Libel and Slander; Injurious Falsehood § 205.] 2.Civil law. SLANDER OF TITLE.

JACTITATION OF MARRIAGE

jactitation of marriage.Hist. 1.False and actionable boasting or claiming that one is married to another. 2. An action against a person who falsely boasts of being married to the complainant.

“Jactitation of marriage is a cause of action which arises when a person falsely alleges that he or she is married to the petitioner, and the remedy sought is a perpetual injunction against the respondent to cease making such allegations. The cause is now uncommon in English municipal law and almost unknown in the conflict of laws.” R.H. Graveson, *Conflict of Laws* 349 (7th ed. 1974).

#### JACTITATION OF TITLE

jactitation of title. See SLANDER OF TITLE.

#### JACTURA

jactura (jak-t[y]oor-⟨⟨schwa⟩⟩), n. [Latin] Civil law. 1. A throwing of goods overboard to lighten or save a vessel; JETTISON. 2. A loss incurred from this; general average. See general average under AVERAGE. — Also termed jactus.

#### JACTUS LAPILLI

jactus lapilli (jak-t⟨⟨schwa⟩⟩s l⟨⟨schwa⟩⟩-pil-l). [Latin “the throwing down of a stone”] Roman law. A landowner's throwing of a small stone onto a neighbor's land to symbolically protest construction that could threaten the thrower's interest. Cf. NOVI OPERIS NUNTIATIO.

#### JACTUS MERCIUM NAVIS LEVANDAE CAUSA

jactus mercium navis levandae causa (jak-t⟨⟨schwa⟩⟩s m⟨⟨schwa⟩⟩r-shee-⟨⟨schwa⟩⟩m nay-vis l⟨⟨schwa⟩⟩-van-dee kaw-z⟨⟨schwa⟩⟩). [Latin “the throwing of goods into the sea for the purpose of lightening the ship”] Roman law. JETTISON. See LEX RHODIA.

#### JACTUS RETIS

jactus retis (jak-t⟨⟨schwa⟩⟩s ree-tis). [Latin] Roman law. The casting of a net in the context of emptio spei. See emptio spei under EMPTIO.

#### JAG

JAG.abbr. JUDGE ADVOCATE GENERAL.

#### JAG MANUAL

JAG Manual. See MANUAL OF THE JUDGE ADVOCATE GENERAL.

#### JAIL

jail, n. A local government's detention center where persons awaiting trial or those convicted of misdemeanors are confined. — Also spelled (esp. in BrE) gaol. — Also termed holding cell; lockup; jailhouse; house of detention; community correctional center. Cf. PRISON. [Cases: Prisons 1. C.J.S. Prisons and Rights of Prisoners §§ 2–3.] — jail, vb.

#### JAIL CREDIT

jail credit. Time spent by a criminal defendant in confinement awaiting trial. • This time is usually deducted from the defendant's final sentence (if convicted). — Also termed jail-credit time. [Cases:

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Sentencing and Punishment 1158.]

### JAIL DELIVERY

jail delivery. 1. An escape by several prisoners from a jail. 2. Archaic. A clearing procedure by which all prisoners at a given jail are tried for the offenses that they are accused of having committed.

general jail delivery. Collectively, acquittals in high numbers as a result of either lax or reckless administration of the law or defects in the law.

3. Archaic. The commission issued to judges of assize, directing them to clear a jail by trying — and either acquitting or condemning — all the inmates. 4. Archaic. The court charged with the trial of all ordinary criminal cases. — Also written gaol delivery. See COMMISSION OF GAOL DELIVERY.

### JAILER

jailer. A keeper, guard, or warden of a prison or jail. — Also spelled (esp. in BrE) gaoler. [Cases: Prisons 5. C.J.S. Prisons and Rights of Prisoners § 14.]

### JAILHOUSE

jailhouse. See JAIL.

### JAILHOUSE LAWYER

jailhouse lawyer. A prison inmate who seeks release through legal procedures or who gives legal advice to other inmates. — Also termed guardhouse lawyer.

### JAIL LIBERTIES

jail liberties. Bounds within which a jail or prison lies and throughout which certain prisoners are allowed to move freely, usu. after giving bond for the liberties. • The bounds are considered an extension of the prison walls. Historically, jail liberties were given in England to those imprisoned for debt. The prisoners were allowed to move freely within the city in which the prison was located. — Also spelled (esp. in BrE) gaol liberties. — Also termed jail limits.

“[S]tatutes were from time to time passed enlarging the gaol liberties, in order to mitigate the hardships of imprisonment: thus, the whole city of Boston was held the ‘gaol liberties’ of its county gaol. And so with a large part of New York City.... The prisoner, while within the limits, is considered as within the walls of the prison.” 1 John Bouvier, *Bouvier's Law Dictionary* 1333–34 (8th ed. 1914).

### JAMAICAN SWITCH

Jamaican switch. An illegal scheme whereby one conspirator convinces the victim of a need for help in handling a large sum of money, usu. by claiming to have found the money or by claiming to be an unsophisticated foreigner, and promises to share part of the money with the victim or asks the victim for help in finding a suitable charity to donate to, at which time the other

conspirator appears and promises to assist if both the victim and first conspirator provide good-faith money, the intent being for the two conspirators to leave with all the money, including the victim's. • The name given to this scheme is likely to be considered offensive by some. — Also termed pigeon drop. [Cases: False Pretenses 16.]

#### JAMES<TT> HEARING

James hearing. A court proceeding held to determine whether the out-of-court statements of a coconspirator should be admitted into evidence, by analyzing whether there was a conspiracy, whether the declarant and the defendant were part of the conspiracy, and whether the statement was made in furtherance of the conspiracy. *United States v. James*, 590 F.2d 575 (5th Cir. 1979); Fed. R. Evid. 801(d)(2)(E). [Cases: Criminal Law 427. C.J.S. Criminal Law § 972.]

#### JANE DOE

Jane Doe. A fictitious name for a female party to a legal proceeding, used because the party's true identity is unknown or because her real name is being withheld. — Also termed Jane Roe; Mary Major. Cf. JOHN DOE. [Cases: Federal Civil Procedure 101; Parties 73.]

#### JANUS-FACED

Janus-faced (jay-n<<schwa>>s fayst), adj. Having two contrasting or contradictory aspects; two-faced <a Janus-faced plea>.

#### JASON<TT> CLAUSE

Jason clause. Maritime law. A bill-of-lading clause requiring contribution in general average even when the peril that justified the sacrifice was the result of the carrier's negligence, for which the carrier is otherwise exempt from liability by statute. • The clause is named after the Supreme Court case that upheld its enforceability, *The Jason*, 225 U.S. 32, 32 S.Ct. 560 (1912). See general average under AVERAGE. [Cases: Shipping 189. C.J.S. Shipping § 461.]

#### JAYWALKING

jaywalking, n. The act or instance of crossing a street without heeding traffic regulations, as by crossing between intersections or at a place other than a crosswalk. [Cases: Automobiles 217; Municipal Corporations 707. C.J.S. Motor Vehicles § 895; Municipal Corporations §§ 1531–1534.] — jaywalk, vb.

#### JCP

JCP. abbr. Justice of the Common Pleas. See COURT OF COMMON PLEAS.

#### J.D.

J.D. abbr. JURIS DOCTOR.

#### JEDBURGH JUSTICE

Jedburgh justice (jed-b<<schwa>>r-<<schwa>>). See JUSTICE(1).

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**JEDDART JUSTICE**

Jeddart justice (jed-*<<schwa>>*rt). See Jedburgh justice under JUSTICE(1).

**JEDGE AND WARRANT**

jedge and warrant (jej). Scots law. The authority formerly given by the Dean of Guild of a burgh to rebuild or repair a dilapidated house or tenement.

**JEDWOOD JUSTICE**

Jedwood justice (jed-w*<<schwa>>*d). See Jedburgh justice under JUSTICE(1).

**JENCKS<TT> MATERIAL**

Jencks material. Criminal procedure. A prosecution witness's written or recorded pretrial statement that a criminal defendant, upon filing a motion after the witness has testified, is entitled to have in preparing to cross-examine the witness. • The defense may use a statement of this kind for impeachment purposes. *Jencks v. United States*, 353 U.S. 657, 77 S.Ct. 1007 (1957); Jencks Act, 18 USCA § 3500. Cf. BRADY MATERIAL. [Cases: Criminal Law 627.7. C.J.S. Criminal Law §§ 510, 514.]

reverse Jencks material. Criminal procedure. A defense witness's written or recorded pretrial statement that a prosecutor is entitled to have in preparing to cross-examine the witness. • Reverse Jencks material may be obtained during pretrial discovery. Discoverable statements include a witness's signed or adopted written statement, and transcripts or recordings of the witness's oral statements, including grand-jury testimony. *United States v. Nobles*, 422 U.S. 225, 231–34, 95 S.Ct. 2160, 2166–68 (1975); Fed. R. Crim. P. 26.2. — Also termed reverse Jencks; reverse discovery; reciprocal discovery.

**JENSEN<TT> DOCTRINE**

Jensen doctrine. Maritime law. The principle that a state statute may not apply in a maritime case if to do so would “work [ ] material prejudice to the characteristic features of the general maritime law or interfere with the proper harmony and uniformity of that law.” *Southern Pac. Co. v. Jensen*, 244 U.S. 205, 216, 37 S.Ct. 524, 529 (1917). [Cases: Workers' Compensation 93, 260. C.J.S. Workmen's Compensation §§ 96, 98–99, 170.]

**JEOFAIL**

jeofail (jef-ayl), n. [fr. French *j'ay faillé*] Archaic. 1. A pleading error or oversight that results in a misjoined issue and requires a repleader. 2. The acknowledgment of such an error. — Also spelled jeofaile.

**JEOPARDY**

jeopardy. The risk of conviction and punishment that a criminal defendant faces at trial. • Jeopardy attaches in a jury trial when the jury is empaneled, and in a bench trial when the first witness is sworn. — Also termed legal jeopardy. See DOUBLE JEOPARDY. [Cases: Double Jeopardy 59. C.J.S. Criminal Law §§ 213, 218.]

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**JEOPARDY ASSESSMENT**

jeopardy assessment. See **ASSESSMENT**.

**JEPSON CLAIM**

Jepson claim. See **PATENT CLAIM**.

**JERK NOTE**

jerk note. Hist. Maritime law. A permit, issued by a customs collector to the ship's master, authorizing the master to receive cargo for an outbound voyage.

**JETSAM**

jetsam (jet-s<<schwa>>m). Goods that, after being abandoned at sea, sink and remain underwater. — Also termed jettison. Cf. **FLOTSAM**; **LAGAN(1)**; **WAVESON**.

**JETTISON**

jettison (jet-<<schwa>>-s<<schwa>>n), n. Maritime law. 1. The act of voluntarily throwing cargo overboard to lighten or stabilize a ship that is in immediate danger. — Also termed equitable jettison; jactura; jactus mercium navis levandae causa. See general average under **AVERAGE**. 2. **JETSAM**. — jettison, vb.

“The goods must not be swept away by the violence of the waves, for then the loss falls entirely upon the merchant or his insurer, but they must be intentionally sacrificed by the mind and agency of man, for the safety of the ship and the residue of the cargo. The jettison must be made for sufficient cause, and not from groundless timidity. It must be made in a case of extremity, when the ship is in danger of perishing by the fury of a storm, or is laboring upon rocks or shallows, or is closely pursued by pirates or enemies; and then if the ship and the residue of the cargo be saved by means of the sacrifice, nothing can be more reasonable than that the property saved should bear its proportion of the loss.” 3 James Kent, *Commentaries on American Law* \*232–33 (George Comstock ed., 11th ed. 1866).

**JEUX DE BOURSE**

jeux de bourse (zhoo d<<schwa>> b<<schwa>>rs), n. [French “games of the stock exchange”] Speculation in stocks or bonds, as by dealing in options or futures.

**JEWELL<TT> INSTRUCTION**

Jewell instruction (joo-w<<schwa>>l). Criminal procedure. A court's instruction to the jury that the defendant can be found to have the requisite criminal mental state despite being deliberately ignorant of some of the facts surrounding the crime. • If a defendant claims ignorance of some fact essential to the crime, such as not knowing that a particular bag contained drugs, but the surrounding circumstances would put a reasonable person on notice that there was a high probability of illegality, as when the defendant has taken the bag from a known drug-dealer and has noticed the smell of marijuana coming from the bag, then the court may instruct the jury that it is entitled to infer the defendant's guilty knowledge if the defendant deliberately avoided

knowledge of the critical facts. *United States v. Jewell*, 532 F.2d 697 (9th Cir. 1976). — Also termed deliberate-indifference instruction. [Cases: Criminal Law 772(5). C.J.S. Criminal Law § 1312.]

#### JIM CROW LAW

Jim Crow law.Hist. A law enacted or purposely interpreted to discriminate against blacks, such as a law requiring separate restrooms for blacks and whites. • Jim Crow laws are unconstitutional under the 14th Amendment.

#### JINGLE RULE

jingle rule.See DUAL-PRIORITIES RULE.

#### JJ

JJ.abbr.1. Judges. 2. Justices.

#### J.N.

J.N.abbr.JOHN-A-NOKES.

#### JNOV

JNOV.abbr.Judgment non obstante veredicto. See judgment notwithstanding the verdict under JUDGMENT.

#### JOB ACTION

job action.Labor law. A concerted, temporary action by employees (such as a sick-out or work slowdown), intended to pressure management to concede to the employees' demands without resorting to a strike. See STRIKE(1).

#### JOBBER

jobber,n.1. One who buys from a manufacturer and sells to a retailer; a wholesaler or middleman. [Cases: Sales 384(1). C.J.S. Sales §§ 363, 365–366.] 2. A middleman in the exchange of securities among brokers. — Also termed stockjobber; stock-jobber. 3. One who works by the job; a contractor. — job,vb.

#### JOBBER'S AGREEMENT

jobber's agreement.See HAZANTOWN AGREEMENT.

#### JOBBERY

jobbery,n. The practice or act of perverting a public service in a way that serves private ends; unfair means to serve private interests.

#### JOB SECURITY

job security.Protection of an employee's job, often through a union contract.

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**JOB-TARGETING PROGRAM**

job-targeting program. An initiative by a labor union to maintain or improve its share of the labor in a particular market by financing or backing contractors who bid on targeted projects. — Also termed market-recovery program.

**JOCUS PARTITUS**

jocus partitus (joh-k<<schwa>>s pahr-tI-t<<schwa>>s), n. [Law Latin “divided game”] Hist. A gambling arrangement made by the parties on a lawsuit's outcome.

**JOHN-A-NOKES**

John-a-Nokes. Archaic. A fictitious name for an unknown party to a legal proceeding, esp. the first party. • The name is short for “John who dwells at the oak.” — Abbr. J.N. — Also spelled John-a-Noakes.

**JOHN-A-STILES**

John-a-Stiles. Archaic. A fictitious name for an unknown party to a legal proceeding, esp. the second party. • The name is short for “John who dwells at the stile.” — Abbr. J.S. — Also spelled John-a-Styles.

**JOHN DOE**

John Doe. A fictitious name used in a legal proceeding to designate a person whose identity is unknown, to protect a person's known identity, or to indicate that a true defendant does not exist. Cf. JANE DOE; RICHARD ROE. [Cases: Federal Civil Procedure 101; Parties 67, 73. C.J.S. Parties §§ 170, 172.]

“Sheriffs in time growing remiss in their duty, allowed of any persons as pledges, sometimes returning the names of fictitious persons as pledges, at others, neglecting to require or return any at all.... And the legislature, to supply the want of real persons as pledges, and recompense the defendant where he has been unjustly or vexatiously sued, has by various statutes, either given him the costs he has incurred in making his defence; or else deprived the plaintiff of recovering those costs he is entitled to by law, in cases of obtaining a verdict, by leaving it to the judge at the trial to certify on the record, that he had little or no cause of action. Since these statutes for allowing the defendant his costs, where the plaintiff fails, or is nonsuited, the writ to the coroner to affect the pledges has fallen into disuse, and two good-natured personages, John Doe and Richard Roe, from their universal acquaintance and peculiar longevity, have become the ready and common pledges of every suitor.” 1 George Crompton, *Rules and Cases of Practice in the Courts of King's Bench and Common Pleas* xlvii (3d ed. 1787).

“The fictitious names John Doe and Richard Roe regularly appeared in actions of ejectment ... at common law. Doe was the nominal plaintiff, who by a fiction was said to have entered land under a valid lease; Roe was said to have ejected Doe, and the lawsuit took the title Doe v. Roe. These fictional allegations disappeared upon the enactment of the Common Law Procedure Act of 1852.... Beyond actions of ejectment, and esp. in the U.S., John Doe, Jane Doe, Richard Roe, Jane



Roe, and Peter Poe have come to identify a party to a lawsuit whose true name is either unknown or purposely shielded.” Bryan A. Garner, *A Dictionary of Modern Legal Usage* 290–91 (2d ed. 1995).

#### JOHN DOE DEFENDANT

John Doe defendant. See DEFENDANT.

#### JOHN DOE SUMMONS

John Doe summons. See SUMMONS.

#### JOHN DOE WARRANT

John Doe warrant. See WARRANT(1).

#### JOINDER

joinder, n. The uniting of parties or claims in a single lawsuit. Cf. CONSOLIDATION(3). [Cases: Action 39–52; Federal Civil Procedure 81, 201–267; Parties 49. C.J.S. Actions §§ 143–176; Insurance §§ 1407, 1409–1410, 1567; Parties § 127.] — join, vb.

collusive joinder. Joinder of a defendant, usu. a nonresident, in order to have a case removed to federal court. See manufactured diversity under DIVERSITY OF CITIZENSHIP. [Cases: Removal of Cases 36. C.J.S. Removal of Causes § 115.]

compulsory joinder. The necessary joinder of a party if either of the following is true: (1) in that party's absence, those already involved in the lawsuit cannot receive complete relief; or (2) the absence of such a party, claiming an interest in the subject of an action, might either impair the protection of that interest or leave some other party subject to multiple or inconsistent obligations. Fed. R. Civ. P. 19(a). — Also termed mandatory joinder. [Cases: Federal Civil Procedure 201.]

fraudulent joinder. The bad-faith joinder of a party, usu. a resident of the state, to prevent removal of a case to federal court. [Cases: Removal of Cases 36. C.J.S. Removal of Causes § 115.]

joinder in demurrer. Common-law pleading. A set form of words by which either party accepts or joins in a legal issue; esp., the plaintiff's acceptance of the defendant's issue of law.

joinder in issue. See joinder of issue.

joinder in pleading. Common-law pleading. One party's acceptance of the opposing party's proposed issue and mode of trial.

joinder of error. A written denial of the errors alleged in an assignment of errors in a criminal case.

joinder of issue. 1. The submission of an issue jointly for decision. 2. The acceptance or adoption of a disputed point as the basis of argument in a controversy. — Also termed joinder in issue; similitur. 3. The taking up of the opposite side of a case, or of the contrary view on a question.

joinder of offenses. The charging of an accused with two or more crimes as multiple counts in a single indictment or information. • Unless later severed, joined offenses are tried together at a single trial. Fed. R. Crim. P. 8(a). [Cases: Indictment and Information 125. C.J.S. Indictments and Informations §§ 146–148.]

joinder of remedies. The joinder of alternative claims, such as breach of contract and quantum meruit, or of one claim with another prospective claim, such as a creditor's claim against a debtor to recover on a loan and the creditor's claim against a third party to set aside the transfer of the loan's collateral. [Cases: Action 43; Federal Civil Procedure 81. C.J.S. Actions §§ 154, 156.]

mandatory joinder. See compulsory joinder.

misjoinder. See MISJOINDER.

nonjoinder. See NONJOINDER.

permissive joinder. The optional joinder of parties if (1) their claims or the claims asserted against them are asserted jointly, severally, or in respect of the same transaction or occurrence, and (2) any legal or factual question common to all of them will arise. Fed. R. Civ. P. 20. [Cases: Federal Civil Procedure 241.]

pretensive joinder. Joinder of defendants solely to obtain venue in a jurisdiction in which the action could not otherwise be tried.

## JOINT

joint, adj. 1. (Of a thing) common to or shared by two or more persons or entities <joint bank account>. 2. (Of a person or entity) combined, united, or sharing with another <joint heirs>.

## JOINT ACCOUNT

joint account. See ACCOUNT.

## JOINT ACTION

joint action. See ACTION(4).

## JOINT ACTIVITY

joint activity. See JOINT PARTICIPATION.

## JOINT ADMINISTRATION

joint administration. Bankruptcy. The management of two or more bankruptcy estates, usu. involving related debtors, under one docket for purposes of handling various administrative matters, including notices to creditors, to conclude the cases more efficiently. • A bankruptcy court can order a joint administration when there are two or more cases pending involving a husband and wife, a partnership and at least one partner, two or more business partners, or a business and an affiliate. The intent should be to increase the administrative efficiency of administering the two cases; the substantive rights of creditors should not ordinarily be affected. Fed. R. Bankr. P. 1015. — Also termed procedural consolidation. See ADMINISTRATION(3). Cf. substantive

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consolidation under CONSOLIDATION. [Cases: Bankruptcy 2311. C.J.S. Bankruptcy § 53.]

#### JOINT ADOPTION

joint adoption. See ADOPTION.

#### JOINT ADVENTURE

joint adventure. 1. See common adventure under ADVENTURE. 2. JOINT VENTURE.

#### JOINT AND MUTUAL WILL

joint and mutual will. See WILL.

#### JOINT AND RECIPROCAL WILL

joint and reciprocal will. See joint and mutual will under WILL.

#### JOINT AND SEVERAL

joint and several, adj. (Of liability, responsibility, etc.) apportionable either among two or more parties or to only one or a few select members of the group, at the adversary's discretion; together and in separation. [Cases: Contracts 181; Torts 22. C.J.S. Contracts §§ 366, 371; Torts §§ 39–44.]

#### JOINT AND SEVERAL BOND

joint and several bond. See BOND(3).

#### JOINT AND SEVERAL LIABILITY

joint and several liability. See LIABILITY.

#### JOINT AND SEVERAL NOTE

joint and several note. See NOTE(1).

#### JOINT-AND-SURVIVORSHIP ACCOUNT

joint-and-survivorship account. See joint account under ACCOUNT.

#### JOINT ANNUITY

joint annuity. See ANNUITY.

#### JOINT AUTHORS

joint authors. Copyright. Two or more authors who collaborate in producing a copyrightable work, each author intending to merge his or her respective contributions into a single work, and each being able to exploit the work as desired while remaining accountable for a pro rata share of the profits to the coauthor or coauthors. [Cases: Copyrights and Intellectual Property 41(3).]

#### JOINT BALLOT

joint ballot. See BALLOT(2).

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**JOINT BOARD**

joint board.Labor law.A committee — usu. made up of an equal number of representatives from management and the union — established to conduct grievance proceedings or resolve grievances.

**JOINT BOND**

joint bond.See BOND(3).

**JOINT-CHECK RULE**

joint-check rule.The principle that, when an owner or general contractor issues a check that is made jointly payable to a subcontractor and the subcontractor's materialman, the materialman's indorsement on the check certifies that it has been paid all amounts due to it, up to the amount of the check. • This rule protects the owner or general contractor from lien foreclosure by a materialman who was not paid by the subcontractor. By issuing a joint check, the owner or general contractor is not left merely to hope that the subcontractor pays all the materialmen. And the materialman is protected because it can refuse to indorse the check until it is satisfied that the subcontractor will pay it the appropriate amount. [Cases: Mechanics' Liens 240. C.J.S. Mechanics' Liens §§ 277, 286–287.]

**JOINT COMMITTEE**

joint committee.See COMMITTEE.

**JOINT CONTRACT**

joint contract.See CONTRACT.

**JOINT COVENANT**

joint covenant.See COVENANT(1).

**JOINT CREDITOR**

joint creditor.See CREDITOR.

**JOINT CUSTODY**

joint custody.See CUSTODY(2).

**JOINT DEBTOR**

joint debtor.See DEBTOR.

**JOINT DEFENDANT**

joint defendant.See CODEFENDANT.

**JOINT-DEFENSE PRIVILEGE**

joint-defense privilege.See PRIVILEGE(3).

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**JOINT DEMISE**

joint demise. See DEMISE.

**JOINT EMPLOYMENT**

joint employment. See EMPLOYMENT.

**JOINT ENTERPRISE**

joint enterprise. 1. Criminal law. An undertaking by two or more persons who set out to commit an offense they have conspired to. See CONSPIRACY. [Cases: Conspiracy 23.1. C.J.S. Conspiracy §§ 98, 100–103, 110.] 2. Torts. An undertaking by two or more persons with an equal right to direct and benefit from the endeavor, as a result of which one participant's negligence may be imputed to the others. — Also termed (in senses 1 & 2) common enterprise. [Cases: Automobiles 198(4), 227.5; Negligence 575. C.J.S. Motor Vehicles §§ 973–977; Negligence §§ 268–280.] 3. JOINT VENTURE. 4. A joint venture for noncommercial purposes. [Cases: Joint Ventures 1. C.J.S. Joint Ventures §§ 2–3.]

“A business relationship is needed for a joint venture but not for a joint enterprise. Thus, a joint enterprise may be defined as a non-commercial joint venture.” 46 Am. Jur. 2d Joint Ventures § 6, at 27 (1994).

**JOINT ESTATE**

joint estate. See ESTATE(1).

**JOINT EXECUTOR**

joint executor. See EXECUTOR.

**JOINT HEIR**

joint heir. See HEIR.

**JOINT INDICTMENT**

joint indictment. See INDICTMENT.

**JOINT INTEREST**

joint interest. See INTEREST(2).

**JOINT INVENTOR**

joint inventor. Patents. A person who collaborates with another or others in developing an invention. • All joint inventors must be identified on a patent application. [Cases: Patents 92. C.J.S. Patents §§ 126, 134.]

“Employing a friend, mechanic, model maker or other person to do work for one on an idea does not, as a rule, make him a joint inventor with the originator. One has a right to employ someone else to do one's work. There are conditions, however, where such person would become

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a joint inventor, or even sole inventor. It is best to play safe and consult an experienced patent lawyer, laying before him all of the facts.” Richard B. Owen, *Patents, Trademarks, Copyrights, Departmental Practice* 7 (1925).

**JOINT LEGAL CUSTODY**

joint legal custody. See joint custody under CUSTODY(2).

**JOINT LIABILITY**

joint liability. See LIABILITY.

**JOINT LIFE INSURANCE**

joint life insurance. See LIFE INSURANCE.

**JOINT LIFE POLICY**

joint life policy. See INSURANCE POLICY.

**JOINT MANAGING CONSERVATORSHIP**

joint managing conservatorship. See joint custody under CUSTODY(2).

**JOINT MORTGAGE**

joint mortgage. See MORTGAGE.

**JOINT NEGLIGENCE**

joint negligence. See NEGLIGENCE.

**JOINT NOTE**

joint note. See NOTE(1).

**JOINT OBLIGATION**

joint obligation. See OBLIGATION.

**JOINT OFFENSE**

joint offense. See OFFENSE(1).

**JOINT OWNERSHIP**

joint ownership. See OWNERSHIP.

**JOINT PARTICIPATION**

joint participation. Civil-rights law. A pursuit undertaken by a private person in concert with a governmental entity or state official, resulting in the private person's performing public functions and thereby being subject to claims under the civil-rights laws. — Also termed joint activity. See SYMBIOTIC-RELATIONSHIP TEST; NEXUS TEST. [Cases: Civil Rights 1326(5). C.J.S. Civil Rights §§ 92–94.]

**JOINT PARTY**

joint party. See COPARTY.

**JOINT PHYSICAL CUSTODY**

joint physical custody. See joint custody under CUSTODY(2).

**JOINT PLAINTIFF**

joint plaintiff. See COPLAINTIFF.

**JOINT POSSESSION**

joint possession. See POSSESSION.

**JOINT PROPERTY**

joint property. See PROPERTY.

**JOINT RATE**

joint rate. See RATE.

**JOINT RESOLUTION**

joint resolution. See RESOLUTION(1).

**JOINTRESS**

jointress. Hist. A woman who has a jointure. — Also termed jointuress. See JOINTURE(1).

**JOINT RETURN**

joint return. See TAX RETURN.

**JOINT RULE**

joint rule. See RULE(2).

**JOINT SESSION**

joint session. See SESSION(1).

**JOINT STOCK**

joint stock. See STOCK.

**JOINT-STOCK ASSOCIATION**

joint-stock association. See joint-stock company under COMPANYY.

**JOINT-STOCK COMPANY**

joint-stock company. See COMPANYY.

**JOINT TARIFF**

joint tariff. See TARIFF(5).

#### JOINT TENANCY

joint tenancy. See TENANCY.

#### JOINT TENANT

joint tenant. See joint tenancy under TENANCY.

#### JOINT TORTFEASORS

joint tortfeasors. See TORTFEASOR.

#### JOINT TRESPASS

joint trespass. See TRESPASS.

#### JOINT TRIAL

joint trial. See TRIAL.

#### JOINT TRUSTEE

joint trustee. See COTRUSTEE.

#### JOINTURE

jointure (joyn-ch<<schwa>>r). 1. Archaic. A woman's freehold life estate in land, made in consideration of marriage in lieu of dower and to be enjoyed by her only after her husband's death; a settlement under which a wife receives such an estate. • The four essential elements are that (1) the jointure must take effect immediately upon the husband's death, (2) it must be for the wife's own life, and not for another's life or for a term of years, (3) it must be held by her in her own right and not in trust for her, and (4) it must be in lieu of her entire dower. See DOWER. [Cases: Dower and Curtesy 29, 40. C.J.S. Dower §§ 41, 52.]

equitable jointure. A premarital arrangement for a woman to enjoy a jointure, accepted by the woman in lieu of dower. — Also termed equitable dower.

2. A settlement under which a wife receives such an estate. — Also termed legal jointure. 3. An estate in lands given jointly to a husband and wife before they marry. See JOINTRESS.

#### JOINTURESS

jointuress. See JOINTRESS.

#### JOINT VENTURE

joint venture. A business undertaking by two or more persons engaged in a single defined project. • The necessary elements are: (1) an express or implied agreement; (2) a common purpose that the group intends to carry out; (3) shared profits and losses; and (4) each member's equal voice in controlling the project. — Also termed joint adventure; joint enterprise. Cf. PARTNERSHIP; STRATEGIC ALLIANCE. [Cases: Joint Ventures 1.1, 1.2. C.J.S. Joint



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Ventures §§ 2–3, 10, 12–13, 20.]

“There is some difficulty in determining when the legal relationship of joint venture exists, with authorities disagreeing as to the essential elements.... The joint venture is not as much of an entity as is a partnership.” Henry G. Henn & John R. Alexander, *Laws of Corporations* § 49, at 106 (3d ed. 1983).

#### JOINT-VENTURE CORPORATION

joint-venture corporation. See CORPORATION.

#### JOINT VERDICT

joint verdict. See VERDICT.

#### JOINT WELFARE FUND

joint welfare fund. See FUND(1).

#### JOINT WILL

joint will. See WILL.

#### JOINT WORK

joint work. See WORK(2).

#### JOKER

joker. 1. An ambiguous clause inserted in a legislative bill to render it inoperative or uncertain in some respect without arousing opposition at the time of passage. 2. A rider or amendment that is extraneous to the subject of the bill.

#### JONES ACT

Jones Act. Maritime law. A federal statute that allows a seaman injured during the course of employment to recover damages for the injuries in a negligence action against the employer. • If a seaman dies from such injuries, the seaman's personal representative may maintain an action against the employer. 46 USCA app. § 688. [Cases: Seamen 29. C.J.S. Seamen § 148.]

#### JONES ACT VESSEL

Jones Act vessel. See VESSEL.

#### JOUR

jour (zhoor), n. [French] Day <jour en banc>.

#### JOURNAL

journal. 1. A book or record kept, usu. daily, as of the proceedings of a legislature or the events of a ship's voyage. — Also termed log; logbook. See MINUTES(2). 2. Accounting. In double-entry bookkeeping, a book in which original entries are recorded before being transferred

to a ledger. 3. A periodical or magazine, esp. one published for a scholarly or professional group. — Abbr. J.

#### JOURNAL ENTRY

journal entry. See ENTRY(2).

#### JOURNALIST'S PRIVILEGE

journalist's privilege. See PRIVILEGE(3).

#### JOURNAL OF NOTARIAL ACTS

journal of notarial acts (noh-tair-ee-<<schwa>>l). The notary public's sequential record of notarial transactions, usu. a bound book listing the date, time, and type of each official act, the type of instrument acknowledged or verified before the notary, the signature of each person whose signature is notarized, the type of information used to verify the identity of parties whose signatures are notarized, and the fee charged. • This journal, required by law in many states, provides a record that may be used as evidence in court. — Also termed notarial record; notarial register; notary record book; sequential journal.

#### JOURNEYS ACCOUNTS

journeys accounts. Hist. The number of days (usu. 15) after the abatement of a writ within which a new writ could be obtained. • This number was based on how many days it took for the plaintiff to travel (or journey) to the court.

#### JOYRIDING

joyriding, n. The illegal driving of someone else's automobile without permission, but with no intent to deprive the owner of it permanently. • Under the Model Penal Code, the offender's reasonable belief that the owner would have consented is an affirmative defense. See Model Penal Code § 223.9. — Also termed unauthorized use of a vehicle. [Cases: Automobiles 339. C.J.S. Motor Vehicles §§ 1511–1523.] — joyride, vb. — joyrider, n.

“When the automobile began to appear and was limited to the possession of a few of the more fortunate members of the community, many persons who ordinarily respected the property rights of others, yielded to the temptation to drive one of these new contrivances without the consent of the owner. This became so common that the term ‘joyrider’ was coined to refer to the person who indulged in such unpermitted use of another's car. For the most part it was a relatively harmless type of trespass ....” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 333 (3d ed. 1982).

J.P.

J.P. abbr. JUSTICE OF THE PEACE.

#### J.P. COURT

J.P. court. See justice court under COURT.

## JPML

JPML.abbr. JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.

## JPO

JPO.abbr. Japanese Patent Office.

## J.P. STEVENS&lt;TT&gt; TEST

J.P. Stevens test.Patents. A two-part test to determine whether a patent-applicant's conduct amounted to inequitable conduct before the Patent and Trademark Office, by deciding (1) whether the threshold levels of materiality and intent are met, and (2) whether, on balance, the facts show inequitable conduct as a matter of law. *J.P. Stevens v. Lex Tex Ltd.*, 747 F.2d 1553 (Fed. Cir. 1984).  
 • In the balance, information that is clearly material or conduct that is clearly deceptive can decide the outcome. [Cases: Patents 97. C.J.S. Patents §§ 135–138, 145, 178.]

## J.S.

J.S.abbr.JOHN-A-STILES.

## JSC

JSC.abbr.Justice of Supreme Court.

## J.S.D.

J.S.D. [Law Latin *juris scientiae doctor*] abbr.DOCTOR OF JURIDICAL SCIENCE.

## JUBERE

judere (juu-beer-ee), vb.[Latin] Civil law. 1. To order, direct, or command. 2. To assure or promise.

## J.U.D.

J.U.D. [Law Latin *juris utriusque doctor* “doctor of both laws”] abbr. A doctor of both civil and canon law.

## JUDEX

judex (joo-deks), n.[Latin] 1.Roman law. A private person appointed by a praetor or other magistrate to hear and decide a case. • The Roman judex was originally drawn from a panel of qualified persons of standing but was later himself a magistrate. 2.Roman & civil law. A judge. 3.Hist. A juror. — Also spelled iudex. Pl. *judices* (joo-di-seez).

judex ad quem (ad kwem).Civil law. A judge to whom an appeal is taken.

judex a quo (ay kwoh).Civil law. A judge from whom an appeal is taken.

judex datus (day-t<<schwa>>s).Roman law. A judex assigned by a magistrate or provincial governor to try a case under *cognitio extraordinaria*. See COGNITIO EXTRAORDINARIA.

**judex delegatus** (del-*<<schwa>>-gay-t-<<schwa>>s*). Roman & civil law. A delegated judge under *cognitio extraordinaria*; a special judge. See *COGNITIO EXTRAORDINARIA*.

**judex fiscalis** (fis-kay-lis). Roman law. A judge having jurisdiction of matters relating to the *fiscus*. See *FISCUS*(1).

**judex ordinarius** (or-d*<<schwa>>-nair-ee-<<schwa>>s*). Civil law. A judge having jurisdiction in his own right rather than by delegated authority. • The judge was typically a provincial governor.

**judex pedaneus** (p*<<schwa>>-day-nee-<<schwa>>s*). Roman law. A judge to whom petty cases are delegated; an inferior or deputy judge under *cognitio extraordinaria*. — Also termed *judex specialis*.

**judex quaestionis** (kwes-chee-oh-nis or kwes-tee-). Roman law. The chairman of the jury in a criminal case, either a praetor or a magistrate of lower rank.

**judex selectus** (s*<<schwa>>-lek-t-<<schwa>>s*). Civil law. A judge selected to hear the facts in a criminal case.

**judex specialis** (spesh-ee-ay-lis). Roman law. See *judex pedaneus*.

## JUDGE

**judge, n.** A public official appointed or elected to hear and decide legal matters in court. • The term is sometimes held to include all officers appointed to decide litigated questions, including a justice of the peace and even jurors (who are judges of the facts). But in ordinary legal usage, the term is limited to the sense of an officer who (1) is so named in his or her commission, and (2) presides in a court. Judge is often used interchangeably with court. See *COURT*(2). — Abbr. J. (and, in plural, JJ.). [Cases: Judges 1. C.J.S. Judges §§ 2–7.]

**administrative-law judge.** See *ADMINISTRATIVE-LAW JUDGE*.

**administrative patent judge.** Patents. A U.S. Patent and Trademark Office adjudicator charged with conducting interference and appeal proceedings. — Abbr. APJ.

**associate judge.** An appellate judge who is neither a chief judge nor a presiding judge. — Also termed *puisne judge*.

**bankruptcy judge.** A judicial officer appointed by a U.S. court of appeals to preside over cases filed under the Bankruptcy Code and proceedings related to bankruptcy cases that are referred by the U.S. district court. • A bankruptcy judge is appointed for a term of 14 years. 28 USCA §§ 151 et seq. See *ARTICLE II JUDGE*. [Cases: Bankruptcy 2123. C.J.S. Bankruptcy § 7.]

**chief administrative patent judge.** Patents. The supervisor of administrative patent judges at the U.S. Patent and Trademark Office. — Abbr. CAPJ.

**chief judge.** The judge who presides over the sessions and deliberations of a court, while also overseeing the administration of the court. — Abbr. C.J.

circuit judge. 1. A judge who sits on a circuit court; esp., a federal judge who sits on a U.S. court of appeals. 2.Hist. A special judge added to a court for the purpose of holding trials, but without being a regular member of the court. — Abbr. C.J.

city judge.See municipal judge.

continuing part-time judge.A judge who serves repeatedly on a part-time basis by election or under a continuing appointment.

county judge.A local judge having criminal or civil jurisdiction, or sometimes both, within a county.

criminal-court judge.A judge who sits on a court with jurisdiction only over criminal matters.

de facto judge (di fak-toh). A judge operating under color of law but whose authority is procedurally defective, such as a judge appointed under an unconstitutional statute. — Also termed judge de facto. [Cases: Judges 1, 26. C.J.S. Judges §§ 2–7, 184.]

district judge. 1. A judge in a federal or state judicial district. 2. See metropolitan stipendiary magistrate under MAGISTRATE. — Abbr. D.J.

duty judge.A judge responsible for setting an arrestee's bail, usu. by telephone or videoconference.

family-court judge.A judge who sits on a court that has jurisdiction exclusively over matters involving domestic relations, such as divorce and child-custody matters.

hanging judge.Slang. A judge who is harsh (sometimes corruptly so) with defendants, esp. those accused of capital crimes.

inferior judge.A judge who sits on a lower court.

judge de facto.See de facto judge.

judge delegate.A judge who acts under delegated authority.

judge of probate.See probate judge.

judge ordinary.Hist. The judge of the English Court for Divorce and Matrimonial Causes from 1857 to 1875.

judge pro tempore (proh tem-p<<schwa>>-ree). See visiting judge.

juvenile-court judge.A judge who sits on a court that has jurisdiction exclusively over matters involving juveniles, such as suits involving child abuse and neglect, matters involving status offenses, and, sometimes, suits to terminate parental rights.

lay judge.A judge who is not a lawyer.

military judge.A commissioned officer of the armed forces who is on active duty and is a member of a bar of a federal court or of the highest court of a state. • The Judge Advocate General of the particular service must certify a military judge as qualified for duty. A military judge of a

general court-martial must also be a member of an independent judiciary. A military judge is detailed to every general court-martial and usu. to a special court-martial. [Cases: Military Justice 881. C.J.S. Military Justice § 148.]

municipal judge. A local judge having criminal or civil jurisdiction, or sometimes both, within a city. — Also termed city judge.

presiding judge. 1. A judge in charge of a particular court or judicial district; esp., the senior active judge on a three-member panel that hears and decides cases. 2. A chief judge. — Abbr. P.J. — Also termed president judge.

probate judge. A judge having jurisdiction over probate, inheritance, guardianships, and the like. — Also termed judge of probate; surrogate; register; registry.

puisne judge (pyoo-nee). [Law French *puisé* “later born”] 1. A junior judge; a judge without distinction or title. • This was the title formerly used in English common-law courts for a judge other than the chief judge. Today *puisne judge* refers to any judge of the English High Court, apart from the Chief Justice. 2. See associate judge.

senior administrative patent judge. Patents. A semiretired administrative patent judge who remains active in hearing interferences in the U.S. Patent and Trademark Office. — Abbr. SAPJ.

senior judge. 1. The judge who has served for the longest time on a given court. 2. A federal or state judge who qualifies for senior status and chooses this status over retirement. See SENIOR STATUS.

side judge. Archaic. A judge — or one of two judges — of inferior rank, associated with a judge of a higher rank for the purpose of constituting a court.

special judge. A judge appointed or selected to sit, usu. in a specific case, in the absence or disqualification of the regular judge or otherwise as provided by statute. [Cases: Judges 13–19, 25. C.J.S. Judges §§ 161–183, 185.]

“Many, if not all, jurisdictions have made provision for the selection of a substitute or special judge to serve in place of the regular judge in the event of disqualification, voluntary recusal, disability, or other absence of the regular judge. The circumstances under which a special or substitute judge may act in place of the regular judge, and the manner in which such a judge may be chosen, are matters of purely local regulation, entirely dependent on local constitutions and statutes.” 46 Am. Jur. 2d Judges § 248, at 331 (1994).

temporary judge. See visiting judge.

trial judge. The judge before whom a case is tried. • This term is used most commonly on appeal from the judge's rulings.

United States Magistrate Judge. See UNITED STATES MAGISTRATE JUDGE.

visiting judge. A judge appointed by the presiding judge of an administrative region to sit temporarily on a given court, usu. in the regular judge's absence. — Also termed temporary judge;

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judge pro tempore. [Cases: Judges 13–19, 25. C.J.S. Judges §§ 161–183, 185.]

#### JUDGE ADVOCATE

judge advocate. Military law. 1. An officer of a court-martial who acts as a prosecutor. 2. A legal adviser on a military commander's staff. 3. Any officer in the Judge Advocate General's Corps or in a department of a U.S. military branch. — Abbr. JA.

staff judge advocate. A certified military lawyer with the staff of a convening or supervisory authority that exercises general court-martial jurisdiction.

#### JUDGE ADVOCATE GENERAL

Judge Advocate General. Military law. The senior legal officer and chief legal adviser of the Army, Navy, or Air Force. — Abbr. JAG.

#### JUDGE LYNCH

Judge Lynch. See LYNCH LAW.

#### JUDGE-MADE LAW

judge-made law. 1. The law established by judicial precedent rather than by statute. See COMMON LAW. [Cases: Courts 88. C.J.S. Courts § 139; Trade-Marks, Trade-Names, and Unfair Competition § 187.] 2. The law that results when judges construe statutes contrary to legislative intent. See JUDICIAL ACTIVISM. — Also termed (in sense 2) judicial legislation; bench legislation; judicial law.

#### JUDGEMENT

judgement. See JUDGMENT.

#### JUDGE'S CHAMBER

judge's chamber. See CHAMBER.

#### JUDGESHIP

judgeship. 1. The office or authority of a judge. 2. The period of a judge's incumbency.

#### JUDGE-SHOPPING

judge-shopping. The practice of filing several lawsuits asserting the same claims — in a court or a district with multiple judges — with the hope of having one of the lawsuits assigned to a favorable judge and of nonsuiting or voluntarily dismissing the others. Cf. FORUM-SHOPPING.

#### JUDGE TRIAL

judge trial. See bench trial under TRIAL.

#### JUDGMENT

judgment. 1. A court's final determination of the rights and obligations of the parties in a case.

• The term judgment includes an equitable decree and any order from which an appeal lies. Fed. R. Civ. P. 54. — Abbr. J. — Also spelled (esp. in BrE) judgement. — Also termed (historically) judgment *ex cathedra*. Cf. RULING(1); OPINION(1). [Cases: Federal Civil Procedure 2391–2628; Judgment 1. C.J.S. Judgments §§ 2–3, 6, 8, 13.] 2. English law. An opinion delivered by a member of the appellate committee of the House of Lords; a Law Lord's judicial opinion. — Also termed (in sense 2) speech.

“An action is instituted for the enforcement of a right or the redress of an injury. Hence a judgment, as the culmination of the action declares the existence of the right, recognizes the commission of the injury, or negatives the allegation of one or the other. But as no right can exist without a correlative duty, nor any invasion of it without a corresponding obligation to make amends, the judgment necessarily affirms, or else denies, that such a duty or such a liability rests upon the person against whom the aid of the law is invoked.” 1 Henry Campbell Black, *A Treatise on the Law of Judgments* § 1, at 2 (2d ed. 1902).

accumulative judgment. A second or additional judgment against a person who has already been convicted, the execution of which is postponed until the completion of any prior sentence.

agreed judgment. A settlement that becomes a court judgment when the judge sanctions it. • In effect, an agreed judgment is merely a contract acknowledged in open court and ordered to be recorded, but it binds the parties as fully as other judgments. — Also termed consent judgment; stipulated judgment; judgment by consent. [Cases: Federal Civil Procedure 2397; Judgment 71–91. C.J.S. Judgments §§ 182–194, 370–374.]

alternative judgment. A determination that gives the losing party options for satisfying that party's duties.

cognovit judgment (kog-noh-vit). A debtor's confession of judgment; judgment entered in accordance with a cognovit. See CONFESSION OF JUDGMENT; COGNOVIT. [Cases: Federal Civil Procedure 2396; Judgment 54. C.J.S. Judgments §§ 140, 143–144, 170.]

conditional judgment. A judgment whose force depends on the performance of certain acts to be done in the future by one of the parties. • For example, a conditional judgment may order the sale of mortgaged property in a foreclosure proceeding unless the mortgagor pays the amount decreed within the time specified. — Also termed common order.

confession of judgment. See CONFESSION OF JUDGMENT.

consent judgment. See agreed judgment.

contradictory judgment. Civil law. A judgment that has been given after the court has heard the parties make their claims and defenses. • In Louisiana, this term is opposed to default judgment. Cf. contradictory motion under MOTION.

declaratory judgment. A binding adjudication that establishes the rights and other legal relations of the parties without providing for or ordering enforcement. • Declaratory judgments are often sought, for example, by insurance companies in determining whether a policy covers a given insured or peril. — Also termed declaratory decree; declaration. [Cases: Declaratory Judgment 1.



## C.J.S. Declaratory Judgments § 1.]

default judgment. See DEFAULT JUDGMENT.

deferred judgment. A judgment placing a convicted defendant on probation, the successful completion of which will prevent entry of the underlying judgment of conviction. • This type of probation is common with minor traffic offenses. — Also termed deferred adjudication; deferred-adjudication probation; deferred prosecution; probation before judgment; probation without judgment; pretrial intervention; adjudication withheld. [Cases: Sentencing and Punishment 2050.]

deficiency judgment. A judgment against a debtor for the unpaid balance of the debt if a foreclosure sale or a sale of repossessed personal property fails to yield the full amount of the debt due. — Also termed deficiency decree. [Cases: Mortgages 375, 559; Secured Transactions 240. C.J.S. Mortgages §§ 674–676, 933; Secured Transactions §§ 164–166, 168–169, 172, 174–175, 180–183.]

definitive judgment. See final judgment.

determinative judgment. See final judgment.

domestic judgment. A judgment rendered by the courts of the state or country where the judgment or its effect is at issue.

dormant judgment. A judgment that has not been executed or enforced within the statutory time limit. • As a result, any judgment lien may have been lost and execution cannot be issued unless the judgment creditor first revives the judgment. See REVIVAL(1).

erroneous judgment. A judgment issued by a court with jurisdiction to issue it, but containing an improper application of law. • This type of judgment is not void, but can be corrected by a trial court while the court retains plenary jurisdiction, or in a direct appeal. — Also termed judgment in error. See ERROR(2).

excess judgment. Insurance. A judgment that exceeds all of the defendant's insurance coverage. [Cases: Insurance 2934(3), 3346, 3374.]

executory judgment (eg-zek-y<<schwa>>-tor-ee). A judgment that has not been carried out, such as a yet-to-be-fulfilled order for the defendant to pay the plaintiff.

final appealable judgment. See final judgment.

final judgment. A court's last action that settles the rights of the parties and disposes of all issues in controversy, except for the award of costs (and, sometimes, attorney's fees) and enforcement of the judgment. — Also termed final appealable judgment; final decision; final decree; definitive judgment; determinative judgment; final appealable order. See FINAL-JUDGMENT RULE. [Cases: Appeal and Error 76(1); Federal Civil Procedure 2579. C.J.S. Appeal and Error §§ 82–83.]

foreign judgment. A judgment rendered by a court of a state or country different from that where the judgment or its effect is at issue. [Cases: Judgment 813–832. C.J.S. Judgments §§ 965–1038, 1053.]

in personam judgment. See personal judgment.

in rem judgment. See judgment in rem.

interlocutory judgment (in-t<<schwa>>r-lok-[y]<<schwa>>-tor-ee). An intermediate judgment that determines a preliminary or subordinate point or plea but does not finally decide the case. • A judgment or order given on a provisional or accessory claim or contention is generally interlocutory. — Also termed interlocutory decree. [Cases: Appeal and Error 68; Federal Civil Procedure 2578. C.J.S. Appeal and Error §§ 82–84.]

irregular judgment. A judgment that may be set aside because of some irregularity in the way it was rendered, such as a clerk's failure to send a defendant notice that a default judgment has been rendered.

judgment as a matter of law. A judgment rendered during a jury trial — either before or after the jury's verdict — against a party on a given issue when there is no legally sufficient basis for a jury to find for that party on that issue. • In federal practice, the term judgment as a matter of law has replaced both the directed verdict and the judgment notwithstanding the verdict. Fed. R. Civ. P. 50. Cf. SUMMARY JUDGMENT. [Cases: Federal Civil Procedure 2111, 2601; Judgment 199; Trial 167. C.J.S. Judgments §§ 62–68, 70; Trial §§ 432–433, 437–438.]

judgment by confession. See CONFESSIO OF JUDGMENT.

judgment by consent. See agreed judgment.

judgment by default. See DEFAULT JUDGMENT.

judgment by nil dicit. See nil dicit default judgment under DEFAULT JUDGMENT.

judgment by non sum informatus. See NON SUM INFORMATUS.

judgment for money. See money judgment.

judgment homologating the tableau (h<<schwa>>-mahl-<<schwa>>-gay-ting / ta-bloh-tab-loh). Civil law. A judgment approving a plan for distributing property of a decedent's estate. • The distribution plan is known as the tableau of distribution. La. Code Civ. Proc. art. 3307. See HOMOLOGATION.

judgment in error. See erroneous judgment.

judgment in personam. See personal judgment.

judgment in rem (in rem). A judgment that determines the status or condition of property and that operates directly on the property itself. • The phrase denotes a judgment that affects not only interests in a thing but also all persons' interest in the thing. — Also termed in rem judgment. [Cases: Judgment 803. C.J.S. Judgments § 1054.]

judgment in retraxit. See judgment of retraxit.

judgment inter partes. See personal judgment.

judgment nil capiat per billa (nil kap-ee-*<<schwa>>*t p*<<schwa>>*r bil-*<< schwa>>*). Judgment that the plaintiff take nothing by the bill; a take-nothing judgment in a case instituted by a bill.

judgment nil capiat per breve (nil kap-ee-*<<schwa>>*t p*<<schwa>>*r breevorbree-vee). Judgment that the plaintiff take nothing by the writ; a take-nothing judgment in a case instituted by a writ.

judgment nisi (nI-sI). A provisional judgment that, while not final or absolute, may become final on a party's motion. See NISI.

judgment notwithstanding the verdict. A judgment entered for one party even though a jury verdict has been rendered for the opposing party. — Also termed judgment non obstante veredicto (non ahb-stan-tee ver-*<<schwa>>*-dik-toh). — Abbr. JNOV; judgment N.O.V. See judgment as a matter of law. [Cases: Criminal Law 977(4); Federal Civil Procedure 2601–2610; Judgment 199. C.J.S. Judgments §§ 62–68, 70.]

judgment nunc pro tunc. A judgment entered on a day after the time when it should have been entered, as of the earlier date. — Also termed decree nunc pro tunc. See NUNC PRO TUNC.

judgment of acquittal. A judgment, rendered on the defendant's motion or court's own motion, that acquits the defendant of the offense charged when the evidence is insufficient. Fed. R. Crim. P. 29. See directed verdict under VERDICT. [Cases: Criminal Law 753.2. C.J.S. Criminal Law § 1276.]

judgment of blood. See death sentence under SENTENCE.

judgment of cassetur billa. See CASSETUR BILLA.

judgment of cassetur breve. See CASSETUR BREVE.

judgment of conviction. 1. The written record of a criminal judgment, consisting of the plea, the verdict or findings, the adjudication, and the sentence. Fed. R. Crim. P. 32(d)(1). 2. A sentence in a criminal case. See SENTENCE. [Cases: Criminal Law 990.1.]

judgment of discontinuance. 1. A judgment dismissing a plaintiff's action based on interruption in the proceedings occasioned by the plaintiff's failure to continue the suit at the appointed time or times. 2. NONSUIT(1). — Often shortened to discontinuance. See DISCONTINUANCE.

judgment of dismissal. A final determination of a case (against the plaintiff in a civil action or the government in a criminal action) without a trial on its merits. See DISMISSAL. [Cases: Federal Civil Procedure 1837; Pretrial Procedure 694. C.J.S. Dismissal and Nonsuit §§ 48, 80.]

judgment of nolle prosequi (nahl-ee prahs-*<<schwa>>*-kwI). A judgment entered against a

plaintiff who, after appearance but before judgment on the merits, has decided to abandon prosecution of the lawsuit. See NOLLE PROSEQUI.

judgment of nonsuit. 1.Hist. The judgment given against a plaintiff who fails to be present in court to hear the jury render its verdict or who, after issue is joined, fails to bring the issue to be tried in due time. • This judgment does not prevent the plaintiff from filing the same case again. [Cases: Federal Civil Procedure 2116.] 2.NONSUIT(2).

judgment of repleader.See REPLEADER.

judgment of retraxit (ri-trak-sit).Hist. A judgment against a plaintiff who has voluntarily retracted the claim. • Such a judgment bars the plaintiff from relitigating the claim. — Also termed judgment in retraxit. See RETRAXIT.

judgment on the merits.A judgment based on the evidence rather than on technical or procedural grounds. — Also termed decision on the merits.

judgment on the pleadings.A judgment based solely on the allegations and information contained in the pleadings, and not on any outside matters. Fed. R. Civ. P. 12(c). Cf. SUMMARY JUDGMENT. [Cases: Federal Civil Procedure 1041–1068; Pleading 342. C.J.S. Pleading § 594.]

judgment on the verdict.A judgment for the party receiving a favorable jury verdict.

judgment quasi in rem (kway-sI [or -zI] in rem). A judgment based on the court's jurisdiction over the defendant's interest in property rather than on its jurisdiction over the defendant or the property. • Such a judgment affects only particular persons' interests in a thing — that is, only the persons who are named or described in the proceeding. [Cases: Judgment 805. C.J.S. Judgments § 1059.]

judgment quod billa cassetur (kwod bil-<<schwa>> k<<schwa>>-see-t<<schwa>>r). Judgment that the bill be quashed. • This is a judgment for the defendant.

judgment quod breve cassetur (kwod breevorbree-vee k<<schwa>>-see-t<< schwa>>r). Judgment that the writ be quashed. • This is a judgment for the defendant.

judgment quod computet.See QUOD COMPUTET.

judgment quod recuperet (kwod ri-kyoo-p<<schwa>>r-it). Judgment that the plaintiff recover. See QUOD RECUPERET.

judgment respondeat ouster (ri-spon-dee-at ows-t<<schwa>>r).Hist. An interlocutory judgment requiring the defendant who has made a dilatory plea to give a more substantial defense. See RESPONDEAT OUSTER.

junior judgment.A judgment rendered or entered after the rendition or entry of another judgment, on a different claim, against the same defendant.

money judgment.A judgment for damages subject to immediate execution, as distinguished from equitable or injunctive relief. — Also termed judgment for money.

nunc pro tunc judgment (n<<schwa>>ngk proh t<<schwa>>ngk). A procedural device by which the record of a judgment is amended to accord with what the judge actually said and did, so that the record will be accurate. • This device is often used to correct defects in real-estate titles. [Cases: Federal Civil Procedure 2625; Judgment 273, 326. C.J.S. Judgments §§ 123–125, 299.]

personal judgment. 1. A judgment that imposes personal liability on a defendant and that may therefore be satisfied out of any of the defendant's property within judicial reach. 2. A judgment resulting from an action in which a court has personal jurisdiction over the parties. 3. A judgment against a person as distinguished from a judgment against a thing, right, or status. — Also termed judgment in personam (in p<<schwa>>r-soh-n<<schwa>>m); in personam judgment; judgment inter partes (in-t<<schwa>>r pahr-teez).

simulated judgment.Civil law. A judgment that, although founded on an actual debt and intended for collection by the usual legal processes, is actually entered into by the parties to give one of them an undeserving advantage or to defraud third parties.

stipulated judgment.See agreed judgment.

summary judgment.See SUMMARY JUDGMENT.

suspension of judgment.See STAY.

take-nothing judgment.A judgment for the defendant providing that the plaintiff recover nothing in damages or other relief. — Also termed (in some states) no cause of action.

valid judgment. 1. A judgment that will be recognized by common-law states as long as it is in force in the state where the judgment was rendered. 2. A judicial act rendered by a court having jurisdiction over the parties and over the subject matter in a proceeding in which the parties have had a reasonable opportunity to be heard.

voidable judgment.A judgment that, although seemingly valid, is defective in some material way; esp., a judgment that, although rendered by a court having jurisdiction, is irregular or erroneous. [Cases: Judgment 27, 353, 501. C.J.S. Judgments §§ 308, 526, 546, 549.]

void judgment.A judgment that has no legal force or effect, the invalidity of which may be asserted by any party whose rights are affected at any time and any place, whether directly or collaterally. • From its inception, a void judgment continues to be absolutely null. It is incapable of being confirmed, ratified, or enforced in any manner or to any degree. One source of a void judgment is the lack of subject-matter jurisdiction. [Cases: Federal Civil Procedure 2392; Judgment 5–27, 346, 486. C.J.S. Judgments §§ 4–5, 13–28, 30, 43–46, 48, 73, 75, 82, 201, 203–205, 207, 307, 403, 499, 512, 546, 548–549.]

#### JUDGMENTAL IMMUNITY

judgmental immunity.See ERROR-OF-JUDGMENT RULE.

#### JUDGMENT BOOK

judgment book. See judgment docket under DOCKET(1).

#### JUDGMENT BY COMPARISON

judgment by comparison. Patents. Allowance of a patent claim because a similar claim has been allowed before. • There is no stare decisis doctrine in patent prosecutions, but examiners may consider allowance of similar claims as a decision-making aid.

#### JUDGMENT CREDITOR

judgment creditor. A person having a legal right to enforce execution of a judgment for a specific sum of money.

bona fide judgment creditor. One who recovers a judgment without engaging in fraud or collusion.

#### JUDGMENT DEBT

judgment debt. See DEBT.

#### JUDGMENT DEBTOR

judgment debtor. A person against whom a money judgment has been entered but not yet satisfied.

#### JUDGMENT DOCKET

judgment docket. See DOCKET(1).

#### JUDGMENT EX CATHEDRA

judgment ex cathedra. 1. EX CATHEDRA. 2. JUDGMENT(1).

#### JUDGMENT EXECUTION

judgment execution. 1. EXECUTION(3). 2. EXECUTION(4).

#### JUDGMENT FILE

judgment file. See judgment docket under DOCKET(1).

#### JUDGMENT LIEN

judgment lien. See LIEN.

#### JUDGMENT NON OBSTANTE VEREDICTO

judgment non obstante veredicto. See judgment notwithstanding the verdict under JUDGMENT.

#### JUDGMENT NOTE

judgment note. 1. A nonnegotiable promissory note, illegal in most states, containing a power of attorney to appear and confess judgment for a specified sum. 2. COGNOVIT NOTE.

## JUDGMENT N.O.V.

judgment N.O.V. See judgment notwithstanding the verdict under JUDGMENT.

## JUDGMENT OF BLOOD

## JUDGMENT OF CASSETUR BILLA

## JUDGMENT OF CASSETUR BREVE

## JUDGMENT OF REPLEADER

## JUDGMENT-PROOF

judgment-proof,adj. (Of an actual or potential judgment debtor) unable to satisfy a judgment for money damages because the person has no property, does not own enough property within the court's jurisdiction to satisfy the judgment, or claims the benefit of statutorily exempt property. — Also termed execution-proof.

## JUDGMENTQUOD COMPUTET

## JUDGMENT RECEIVER

judgment receiver. See RECEIVER.

## JUDGMENT RECORD

judgment record. See judgment docket under DOCKET(1).

## JUDGMENT ROLL

judgment roll. See judgment docket under DOCKET(1).

“As the pleadings constitute part of the record, it is indispensable that they be filed. In some of the codes they must be filed at the institution of the action; in others, by or before the first day of the term; in others, at or before the trial. They must be used in making the ‘judgment roll,’ and in the practice of each State (not here considered) procedure is provided to procure filing.” Edwin E. Bryant, *The Law of Pleading Under the Codes of Civil Procedure* 179 (2d ed. 1899).

## JUDGMENT-ROLL APPEAL

judgment-roll appeal. See APPEAL.

## JUDGMENT SALE

judgment sale. See execution sale under SALE.

## JUDGMENT SEAT

judgment seat. 1. The bench on which a judge sits. 2. By extension, a court or tribunal.

## JUDGMENT SUMMONS

judgment summons. See SUMMONS.

## JUDICABLE

judicable (joo-di-k<<schwa>>-b<<schwa>>l), adj. Rare. Capable of being adjudicated; triable; justiciable. — Also termed judiciable (joo-dish-<<schwa>>-b<<schwa>>l).

## JUDICARE

judicare (joo-di-kair-ee), vb.[Latin] Civil law. To judge; to decide or determine judicially; to give judgment or sentence.

## JUDICATE

judicate, vb. See ADJUDICATE.

## JUDICATIVE

judicative (joo-di-kay-tiv or -k<<schwa>>-tiv), adj. Rare. See ADJUDICATIVE.

## JUDICATOR

judicator (joo-di-kay-t<<schwa>>r), n. A person authorized to act or serve as a judge.

## JUDICATORY

judicatory (joo-di-k<<schwa>>-tor-ee), adj.1. Of or relating to judgment. 2. By which a judgment may be made; giving a decisive indication.

judicatory (joo-di-k<<schwa>>-tor-ee), n.1. A court; any tribunal with judicial authority <a church judicatory>.2. The administration of justice < working toward a more efficient judicatory>.

## JUDICATUM SOLVI

judicatum solvi (joo-di-kay-t<<schwa>>m sol-vI). [Latin “that the judgment will be paid”]  
1.Roman law. The payment of the sum awarded by way of judgment. 2.Roman law. Security for the payment of the sum awarded by way of judgment. • This applied when a representative appeared on the defendant's behalf at the trial. 3.Civil law. A court-ordered caution given by the defendant in a maritime case. See CAUTION.

“Judicatum solvi .... The cautioner in such an obligation is bound in payment or fulfilment of whatever may be decerned for, and he is not liberated from the obligation by the death of the principal debtor. It is a kind of caution not infrequently required. Under the civil law this caution was required of any defender who remained in possession, during the suit, of the subject which gave rise to the dispute.” John Trayner, Trayner's Latin Maxims 292–93 (4th ed. 1894).

## JUDICATURE

judicature (joo-di-k<<schwa>>-ch<<schwa>>r).1. The action of judging or of administering justice through duly constituted courts. 2.JUDICIARY(3).3. A judge's office, function, or authority.

## JUDICATURE ACTS



Judicature Acts. A series of statutes that reorganized the superior courts of England in 1875. • The Judicature Acts were superseded by the Supreme Court Act of 1981.

#### JUDICES

judices (joo-di-seez). [Latin] pl. JUDEX.

#### JUDICIA

judicia (joo-dish-ee-<<schwa>>). [Latin] pl. JUDICIUM.

#### JUDICIABLE

judicable, adj. See JUDICABLE.

#### JUDICIAL

judicial (joo-dish-<<schwa>>l), adj. 1. Of, relating to, or by the court or a judge <judicial duty> <judicial demeanor>. 2. In court <the witness's judicial confession>. 3. Legal <the Attorney General took no judicial action>. 4. Of or relating to a judgment <an award of judicial interest at the legal rate>. Cf. JUDICIOUS.

quasi-judicial. See QUASI-JUDICIAL.

#### JUDICIAL ACT

judicial act. See ACT.

#### JUDICIAL ACTIVISM

judicial activism, n. A philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions, usu. with the suggestion that adherents of this philosophy tend to find constitutional violations and are willing to ignore precedent. Cf. JUDICIAL RESTRAINT(3). — judicial activist, n.

“[I]f to resolve the dispute the court must create a new rule or modify an old one, that is law creation. Judges defending themselves from accusations of judicial activism sometimes say they do not make law, they only apply it. It is true that in our system judges are not supposed to and generally do not make new law with the same freedom that legislatures can and do; they are, in Oliver Wendell Holmes's phrase, ‘confined from molar to molecular motions.’ The qualification is important, but the fact remains that judges make, and do not just find and apply, law.” Richard A. Posner, *The Federal Courts: Crisis and Reform* 3 (1985).

#### JUDICIAL ACTIVITY REPORT

judicial activity report. A regular report, usu. monthly or quarterly, on caseload and caseflow within a given court or court system.

#### JUDICIAL ADMINISTRATION

judicial administration. The process of doing justice through a system of courts.

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**JUDICIAL ADMISSION**

judicial admission. See **ADMISSION**(1).

**JUDICIAL ARBITRATION**

judicial arbitration. See **ARBITRATION**.

**JUDICIAL ARTICLE**

Judicial Article. Article III of the U.S. Constitution, which creates the Supreme Court, vests in Congress the right to create inferior courts, provides for life tenure for federal judges, and specifies the powers and jurisdiction of the federal courts. [Cases: Federal Courts 4.]

**JUDICIAL ASSIZE**

judicial assize. See **ASSIZE**(6).

**JUDICIAL-AUTHORITY JUSTIFICATION**

judicial-authority justification. See **JUSTIFICATION**.

**JUDICIAL BIAS**

judicial bias. See **BIAS**.

**JUDICIAL BOND**

judicial bond. See **BOND**(2).

**JUDICIAL BRANCH**

judicial branch. The branch of government consisting of the courts, whose function is to interpret, apply, and generally administer and enforce the laws; **JUDICIARY**(1). Cf. **LEGISLATIVE BRANCH**; **EXECUTIVE BRANCH**. [Cases: Constitutional Law 67–75. C.J.S. Constitutional Law §§ 169–214, 441.]

**JUDICIAL BYPASS**

judicial bypass. A procedure permitting a person to obtain a court's approval for an act that would ordinarily require the approval of someone else, such as a law that requires a minor to notify a parent before obtaining an abortion but allows an appropriately qualified minor to obtain a court order permitting the abortion without parental notice. [Cases: Abortion and Birth Control 0.5.]

**JUDICIAL-BYPASS PROVISION**

judicial-bypass provision. Family law. 1. A statutory provision that allows a court to assume a parental role when the parent or guardian cannot or will not act on behalf of a minor or an incompetent. 2. A statutory provision that allows a minor to circumvent the necessity of obtaining parental consent by obtaining judicial consent.

**JUDICIAL COGNIZANCE**

judicial cognizance. See JUDICIAL NOTICE.

#### JUDICIAL COMBAT

judicial combat. See TRIAL BY COMBAT.

#### JUDICIAL COMITY

judicial comity. The recognition and respect that a court of one state or jurisdiction shows to another state or jurisdiction in giving effect to the other's laws and political decisions.

#### JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Judicial Committee of the Privy Council. A tribunal created in 1833 with jurisdiction to hear certain admiralty and ecclesiastical appeals, and certain appeals from the Commonwealth. • From the 16th century until the 19th, the Court of Delegates was the final court of appeal in England for ecclesiastical suits. During the reign of William IV, the power to hear final appeals was transferred to the Privy Council, and then to the Judicial Committee of the Privy Council. The committee consists entirely of laypeople; ecclesiastics become members of the court only if an appeal is brought under the Church Discipline Act. Even then the ecclesiastics must be episcopal privy counselors. The Judicial Committee's decisions are not treated as binding precedent in the United Kingdom, but they are influential because of the overlapping composition of members of the Privy Council and the House of Lords in its judicial capacity. — Also termed Court of Final Appeal.

#### JUDICIAL COMPENSATION

judicial compensation. 1. The remuneration that judges receive for their work. [Cases: Judges 22. C.J.S. Judges § 75.] 2. Civil law. A court's judgment finding that two parties are mutually obligated to one another and crafting the amount of the judgment in accordance with the amount that each party owes. • A claim for compensation is usu. contained in a reconventional demand. La. Code Civ. Proc. 1902. See reconventional demand under DEMAND (1). [Cases: Set-off and Counterclaim 8. C.J.S. Set-off and Counterclaim §§ 3, 6.]

#### JUDICIAL CONFERENCE OF THE UNITED STATES

Judicial Conference of the United States. The policy-making body of the federal judiciary, responsible for surveying the business of the federal courts, making recommendations to Congress on matters affecting the judiciary, and supervising the work of the Administrative Office of the United States Courts. • The Conference was originally established in 1923 as the Conference of Senior Circuit Judges. 28 USCA § 331. See ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS .

#### JUDICIAL CONFESSION

judicial confession. See CONFESSION.

#### JUDICIAL CONTEMPT

judicial contempt. See CONTEMPT(2).

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**JUDICIAL CONTROL**

judicial control.Civil law.A doctrine by which a court can deny cancellation of a lease if the lessee's breach is of minor importance, is not caused by the lessee, or is based on a good-faith mistake of fact. [Cases: Landlord and Tenant 34(1). C.J.S. Landlord and Tenant § 230(4).]

**JUDICIAL COUNCIL**

judicial council.A regularly assembled group of judges whose mission is to increase the efficiency and effectiveness of the courts on which they sit; esp., a semiannual assembly of a federal circuit's judges called by the circuit's chief judge. 28 USCA § 332.

**JUDICIAL DAY**

judicial day.See juridical day under DAY.

**JUDICIAL DECLARATION**

judicial declaration.See DECLARATION(1).

**JUDICIAL DICTUM**

judicial dictum.See DICTUM.

**JUDICIAL DISCRETION**

judicial discretion.See DISCRETION(4).

**JUDICIAL ECONOMY**

judicial economy.Efficiency in the operation of the courts and the judicial system; esp., the efficient management of litigation so as to minimize duplication of effort and to avoid wasting the judiciary's time and resources. • A court can enter a variety of orders to promote judicial economy. For instance, a court may consolidate two cases for trial to save the court and the parties from having two trials, or it may order a separate trial on certain issues if doing so would provide the opportunity to avoid a later trial that would be more complex and time-consuming.

**JUDICIAL-ECONOMY EXCEPTION**

judicial-economy exception.An exemption from the final-judgment rule, by which a party may seek immediate appellate review of a nonfinal order if doing so might establish a final or nearly final disposition of the entire suit. See FINAL-JUDGMENT RULE. [Cases: Appeal and Error 68; Federal Courts 572. C.J.S. Appeal and Error §§ 82–84.]

**JUDICIAL ESTOPPEL**

judicial estoppel.See ESTOPPEL.

**JUDICIAL EVIDENCE**

judicial evidence.See EVIDENCE.

**JUDICIAL FACT**

judicial fact.See FACT.

#### JUDICIAL FACTOR

judicial factor.See FACTOR.

#### JUDICIAL FORECLOSURE

judicial foreclosure.See FORECLOSURE.

#### JUDICIAL IMMUNITY

judicial immunity.See IMMUNITY(1).

#### JUDICIAL INSURANCE

judicial insurance.See INSURANCE.

#### JUDICIALIZER

judicialize,vb.1. To pattern (procedures, etc.) after a court of law <these administrative hearings have been judicialized>.2. To bring (something not traditionally within the judicial system) into the judicial system <political questions are gradually becoming judicialized>. — judicialization,n.

#### JUDICIAL JURISDICTION

judicial jurisdiction.See JURISDICTION.

#### JUDICIAL KNOWLEDGE

judicial knowledge.See JUDICIAL NOTICE.

#### JUDICIAL LAW

judicial law.See JUDGE-MADE LAW.

#### JUDICIAL LEGISLATION

judicial legislation.1.JUDGE-MADE LAW(2).2.LEGISLATION.

#### JUDICIAL LIEN

judicial lien.See LIEN.

#### JUDICIALLY CREATED DOUBLE PATENTING

judicially created double patenting.See DOUBLE PATENTING.

#### JUDICIALLY CREATED DOUBLE-PATENTING REJECTION

judicially created double-patenting rejection.See REJECTION.

#### JUDICIAL MORSEL

judicial morsel.See ordeal of the morsel under ORDEAL.

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**JUDICIAL MORTGAGE**

judicial mortgage. See MORTGAGE.

**JUDICIAL NOTICE**

judicial notice. A court's acceptance, for purposes of convenience and without requiring a party's proof, of a well-known and indisputable fact; the court's power to accept such a fact <the trial court took judicial notice of the fact that water freezes at 32 degrees Fahrenheit>. Fed. R. Evid. 201. — Also termed judicial cognizance; judicial knowledge. [Cases: Criminal Law 304; Evidence 1–52. C.J.S. Citizens § 23; Criminal Law § 657; Evidence §§ 8–119; Trading Stamps and Coupons § 2.]

judicial notice of prior art. Patents. Acknowledgment by the U.S. Patent and Trademark Office of all materials in its possession as prior art, for settling questions of novelty and priority. • Patents, applications, and records of interferences and appeals may be submitted by citation alone.

**JUDICIAL OATH**

judicial oath. See OATH.

**JUDICIAL OFFICER**

judicial officer. See OFFICER(1).

**JUDICIAL OPINION**

judicial opinion. See OPINION(1).

**JUDICIAL ORDER**

judicial order. See ORDER(1).

**JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

Judicial Panel on Multidistrict Litigation. A panel of federal judges responsible for transferring civil actions having common questions of fact from one district court to another to consolidate pretrial proceedings. • The panel was created in 1968. The Chief Justice appoints its members. 28 USCA § 1407. — Abbr. JPML.

**JUDICIAL POWER**

judicial power. 1. The authority vested in courts and judges to hear and decide cases and to make binding judgments on them; the power to construe and apply the law when controversies arise over what has been done or not done under it. • Under federal law, this power is vested in the U.S. Supreme Court and in whatever inferior courts Congress establishes. The other two great powers of government are the legislative power and the executive power. [Cases: Constitutional Law 67–75; Federal Courts 1.1; Judges 24. C.J.S. Constitutional Law §§ 169–214, 441; Judges §§ 35, 53–56, 59–65.] 2. A power conferred on a public officer involving the exercise of judgment and discretion in deciding questions of right in specific cases affecting personal and proprietary interests. • In this sense, the phrase is contrasted with ministerial power. See

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**MINISTERIAL.****JUDICIAL PRIVILEGE**

judicial privilege. See PRIVILEGE(1).

**JUDICIAL PROCEEDING**

judicial proceeding. See PROCEEDING.

**JUDICIAL PROCESS**

judicial process. See PROCESS.

**JUDICIAL QUESTION**

judicial question. A question that is proper for determination by the courts, as opposed to a moot question or one properly decided by the executive or legislative branch. Cf. POLITICAL QUESTION.

**JUDICIAL RECORD**

judicial record. See DOCKET(1).

**JUDICIAL REMEDY**

judicial remedy. See REMEDY.

**JUDICIAL RESTRAINT**

judicial restraint. 1. A restraint imposed by a court, as by a restraining order, injunction, or judgment. 2. The principle that, when a court can resolve a case based on a particular issue, it should do so, without reaching unnecessary issues. [Cases: Appeal and Error 843; Federal Courts 756. C.J.S. Appeal and Error §§ 705–706.] 3. A philosophy of judicial decision-making whereby judges avoid indulging their personal beliefs about the public good and instead try merely to interpret the law as legislated and according to precedent. — Also termed (in senses 2 & 3) judicial self-restraint. Cf. JUDICIAL ACTIVISM.

**JUDICIAL REVIEW**

judicial review. 1. A court's power to review the actions of other branches or levels of government; esp., the courts' power to invalidate legislative and executive actions as being unconstitutional. 2. The constitutional doctrine providing for this power. 3. A court's review of a lower court's or an administrative body's factual or legal findings. [Cases: Administrative Law and Procedure 651–821. C.J.S. Public Administrative Law and Procedure §§ 151, 172–271.]

de novo judicial review. A court's nondeferential review of an administrative decision, usu. through a review of the administrative record plus any additional evidence the parties present. — Also termed de novo review. [Cases: Administrative Law and Procedure 744. C.J.S. Public Administrative Law and Procedure § 218.]

plenary review. Appellate review by all the members of a court rather than a panel.

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**JUDICIAL ROBE**

judicial robe. See ROBE(1).

**JUDICIAL SALE**

judicial sale. See SALE.

**JUDICIAL SELF-RESTRAINT**

judicial self-restraint. 1. JUDICIAL RESTRAINT(2). 2. JUDICIAL RESTRAINT(3).

**JUDICIAL SEPARATION**

judicial separation. 1. SEPARATION(1). 2. SEPARATION(2). 3. See divorce a mensa et thoro under DIVORCE.

**JUDICIAL SEQUESTRATION**

judicial sequestration. See SEQUESTRATION.

**JUDICIAL SETTLEMENT**

judicial settlement. See SETTLEMENT(2).

**JUDICIAL STACKING**

judicial stacking. See STACKING.

**JUDICIAL-TENURE COMMISSION**

judicial-tenure commission. A commission that reviews complaints against judges, investigates those complaints, and makes recommendations about appropriate measures to the highest court in the jurisdiction. [Cases: Judges 11. C.J.S. Judges §§ 29, 40–41.]

**JUDICIAL TRUSTEE**

judicial trustee. See TRUSTEE(1).

**JUDICIAL WRIT**

judicial writ. See WRIT.

**JUDICIA POPULI**

judicia populi (joo-dish-ee-<<schwa>> pop-y<<schwa>>-II). [Latin] Roman law. The criminal jurisdiction of the comitia. See COMITIA.

**JUDICIA PUBLICA**

judicia publica (joo-dish-ee-<<schwa>> p<<schwa>>b-li-k<<schwa>>). [Latin] Roman law. The jurisdiction of the quaestiones perpetuae. See QUAESTIO PERPETUA .

**JUDICIARY**



judiciary (joo-dish-ee-er-ee or joo-dish-⟨⟨schwa⟩⟩-ree), n.1. The branch of government responsible for interpreting the laws and administering justice. Cf. EXECUTIVE(1); LEGISLATURE. [Cases: Judges 1. C.J.S. Judges §§ 2–7.] 2. A system of courts. 3. A body of judges. — Also termed (in sense 3) judicature. — judiciary,adj.

#### JUDICIA SUMMARIA

judicia summaria (joo-dish-ee-⟨⟨schwa⟩⟩ s⟨⟨schwa⟩⟩-mair-ee-⟨⟨schwa⟩⟩). [Law Latin “summary proceedings”] Scots law. Actions that can be summarily disposed of.

#### JUDICIO SISTI

judicio sisti (joo-dish-ee-oh sis-tI). [Latin “to be present in court”] 1.Roman law. Appearance in court. 2.Roman law. Security for appearance in court; VADIMONIUM. 3.Scots law. A type of caution requiring a claimant or the principal debtor to appear in court whenever the opponent demanded it. • This type of caution was used in some criminal cases and in cases involving defendants who were foreigners or posed a flight risk. See CAUTION.

#### JUDICIOUS

judicious (joo-dish-⟨⟨schwa⟩⟩s), adj. Well-considered; discreet; wisely circumspect <the court's judicious application of the rules of evidence>. Cf. JUDICIAL. — judiciousness,n.

#### JUDICIUM

judicium (joo-dish-ee-⟨⟨schwa⟩⟩m), n.[Latin] Hist. 1. A judgment. 2. A judicial proceeding; a trial. 3. A court or tribunal. • In Roman law, the plural *judicia* refers to criminal courts. Pl. *judicia*.

judicium capitale (kap-i-tay-lee). [Latin] Hist. A judgment of death; a capital sentence.

judicium parium (par-ee-⟨⟨schwa⟩⟩m). [Latin] Hist. A judgment of one's peers; a jury trial or verdict.

judicium publicum (p⟨⟨schwa⟩⟩b-li-k⟨⟨schwa⟩⟩m). [Latin “public trials”] A criminal proceeding under a public statute. • The term derived from the Roman rule allowing any member of the public to initiate a prosecution. See COMITIA.

“Judicium publicum may have originally meant trial by or before the actual popular assembly, though it is doubtful whether the phrase existed at all before the ‘people’ had come to be replaced by quaestores. There is much to be said, in spite of Justinian's explanation [Inst. 4.18.1], for the view that these criminal trials were called ‘public’ as being ‘of public interest,’ because, to use Blackstone's words, their subject-matter affects the whole community.” 2 E.C. Clark, *History of Roman Private Law* § 10, at 441 (1914).

#### JUDICIUM DEI

judicium Dei (joo-dish-ee-⟨⟨schwa⟩⟩m dee-I).Hist. God's supposed judgment on the merits of the case, made manifest by the outcome of an observable event. • Examples dating from Norman times were the trial by combat and the ordeal. See ORDEAL; TRIAL BY COMBAT.

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**JUDICIUM ECCLESIASTICUM**

judicium ecclesiasticum. See FORUM ECCLESIASTICUM.

**JUDICIUM PARIUM**

judicium parium. See JUDICIUM.

**JUDICIUM PUBLICA**

judicium publica. See JUDICIUM.

**JUDICUM REJECTIO**

judicum rejectio (joo-di-k<<schwa>>m ri-jek-shee-oh). [Latin] Roman law. A litigant's right to exercise peremptory challenges against a judge or a certain number of jurors.

**JUDICUM SORTITIO**

judicum sortitio (joo-di-k<<schwa>>m sor-tish-ee-oh). [Latin] Roman law. The practice of choosing jurors by drawing from an urn the names of eligible participants. • The English word sortition (meaning “the drawing or casting of lots”) derives from the Latin sortitio.

**JUDICUM SUBSORTITIO**

judicum subsortitio (joo-di-k<<schwa>>m s<<schwa>>b-sor-tish-ee-oh). [Latin] Roman law. The practice of choosing supplemental jurors (when necessary after peremptory challenges have been exercised) by drawing from an urn the names of eligible participants.

**JUGE**

juge (zhoozh), n. [French] French law. A judge.

juge de paix (zhoozh d<<schwa>> peorpay). An inferior judge; esp., a police magistrate.

juge d'instruction (zhoozh dan-strook-syawn). A magistrate who conducts preliminary criminal proceedings, as by taking complaints, interrogating parties and witnesses, and formulating charges.

**JUICIO**

juicio (hwee-syoh). Spanish law. 1. A trial or suit; litigation. 2. Wisdom; prudence. 3. The capacity to distinguish right from wrong and truth from falsehood.

**JUISE**

juise (juu-Iz). Hist. 1. A judgment, sentence, or penalty. 2. By extension, the instrument of punishment, esp. a gibbet.

**JULIAN CALENDAR**

Julian calendar. See OLD STYLE.

**JUMBO CERTIFICATE**

jumbo certificate. A certificate of deposit of \$100,000 or more. — Also termed jumbo.

#### JUMBO MORTGAGE

jumbo mortgage. See MORTGAGE.

#### JUMP BAIL

jump bail, vb. (Of an accused) to fail to appear in court at the appointed time after promising to appear and posting a bail bond. — Also termed skip bail. See BAIL-JUMPING. [Cases: Bail 97. C.J.S. Bail; Release and Detention Pending Proceedings § 73.]

#### JUMP CITATION

jump citation. See pinpoint citation under CITATION(3).

#### JUMPING A CLAIM

jumping a claim. Hist. The act of taking possession of public land to which another has previously acquired a claim. • The first occupant has the right to the land both under squatter law and custom and under preemption laws of the United States.

#### JUNIAN LATIN

Junian Latin, n. See LATINI JUNIANI.

#### JUNIOR

junior, adj. Lower in rank or standing; subordinate <a junior interest>.

#### JUNIOR BOND

junior bond. See BOND(3).

#### JUNIOR COUNSEL

junior counsel. See COUNSEL.

#### JUNIOR CREDITOR

junior creditor. See CREDITOR.

#### JUNIOR EXECUTION

junior execution. See EXECUTION.

#### JUNIOR INTEREST

junior interest. See INTEREST(2).

#### JUNIOR JUDGMENT

junior judgment. See JUDGMENT.

#### JUNIOR LIEN

junior lien. See LIEN.

#### JUNIOR MORTGAGE

junior mortgage. See MORTGAGE.

#### JUNIOR PARTNER

junior partner. See PARTNER.

#### JUNIOR PARTY

junior party. Patents. In an interference proceeding, the party or parties who did not file the patent application first. • A junior party has the burden of proving that he or she is the first inventor. Cf. SENIOR PARTY. [Cases: Patents 106(1). C.J.S. Patents §§ 159–162, 165.]

#### JUNIOR SECURITY

junior security. See SECURITY.

#### JUNIOR USER

junior user. Trademarks. A person other than the first person to use a trademark. • A junior user may be permitted to continue using a mark in areas where the senior user's mark is not used, if the junior user did not know about the other user, and was the first user to register the mark. — Also termed second user; latecomer. See INNOCENT JUNIOR USER. Cf. SENIOR USER. [Cases: Trade Regulation 66.1. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 29–30.]

#### JUNIOR WRIT

junior writ. See WRIT.

#### JUNK BOND

junk bond. See BOND(3).

#### JURA

jura (joo-*<<schwa>>*), n. pl. [Latin] Rights. See JUS.

jura fiscalia (fis-kay-lee-*<<schwa>>*). Hist. Fiscal rights; rights of the Exchequer.

jura fixa (joo-*<<schwa>>* fik-s*<<schwa>>*). Hist. Immovable rights.

jura in personam. A right to enforce a particular person's obligation to another. See JUS IN PERSONAM.

jura in rem. See JUS IN RE.

jura majestatis (maj-*<<schwa>>*-stay-tis). Hist. Rights of sovereignty or majesty.

jura mixti domini (miks-tī d*<<schwa>>*-min-ee-I). Hist. Rights of mixed dominion; the king's or queen's right or power of jurisdiction.

*jura personarum* (p<<schwa>>r-s<<schwa>>-nair-<<schwa>>m). Rights of persons. See **JUS PERSONARUM**.

*jura praediorum* (pree-dee-or-<<schwa>>m).Hist. The rights of estates.

*jura regalia* (ri-gay-lee-<<schwa>>).Hist. Royal rights; the prerogatives of the Crown. See **REGALIA**(1).

*jura rerum* (reer-<<schwa>>m). Rights of things. See **JUS RERUM**.

*jura summi imperii* (s<<schwa>>m-I im-peer-ee-I).Hist. Rights of supreme dominion; rights of sovereignty.

#### **JURAL**

*jural* (joor-<<schwa>>l), adj.1. Of or relating to law or jurisprudence; legal <jural and equitable rules>.2. Of or relating to rights and obligations <jural relations>.

#### **JURAL ACT**

*jural act*.See **ACT**.

#### **JURAL ACTIVITY**

*jural activity*.See *jural act* under **ACT**.

#### **JURAL AGENT**

*jural agent*.An official — someone who has the appropriate authoritative status in society to enforce or affect the society's legal system — who engages in a *jural act*. • Common examples include judges, legislators, and police officers acting in their official capacities. See *jural act* under **ACT**.

#### **JURAL CAUSE**

*jural cause*.See *proximate cause* under **CAUSE**(1).

#### **JURA MAJESTATIS**

*jura majestatis*.See **JURA**.

#### **JURAMENTUM**

*juramentum* (joor-<<schwa>>-men-t<<schwa>>m), n.[Latin] Civil law. An oath. Pl. *juramenta* (joor-<<schwa>>-men-t<<schwa>>).

*juramentum calumniae* (k<<schwa>>-l<<schwa>>m-nee-ee). An oath of calumny. See oath of calumny under **OATH**.

*juramentum corporalis* (kor-p<<schwa>>-ray-lis). A corporal oath. See corporal oath under **OATH**.

*juramentum in litem* (in II-tem or -t<<schwa>>m). An oath in litem. See oath in litem under

## OATH.

juramentum judiciale (joo-dish-ee-ay-lee). An oath by which the judge defers the decision of the case to either of the parties.

juramentum necessarium (nes-*<<schwa>>*-sair-ee-*<<schwa>>*m). A necessary or compulsory oath.

juramentum voluntarium (vol-*<<schwa>>*n-tair-ee-*<<schwa>>*m). A voluntary oath.

## JURA MIXTI DOMINII

jura mixti dominii. See JURA.

## JURANT

jurant (joor-*<<schwa>>*nt), n. Archaic. One who takes an oath. — jurant, n.

## JURA PERSONARUM

jura personarum. See JURA.

## JURA PRAEDIORUM

jura praediorum. See JURA.

## JURA REGALIA

jura regalia. See JURA.

## JURA RERUM

jura rerum. See JURA.

## JURA SUMMI IMPERII

jura summi imperii. See JURA.

## JURAT

jurat (joor-at). 1. [fr. Latin jurare “to swear”] A certification added to an affidavit or deposition stating when and before what authority the affidavit or deposition was made. • A jurat typically says “Subscribed and sworn to before me this \_\_\_\_ day of [month], [year],” and the officer (usu. a notary public) thereby certifies three things: (1) that the person signing the document did so in the officer's presence, (2) that the signer appeared before the officer on the date indicated, and (3) that the officer administered an oath or affirmation to the signer, who swore to or affirmed the contents of the document. — Also termed jurata. Cf. VERIFICATION. [Cases: Affidavits 12. C.J.S. Affidavits §§ 31–39.]

witness jurat. A subscribing witness's certificate acknowledging the act of witnessing. • Even though this certificate is technically an acknowledgment and not a true jurat, the phrase witness jurat is commonly used. See ACKNOWLEDGMENT.

2. [fr. Latin *juratus* “one sworn”] In France and the Channel Islands, a municipal officer or magistrate.

#### JURATA

*jurata* (juu-ray-t<<schwa>>), n. 1. Hist. A jury of 12 persons; esp., a jury existing at common law. 2. JURAT(1).

#### JURATION

*juration* (juu-ray-sh<<schwa>>n). Archaic. 1. The act of administering an oath. 2. The act of swearing on oath.

#### JURATIVE

*jurative*. See JURATORY.

#### JURATOR

*jurator* (juu-ray-t<<schwa>>r). Archaic. See JUROR.

#### JURATORIAL

*juratorial* (joo-<<schwa>>-toh-ri-<<schwa>>l) adj. Of or pertaining to a jury.

#### JURATORY

*juratory* (joo-<<schwa>>-tor-ee), adj. Of, relating to, or containing an oath. — Also termed *jurative*.

#### JURATORY CAUTION

*juratory caution*. 1. Maritime law. A court's permission for an indigent to disregard filing fees and court costs. • A suit upon a juratory caution is the equivalent of a suit *in forma pauperis*. The right was first recognized in United States admiralty courts in *Bradford v. Bradford*, 3 F. Cas. 1129 (1878). See *IN FORMA PAUPERIS*. 2. Scots law. A security given on oath, such as a bond.

#### JURE

*jure* (joo-ee), adv. [Latin] 1. By right; in right. 2. By law. See *DE JURE*.

*jure accessionis* (joo-ee ak-sesh-ee-oh-nis). By the law of natural accession. • For example, the fruits of trees on one's land are one's property *jure accessionis*.

*jure accretionis* (<<schwa>>-kree-shee-oh-nis). By right of accretion.

*jure belli* (bel-I). By the right or law of war.

*jure civili* (s<<schwa>>-vI-II). By the civil law.

*jure coronae* (k<<schwa>>-roh-nee). In right of the Crown.

*jure devolutionis* (dev-<<schwa>>-loo-shee-oh-nis). By right of devolution.

*jure divino* (di-vI-noh). By divine right.

*jure ecclesiae* (e-klee-z[h]ee-ee). By right of the church.

*jure gentium* (jen-shee-*<<schwa>>*m). By the law of nations.

*jure officii* (*<<schwa>>*-fish-ee-I). By right of office.

*jure proprietatis* (pr*<<schwa>>*-prI-*<<schwa>>*-tay-tis). By right of property.

*jure proprio* (proh-pree-oh). By one's own proper right.

*jure repraesentationis* (rep-r*<<schwa>>*-zen-tay-shee-oh-nis). By right of representation; in the right of another person.

*jure sanguinis* (sang-gwi-nis). By right of blood.

*jure uxoris* (*<<schwa>>*k-sor-is). In right of a wife.

#### JURE GESTIONIS

*jure gestionis* (joor-ee jes-chee-oh-nis), n.[Latin “by way of doing business”] A nation's acts that are essentially commercial or private, in contrast to its public or governmental acts. • Under the Foreign Sovereign Immunities Act, a foreign country's immunity is limited to claims involving its public acts. The statutory immunity does not extend to claims arising from the private or commercial acts of a foreign state. 28 USCA § 1605. Cf. JURE IMPERII . See COMMERCIAL-ACTIVITY EXCEPTION; RESTRICTIVE PRINCIPLE OF SOVEREIGN IMMUNITY .

#### JURE IMPERII

*jure imperii* (joor-ee im-peer-ee-I), n.[Latin “by right of sovereignty”] The public acts that a nation undertakes as a sovereign state, for which the sovereign is usu. immune from suit or liability in a foreign country. Cf. JURE GESTIONIS; COMMERCIAL-ACTIVITY EXCEPTION. See RESTRICTIVE PRINCIPLE OF SOVEREIGN IMMUNITY .

#### JURE NATURAE

*jure naturae*.1.EX JURE NATURAE. 2.NATURAL LAW.

#### JURIDICAL

*judicial* (juu-rid-i-k*<<schwa>>*l), adj.1. Of or relating to judicial proceedings or to the administration of justice. 2. Of or relating to law; legal. — Also termed *juridic*. Cf. NONJURIDICAL.

#### JURIDICAL ACT

*judicial act*.See ACT.

#### JURIDICAL DAY

*judicial day*.See DAY.



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**JURIDICAL DOUBLE TAXATION**

juridical double taxation. See double taxation (3) under TAXATION.

**JURIDICAL LINK**

juridical link. A legal relationship between members of a group, such as those in a potential class action, sufficient to make a single suit more efficient or effective than multiple suits. — Also termed juridical relationship. [Cases: Federal Civil Procedure 164; Parties 35.13. C.J.S. Parties §§ 31, 34.]

**JURIDICAL PERSON**

juridical person. See artificial person under PERSON(3).

**JURIMETRICS**

jurimetrics (joo-ri-me-triks), n. The use of scientific or empirical methods, including measurement, in the study or analysis of legal matters. — jurimetrician (joo-ri-me-trish-ee-n), jurimetricist (joo-ri-me-tri-sist), n.

“A variety of contextual frames of reference have been employed by commentators to explain and clarify the basis for judicial decision-making, the most fundamental aspect of the judge's job. These range from exploration of the judge's personality to the employment of small group theory, game theory and Guttman scaling to measure and apprehend the nature of judicial decision-making. Indeed, the disciplined effort to identify with mathematical precision the decision process has been dubiously termed ‘jurimetrics.’ ” Alexander B. Smith & Abraham S. Blumberg, “The Problem of Objectivity,” in 2 *Crime and Justice* 485–86 (1971).

**JURIS**

juris (joo-ris), adj. [Latin] 1. Of law. 2. Of right.

juris divini (di-vi-ni). Roman law. Of divine right; subject to divine law. • The phrase appeared in reference to churches or to religious items that could not be privately sold.

juris positivii (poz-itiv-ee-i). Of positive law.

juris privati (pri-vay-ti). Of private right; relating to private property or private law.

juris publici (p-b-li-si). Of public right; relating to common or public use, or to public law.

**JURISCENTER**

juriscenter (joo-ri-sen-t-er or joo-ri-sen-t-er), n. Conflict of laws. The jurisdiction that is most appropriately considered a couple's domestic center of gravity for matrimonial purposes. [Cases: Divorce 2; Marriage 3. C.J.S. Conflict of Laws § 90; Divorce § 3; Marriage §§ 4–6, 10.]

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**JURISCONSULT**

jurisconsult (joor-is-kon-s<<schwa>>lt or -k<<schwa>>n-s<<schwa>>lt). One who is learned in the law, esp. in civil or international law; JURIST.

**JURISDICTION CONTENTIOSA**

jurisdictio contentiosa (joor-is-dik-shee-oh k<<schwa>>n-ten-shee-oh-s<< schwa>>). [Latin] Roman law. Contentious as opposed to voluntary jurisdiction. See contentious jurisdiction (1) under JURISDICTION.

**JURISDICTION EMANATA**

jurisdictio emanata (joor-is-dik-shee-oh em-<<schwa>>-nay-t<<schwa>>). [Law Latin “a jurisdiction emanating from the court”] Hist. A court's inherent jurisdiction, esp. to punish a contemner. See CONTEMNOR.

**JURISDICTION IN CONSENTIENTES**

jurisdictio in consentientes (joor-is-dik-shee-oh in k<<schwa>>n-sen-shee-en-teez). [Law Latin “jurisdiction over parties by virtue of their consent”] Scots law. Consensual jurisdiction. See consent jurisdiction under JURISDICTION.

**JURISDICTION**

jurisdiction,n.1. A government's general power to exercise authority over all persons and things within its territory; esp., a state's power to create interests that will be recognized under common-law principles as valid in other states <New Jersey's jurisdiction>. [Cases: States 1. C.J.S. States §§ 2, 16.] 2. A court's power to decide a case or issue a decree < the constitutional grant of federal-question jurisdiction>. — Also termed (in sense 2) competent jurisdiction; (in both senses) coram iudice. [Cases: Courts 3; Federal Courts 3.1, 161. C.J.S. Courts §§ 9, 18.]

“Rules of jurisdiction in a sense speak from a position outside the court system and prescribe the authority of the courts within the system. They are to a large extent constitutional rules. The provisions of the U.S. Constitution specify the outer limits of the subject-matter jurisdiction of the federal courts and authorize Congress, within those limits, to establish by statute the organization and jurisdiction of the federal courts. Thus, Article III of the Constitution defines the judicial power of the United States to include cases arising under federal law and cases between parties of diverse state citizenship as well as other categories. The U.S. Constitution, particularly the Due Process Clause, also establishes limits on the jurisdiction of the state courts. These due process limitations traditionally operate in two areas: jurisdiction of the subject matter and jurisdiction over persons. Within each state, the court system is established by state constitutional provisions or by a combination of such provisions and implementing legislation, which together define the authority of the various courts within the system.” Fleming James Jr., Geoffrey C. Hazard Jr. & John Leubsdorf, *Civil Procedure* § 2.1, at 55 (5th ed. 2001).

3. A geographic area within which political or judicial authority may be exercised <the accused fled to another jurisdiction>.4. A political or judicial subdivision within such an area

<other jurisdictions have decided the issue differently>. Cf. VENUE. — jurisdictional,adj.

agency jurisdiction.The regulatory or adjudicative power of a government administrative agency over a subject matter or matters.

ancillary jurisdiction.A court's jurisdiction to adjudicate claims and proceedings related to a claim that is properly before the court. • For example, if a plaintiff brings a lawsuit in federal court based on a federal question (such as a claim under Title VII), the defendant may assert a counterclaim over which the court would not otherwise have jurisdiction (such as a state-law claim of stealing company property). The concept of ancillary jurisdiction has now been codified, along with the concept of pendent jurisdiction, in the supplemental-jurisdiction statute. 28 USCA § 1367. See supplemental jurisdiction. Cf. pendent jurisdiction. [Cases: Admiralty 1(3); Courts 27; Equity 35; Federal Courts 20. C.J.S. Courts § 66; Equity §§ 9, 80, 87.]

anomalous jurisdiction. 1. Jurisdiction that is not granted to a court by statute, but that is inherent in the court's authority to govern lawyers and other officers of the court, such as the power to issue a preindictment order suppressing illegally seized property. [Cases: Criminal Law 394.5(1); Federal Courts 7; Searches and Seizures 84. C.J.S. Criminal Law §§ 794, 797; Equity § 20; Searches and Seizures §§ 217–226.] 2. An appellate court's provisional jurisdiction to review the denial of a motion to intervene in a lower-court case, so that if the court finds that the denial was correct, then its jurisdiction disappears — and it must dismiss the appeal for want of jurisdiction — because an order denying a motion to intervene is not a final, appealable order. See ANOMALOUS-JURISDICTION RULE. [Cases: Federal Courts 555.]

appellate jurisdiction.The power of a court to review and revise a lower court's decision. • For example, U.S. Const. art. III, § 2 vests appellate jurisdiction in the Supreme Court, while 28 USCA §§ 1291–1295 grant appellate jurisdiction to lower federal courts of appeals. Cf. original jurisdiction. [Cases: Appeal and Error 17; Courts 203–209; Federal Courts 751. C.J.S. Appeal and Error §§ 31–32, 40.]

arising-in jurisdiction.A bankruptcy court's jurisdiction over issues relating to the administration of the bankruptcy estate, and matters that occur only in a bankruptcy case. 28 USCA §§ 157, 1334. [Cases: Bankruptcy 2043–2063. C.J.S. Bankruptcy §§ 5, 9–12, 14–15, 17–18, 22.]

assistant jurisdiction.The incidental aid provided by an equity court to a court of law when justice requires both legal and equitable processes and remedies. — Also termed auxiliary jurisdiction.

common-law jurisdiction. 1. A place where the legal system derives fundamentally from the English common-law system <England, the United States, Australia, and other common-law jurisdictions>.2. A court's jurisdiction to try such cases as were cognizable under the English common law <in the absence of a controlling statute, the court exercised common-law jurisdiction over those claims>.

complete jurisdiction.A court's power to decide matters presented to it and to enforce its decisions.

concurrent jurisdiction. 1. Jurisdiction that might be exercised simultaneously by more than one court over the same subject matter and within the same territory, a litigant having the right to choose the court in which to file the action. [Cases: Admiralty 1(1); Courts 472, 489, 510; Federal Courts 1131. C.J.S. Courts §§ 186, 203, 222, 225.] 2. Jurisdiction shared by two or more states, esp. over the physical boundaries (such as rivers or other bodies of water) between them. — Also termed coordinate jurisdiction; overlapping jurisdiction. Cf. exclusive jurisdiction.

“In several cases, two States divided by a river exercise concurrent jurisdiction over the river, no matter where the inter-state boundary may be; in some cases by the Ordinance of 1787 for organizing Territories northwest of the Ohio River, in some cases by Acts of Congress organizing Territories or admitting States, and in some cases by agreements between the States concerned.” 1 Joseph H. Beale, *A Treatise on the Conflict of Laws* § 44.3, at 279 (1935).

consent jurisdiction. Jurisdiction that parties have agreed to, either by accord, by contract, or by general appearance. • Parties may not, by agreement, confer subject-matter jurisdiction on a federal court that would not otherwise have it. [Cases: Courts 22. C.J.S. Courts § 61.]

contentious jurisdiction. 1. A court's jurisdiction exercised over disputed matters. 2. Eccles. law. The branch of ecclesiastical-court jurisdiction that deals with contested proceedings.

continuing jurisdiction. A court's power to retain jurisdiction over a matter after entering a judgment, allowing the court to modify its previous rulings or orders. See CONTINUING-JURISDICTION DOCTRINE. [Cases: Courts 30; Federal Courts 26.1. C.J.S. Courts §§ 71–73.]

coordinate jurisdiction. See concurrent jurisdiction.

criminal jurisdiction. A court's power to hear criminal cases. [Cases: Criminal Law 83. C.J.S. Criminal Law §§ 149–150.]

default jurisdiction. Family law. In a child-custody matter, jurisdiction conferred when it is in the best interests of the child and either (1) there is no other basis for jurisdiction under the Uniform Child Custody Jurisdiction Act or the Parental Kidnapping Prevention Act, or (2) another state has declined jurisdiction in favor of default jurisdiction. • Jurisdiction is rarely based on default because either home-state jurisdiction or significant-connection jurisdiction almost always applies, or else emergency jurisdiction is invoked. Default jurisdiction arises only if none of those three applies, or a state with jurisdiction on any of those bases declines to exercise it and default jurisdiction serves the best interests of the child.

delinquency jurisdiction. The power of the court to hear matters regarding juvenile acts that, if committed by an adult, would be criminal. Cf. status-offense jurisdiction.

diversity jurisdiction. A federal court's exercise of authority over a case involving parties who are citizens of different states and an amount in controversy greater than a statutory minimum. 28 USCA § 1332. See DIVERSITY OF CITIZENSHIP; AMOUNT IN CONTROVERSY. [Cases: Federal Courts 281–360.]

emergency jurisdiction. Family law. A court's ability to take jurisdiction of a child who is

physically present in the state when that child has been abandoned or when necessary to protect the child from abuse. • Section 3(a)(3) of the Uniform Child Custody Jurisdiction Act allows for emergency jurisdiction. It is usu. temporary, lasting only as long as is necessary to protect the child.

equity jurisdiction. In a common-law judicial system, the power to hear certain civil actions according to the procedure of the court of chancery, and to resolve them according to equitable rules. [Cases: Equity 1; Federal Courts 7. C.J.S. Equity §§ 2–5, 7–8, 10, 20.]

“[T]he term equity jurisdiction does not refer to jurisdiction in the sense of the power conferred by the sovereign on the court over specified subject-matters or to jurisdiction over the res or the persons of the parties in a particular proceeding but refers rather to the merits. The want of equity jurisdiction does not mean that the court has no power to act but that it should not act, as on the ground, for example, that there is an adequate remedy at law.” William Q. de Funiak, *Handbook of Modern Equity* 38 (2d ed. 1956).

exclusive jurisdiction. A court's power to adjudicate an action or class of actions to the exclusion of all other courts <federal district courts have exclusive jurisdiction over actions brought under the Securities Exchange Act>. Cf. concurrent jurisdiction. [Cases: Courts 472, 489, 510; Equity 44; Federal Courts 1131. C.J.S. Courts §§ 186, 203, 222, 225; Equity §§ 19, 51–53.]

extraterritorial jurisdiction. A court's ability to exercise power beyond its territorial limits. See LONG-ARM STATUTE. [Cases: Courts 12(2); Federal Courts 76. C.J.S. Courts §§ 39, 44.]

federal jurisdiction. 1. The exercise of federal-court authority. [Cases: Federal Courts 3.1.] 2. The area of study dealing with the jurisdiction of federal courts.

federal-juvenile-delinquency jurisdiction. A federal court's power to hear a case in which a person under the age of 18 violates federal law. • In such a case, the federal court derives its jurisdictional power from 18 USCA §§ 5031 et seq. The Act severely limits the scope of federal-juvenile-delinquency jurisdiction because Congress recognizes that juvenile delinquency is essentially a state issue. The acts that typically invoke federal jurisdiction are (1) acts committed on federal lands (military bases, national parks, Indian reservations), and (2) acts that violate federal drug laws or other federal criminal statutes.

federal-question jurisdiction. The exercise of federal-court power over claims arising under the U.S. Constitution, an act of Congress, or a treaty. 28 USCA § 1331. [Cases: Federal Courts 161–247.]

foreign jurisdiction. 1. The powers of a court of a sister state or foreign country. 2. Extraterritorial process, such as long-arm service of process.

general jurisdiction. 1. A court's authority to hear a wide range of cases, civil or criminal, that arise within its geographic area. [Cases: Courts 118–158.1; Federal Courts 3.1, 76.5. C.J.S. Courts §§ 3, 23–31, 33–35.] 2. A court's authority to hear all claims against a defendant, at the place of the defendant's domicile or the place of service, without any showing that a connection

exists between the claims and the forum state. Cf. limited jurisdiction; specific jurisdiction. [Cases: Courts 12(2.5); Federal Courts 76.10. C.J.S. Courts § 45.]

home-state jurisdiction.Family law. In interstate child-custody disputes governed by the Uniform Child Custody Jurisdiction and Enforcement Act, jurisdiction based on the child's having been a resident of the state for at least six consecutive months immediately before the commencement of the suit. See HOME STATE.

in personam jurisdiction.See personal jurisdiction.

in rem jurisdiction (in rem). A court's power to adjudicate the rights to a given piece of property, including the power to seize and hold it. — Also termed jurisdiction in rem. See IN REM. Cf. personal jurisdiction; subject-matter jurisdiction. [Cases: Courts 18–19; Federal Courts 93. C.J.S. Courts §§ 50–53.]

international jurisdiction.A court's power to hear and determine matters between different countries or persons of different countries.

judicial jurisdiction.The legal power and authority of a court to make a decision that binds the parties to any matter properly brought before it.

jurisdiction in personam.See personal jurisdiction.

jurisdiction in rem.See in rem jurisdiction.

jurisdiction of the person.See personal jurisdiction.

jurisdiction over the person.See personal jurisdiction.

jurisdiction quasi in rem.See quasi-in-rem jurisdiction.

legislative jurisdiction.A legislature's general sphere of authority to enact laws and conduct all business related to that authority, such as holding hearings. [Cases: States 1. C.J.S. States §§ 2, 16.]

limited jurisdiction.Jurisdiction that is confined to a particular type of case or that may be exercised only under statutory limits and prescriptions. — Also termed special jurisdiction. Cf. general jurisdiction. [Cases: Courts 26, 59; Federal Courts 5. C.J.S. Courts §§ 3, 8, 64–65, 67.]

“It is a principle of first importance that the federal courts are courts of limited jurisdiction.... The federal courts ... cannot be courts of general jurisdiction. They are empowered to hear only such cases as are within the judicial power of the United States, as defined in the Constitution, and have been entrusted to them by a jurisdictional grant by Congress.” Charles Alan Wright, *The Law of Federal Courts* § 7, at 27 (5th ed. 1994).

long-arm jurisdiction.Jurisdiction over a nonresident defendant who has had some contact with the jurisdiction in which the petition is filed.

original jurisdiction.A court's power to hear and decide a matter before any other court can review the matter. Cf. appellate jurisdiction. [Cases: Courts 118–158.1, 206; Federal Courts

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### 3.1. C.J.S. Courts §§ 3, 23–31, 33–35.]

overlapping jurisdiction. See concurrent jurisdiction.

pendent jurisdiction (pen-d<<schwa>>nt). A court's jurisdiction to hear and determine a claim over which it would not otherwise have jurisdiction, because the claim arises from the same transaction or occurrence as another claim that is properly before the court. • For example, if a plaintiff brings suit in federal court claiming that the defendant, in one transaction, violated both a federal and a state law, the federal court has jurisdiction over the federal claim (under federal-question jurisdiction) and also has jurisdiction over the state claim that is pendent to the federal claim. Pendent jurisdiction has now been codified as supplemental jurisdiction. 28 USCA § 1367. — Also termed pendent-claim jurisdiction. See supplemental jurisdiction. Cf. ancillary jurisdiction. [Cases: Courts 27; Equity 35; Federal Courts 14. C.J.S. Courts § 66; Equity §§ 9, 80, 87.]

pendent-party jurisdiction. A court's jurisdiction to adjudicate a claim against a party who is not otherwise subject to the court's jurisdiction, because the claim by or against that party arises from the same transaction or occurrence as another claim that is properly before the court. • Pendent-party jurisdiction has been a hotly debated subject, and was severely limited by the U.S. Supreme Court in *Finley v. United States*, 490 U.S. 545, 109 S.Ct. 2003 (1989). The concept is now codified in the supplemental-jurisdiction statute, and it applies to federal-question cases but not to diversity-jurisdiction cases. 28 USCA § 1367. Neither pendent-party jurisdiction nor supplemental jurisdiction may be used to circumvent the complete-diversity requirement in cases founded on diversity jurisdiction. See supplemental jurisdiction. [Cases: Federal Courts 23.]

personal jurisdiction. A court's power to bring a person into its adjudicative process; jurisdiction over a defendant's personal rights, rather than merely over property interests. — Also termed in personam jurisdiction; jurisdiction in personam; jurisdiction of the person; jurisdiction over the person. See IN PERSONAM. Cf. in rem jurisdiction. [Cases: Admiralty 5; Constitutional Law 305(5, 6); Courts 10; Federal Courts 71–97. C.J.S. Admiralty §§ 23–25, 29, 67; Constitutional Law §§ 1151–1152; Courts §§ 39–40.]

plenary jurisdiction (plee-n<<schwa>>-ree or plen-<<schwa>>-ree). A court's full and absolute power over the subject matter and the parties in a case.

primary jurisdiction. The power of an agency to decide an issue in the first instance when a court, having concurrent jurisdiction with the agency, determines that it would be more pragmatic for the agency to handle the case initially. See PRIMARY-JURISDICTION DOCTRINE.

“The doctrine of primary jurisdiction typically is raised, not in a proceeding before an administrative agency, but in litigation before a court. Agency and court jurisdiction to resolve disputes and issues frequently overlap. Primary jurisdiction is a concept used by courts to allocate initial decision-making responsibility between agencies and courts where such overlaps exist.... A holding that an agency has primary jurisdiction to resolve an issue raised in a judicial proceeding has two important consequences. First, it transfers some of the power to resolve that issue to the agency.... Second, if the issues referred to the agency as within its primary jurisdiction are critical

to judicial resolution of the underlying dispute, the court cannot proceed with the trial of the case until the agency has resolved those issues and the agency's decision has been either affirmed or reversed by a reviewing court." Richard J. Pierce Jr. et al., *Administrative Law Process* 206, 207–08 (3d ed. 1999).

probate jurisdiction. Jurisdiction over matters relating to wills, settlement of decedents' estates, and (in some states) guardianship and the adoption of minors. [Cases: Courts 198; Federal Courts 9.]

prorogated jurisdiction. Civil law. Jurisdiction conferred by the express consent of all the parties on a judge who would otherwise be disqualified. Cf. tacit prorogation under PROROGATION.

quasi-in-rem jurisdiction (kway-sI in remorkway-zI). Jurisdiction over a person but based on that person's interest in property located within the court's territory. — Also termed jurisdiction quasi in rem. See quasi in rem under IN REM. [Cases: Courts 18; Federal Courts 93. C.J.S. Courts § 53.]

significant-connection jurisdiction. Family law. In a child-custody matter, jurisdiction based on (1) the best interests of the child, (2) at least one parent's (or litigant's) significant connection to the state, and (3) the presence in the state of substantial evidence about the child's present or future care, protection, training, and personal relationships. • This type of jurisdiction is conferred by both the Uniform Child Custody Jurisdiction Act and the Parental Kidnapping Prevention Act. Generally, the home state will also be the state with significant connections and substantial evidence. Jurisdiction based on a significant connection or substantial evidence alone is conferred only when the child has no home state. — Also termed significant-connection/substantial-evidence jurisdiction; significant connection-substantial evidence jurisdiction; substantial-evidence jurisdiction. See HOME STATE.

special jurisdiction. See limited jurisdiction.

specific jurisdiction. Jurisdiction that stems from the defendant's having certain minimum contacts with the forum state so that the court may hear a case whose issues arise from those minimum contacts. Cf. general jurisdiction. [Cases: Courts 12(2.10); Federal Courts 76.10. C.J.S. Courts §§ 40, 45, 47.]

state jurisdiction. 1. The exercise of state-court authority. 2. A court's power to hear all matters, both civil and criminal, arising within its territorial boundaries.

status-offense jurisdiction. The power of the court to hear matters regarding noncriminal conduct committed by a juvenile. See status offense under OFFENSE (1). Cf. delinquency jurisdiction.

subject-matter jurisdiction. Jurisdiction over the nature of the case and the type of relief sought; the extent to which a court can rule on the conduct of persons or the status of things. — Also termed jurisdiction of the subject matter; jurisdiction of the cause; jurisdiction over the action. Cf. personal jurisdiction. [Cases: Courts 4; Federal Courts 3.1. C.J.S. Courts §§ 9–10, 18.]



summary jurisdiction. 1. A court's jurisdiction in a summary proceeding. 2. The court's authority to issue a judgment or order (such as a finding of contempt) without the necessity of a trial or other process. 3. English law. A court's power to make an order immediately, without obtaining authority or referral, as in a magistrate's power to dispose of a criminal case without referring it to the Crown Court for a formal trial or without drawing a jury.

supplemental jurisdiction. Jurisdiction over a claim that is part of the same case or controversy as another claim over which the court has original jurisdiction. • Since 1990, federal district courts have had supplemental jurisdiction, which includes jurisdiction over both ancillary and pendent claims. 28 USCA § 1367. See ancillary jurisdiction; pendent jurisdiction. [Cases: Courts 27; Equity 35; Federal Courts 14. C.J.S. Courts § 66; Equity §§ 9, 80, 87.]

territorial jurisdiction. 1. Jurisdiction over cases arising in or involving persons residing within a defined territory. [Cases: Courts 171; Federal Courts 71.] 2. Territory over which a government, one of its courts, or one of its subdivisions has jurisdiction.

transient jurisdiction (tran-sh<<schwa>>nt). Personal jurisdiction over a defendant who is served with process while in the forum state only temporarily (such as during travel). [Cases: Courts 13. C.J.S. Courts § 41.]

voluntary jurisdiction. 1. Jurisdiction exercised over unopposed matters. 2. Eccles. law. Jurisdiction that does not require a judicial proceeding, as with granting a license or installing a nominee to a benefice.

#### JURISDICTIONAL AMOUNT

jurisdictional amount. See AMOUNT IN CONTROVERSY.

#### JURISDICTIONAL FACT

jurisdictional fact. See FACT.

#### JURISDICTIONAL-FACT DOCTRINE

jurisdictional-fact doctrine. Administrative law. The principle that if evidence is presented challenging the factual findings that triggered an agency's action, then a court will review the facts to determine whether the agency had authority to act in the first place. • This doctrine is generally no longer applied. Cf. CONSTITUTIONAL-FACT DOCTRINE. [Cases: Administrative Law and Procedure 795. C.J.S. Public Administrative Law and Procedure § 241.]

#### JURISDICTIONAL GERRYMANDERING

jurisdictional gerrymandering. See GERRYMANDERING(2).

#### JURISDICTIONAL LIMITS

jurisdictional limits. The geographic boundaries or the constitutional or statutory limits within which a court's authority may be exercised.

#### JURISDICTIONAL PLEA

jurisdictional plea. See PLEA(3).

#### JURISDICTIONAL STATEMENT

jurisdictional statement. See JURISDICTION CLAUSE(1).

#### JURISDICTIONAL STRIKE

jurisdictional strike. See STRIKE.

#### JURISDICTION CLAUSE

jurisdiction clause. 1. At law, a statement in a pleading that sets forth the court's jurisdiction to act in the case. — Also termed jurisdictional statement. 2. Equity practice. The part of the bill intended to show that the court has jurisdiction, usu. by an averment that adequate relief is unavailable outside equitable channels.

#### JURISDICTION IN PERSONAM

jurisdiction in personam. See personal jurisdiction under JURISDICTION.

#### JURISDICTION IN REM

jurisdiction in rem. See in rem jurisdiction under JURISDICTION.

#### JURISDICTIONIS FUNDANDAE

jurisdictionis fundandae (joo-ris-dik-shee-oh-nis f<<schwa>>n-dan-dee). [Law Latin] Scots law. For the purpose of founding jurisdiction. See ARRESTUM JURISDICTIONIS FUNDANDAE CAUSA .

#### JURISDICTION OF THE CAUSE

jurisdiction of the cause. See subject-matter jurisdiction under JURISDICTION.

#### JURISDICTION OF THE PERSON

jurisdiction of the person. See personal jurisdiction under JURISDICTION.

#### JURISDICTION OF THE SUBJECT MATTER

jurisdiction of the subject matter. See subject-matter jurisdiction under JURISDICTION.

#### JURISDICTION OVER THE ACTION

jurisdiction over the action. See subject-matter jurisdiction under JURISDICTION.

#### JURISDICTION OVER THE PERSON

jurisdiction over the person. See personal jurisdiction under JURISDICTION.

#### JURISDICTION QUASI IN REM

jurisdiction quasi in rem. See quasi-in-rem jurisdiction under JURISDICTION.

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**JURISDICTIO VOLUNTARIA**

jurisdictio voluntaria (joor-is-dik-shee-oh vol-*<<schwa>>*n-tair-ee-*<<schwa>>*). [Latin] Roman law. Voluntary jurisdiction. See voluntary jurisdiction under JURISDICTION.

**JURIS DOCTOR**

Juris Doctor (joor-is dok-t*<<schwa>>*r). Doctor of law — the law degree most commonly conferred by an American law school. — Abbr. J.D. — Also termed Doctor of Jurisprudence; Doctor of Law. Cf. MASTER OF LAWS; LL.B.; DOCTOR OF LAWS .

**JURIS ET DE JURE**

juris et de jure (joor-is et dee joor-ee). [Latin] Of law and of right <a presumption juris et de jure cannot be rebutted>.

**JURISINCEPTOR**

jurisinceptor (joor-is-in-sep-t*<<schwa>>*r). [Latin] Hist. A student of the civil law.

**JURISPERITUS**

jurisperitus (joor-is-p*<<schwa>>*-rI-t*<<schwa>>*s), adj.[Latin] (Of a person) skilled or learned in law. Cf. LEGISPERITUS.

**JURIS POSITIVII**

juris positivii. See JURIS.

**JURIS PRIVATI**

juris privati. See JURIS.

**JURISPRUDE**

jurisprude (joor-is-prood), n.1. A person who makes a pretentious display of legal knowledge or who is overzealous about the importance of legal doctrine. 2. JURISPRUDENT.

**JURISPRUDENCE**

jurisprudence (joor-is-prood-*<<schwa>>*nts), n.1. Originally (in the 18th century), the study of the first principles of the law of nature, the civil law, and the law of nations. — Also termed jurisprudentia naturalis (joor-is-proo-den-shee-*<<schwa>>* nach-*<<schwa>>*-ray-lis). 2. More modernly, the study of the general or fundamental elements of a particular legal system, as opposed to its practical and concrete details. 3. The study of legal systems in general. 4. Judicial precedents considered collectively. 5. In German literature, the whole of legal knowledge. 6. A system, body, or division of law. 7. CASELAW.

“Jurisprudence addresses the questions about law that an intelligent layperson of speculative bent — not a lawyer — might think particularly interesting. What is law? ... Where does law come from? ... Is law an autonomous discipline? ... What is the purpose of law? ... Is law a science, a humanity, or neither? ... A practicing lawyer or a judge is apt to think questions of this sort at best

irrelevant to what he does, at worst naive, impractical, even childlike (how high is up?).” Richard A. Posner, *The Problems of Jurisprudence* 1 (1990).

analytical jurisprudence. A method of legal study that concentrates on the logical structure of law, the meanings and uses of its concepts, and the formal terms and the modes of its operation.

ensorial jurisprudence. See LAW REFORM.

comparative jurisprudence. See COMPARATIVE LAW.

equity jurisprudence. 1. The legal science treating the rules, principles, and maxims that govern the decisions of a court of equity. 2. The cases and controversies that are considered proper subjects of equity. 3. The nature and form of the remedies that equity grants.

ethical jurisprudence. The branch of legal philosophy concerned with the law from the viewpoint of its ethical significance and adequacy. • This area of study brings together moral and legal philosophy. — Also termed (in German) Rechtsphilosophie; (in French) philosophie du droit.

expository jurisprudence. The scholarly exposition of the contents of an actual legal system as it now exists or once existed. — Also termed systematic jurisprudence.

feminist jurisprudence. A branch of jurisprudence that examines the relationship between women and law, including the history of legal and social biases against women, the elimination of those biases in modern law, and the enhancement of women's legal rights and recognition in society.

“The first published use of the phrase ‘feminist jurisprudence’ occurred in 1978 when Professor Ann Scales published an article called *Toward a Feminist Jurisprudence*. Feminist legal theory is diverse, and anything but monolithic. Many feminists believe that it is difficult to generalize about feminist jurisprudence. It is, however, possible to understand feminist legal theory as a reaction to the jurisprudence of modern legal scholars (primarily male scholars) who tend to see law as a process for interpreting and perpetuating a universal, gender-neutral public morality. Feminist legal scholars, despite their differences, appear united in claiming that ‘masculine’ jurisprudence of ‘all stripes’ fails to acknowledge, let alone respond to, the interests, values, fears, and harms experienced by women.” Gary Minda, *Postmodern Legal Movements* 129–30 (1995).

general jurisprudence. 1. The scholarly study of the fundamental elements of a given legal system. — Also termed *jurisprudentia generalis*.

“The term ‘general jurisprudence’ involves the misleading suggestion that this branch of legal science is that which relates not to any single system of law, but to those conceptions and principles that are to be found in all developed legal systems, and which are therefore in this sense general. It is true that a great part of the matter with which it is concerned is common to all mature systems of law. All of these have the same essential nature and purposes, and therefore agree to a large extent in their first principles. But it is not because of universal reception that any principles pertain to the theory or philosophy of law. For this purpose such reception is neither sufficient nor necessary. Even if no system in the world save that of England recognised the legislative efficacy

of judicial precedents, the theory of case-law would none the less be a fit and proper subject of general jurisprudence. *Jurisprudentia generalis* is not the study of legal systems in general, but the study of the general or fundamental elements of a particular legal system.” John Salmond, *Jurisprudence* 3 n.(b) (Glanville L. Williams ed., 10th ed. 1947).

2. The scholarly study of the law, legal theory, and legal systems generally. — Also termed *jurisprudentia universalis*; philosophy of law; legal philosophy.

“According to Austin (1790–1859), general jurisprudence is the study of the ‘principles, notions and distinctions’ common to the maturer systems of law.” Rupert Cross & J.W. Harris, *Precedent in English Law* 2 (4th ed. 1991).

historical jurisprudence. The branch of legal philosophy concerned with the history of the first principles and conceptions of a legal system, dealing with (1) the general principles governing the origin and development of law, and (2) the origin and development of the legal system's first principles.

“Historical jurisprudence was a passive restraining mode of thought on legal subjects by way of reaction from the active creative thought of the era of philosophy. It was a reaction, too, from the confident disregard of traditional legal institutions and conditions of time and place which characterized the French Revolution. We were not ready for it in the fore part of the last century. But we accepted it eagerly toward the end of that century when it was already moribund in Europe.” Roscoe Pound, *The Formative Era of American Law* 113 (1938).

*jurisprudence constante* (k<<schwa>>n-stan-tee). Civil law. The doctrine that a court should give great weight to a rule of law that is accepted and applied in a long line of cases, and should not overrule or modify its own decisions unless clear error is shown and injustice will arise from continuation of a particular rule of law. • Civil-law courts are not bound by the common-law doctrine of *stare decisis*. But they do recognize the doctrine of *jurisprudence constante*, which is similar to *stare decisis*, one exception being that *jurisprudence constante* does not command strict adherence to a legal principle applied on one occasion in the past. Cf. *STARE DECISIS*. [Cases: Courts 89. C.J.S. Courts §§ 139–140, 144–146, 161–164, 166–167.]

*jurisprudence of conceptions*. The extension of a maxim or definition, usu. to a logical extreme, with relentless disregard for the consequences. • The phrase appears to have been invented by Roscoe Pound. See *Mechanical Jurisprudence*, 8 *Colum. L. Rev.* 605, 608 (1908).

normative jurisprudence. See *NATURAL LAW*(2).

particular jurisprudence. The scholarly study of the legal system within a particular jurisdiction, the focus being on the fundamental assumptions of that system only.

positivist jurisprudence. A theory that denies validity to any law that is not derived from or sanctioned by a sovereign or some other determinate source. — Also termed positivistic jurisprudence.

sociological jurisprudence. A philosophical approach to law stressing the actual social effects of legal institutions, doctrines, and practices. • This influential approach was started by Roscoe

Pound in 1906 and became a precursor to legal realism. — Also termed sociology of law. See LEGAL REALISM.

systematic jurisprudence. See expository jurisprudence.

#### JURISPRUDENT

jurisprudent, n. A person learned in the law; a specialist in jurisprudence. — Also termed jurisprude.

#### JURISPRUDENTIA GENERALIS

jurisprudentia generalis. See general jurisprudence (1) under JURISPRUDENCE.

#### JURISPRUDENTIAL

jurisprudential (joo-r-is-proo-den-sh<<schwa>>l), adj. Of or relating to jurisprudence.

#### JURISPRUDENTIA NATURALIS

jurisprudentia naturalis. See JURISPRUDENCE(1).

#### JURISPRUDENTIA UNIVERSALIS

jurisprudentia universalis. See general jurisprudence (2) under JURISPRUDENCE.

#### JURIS PUBLICI

juris publici. See JURIS.

#### JURIST

jurist. 1. One who has thorough knowledge of the law; esp., a judge or an eminent legal scholar. — Also termed legist. 2. JURISPRUDENT.

#### JURISTIC

juristic, adj. 1. Of or relating to a jurist <juristic literature>. 2. Of or relating to law <a corporation is a typical example of a juristic person>. — Also termed juristical.

#### JURISTIC ACT

juristic act. See act in the law under ACT.

#### JURISTIC PERSON

juristic person. See artificial person under PERSON(3).

#### JURIS UTRISQUE DOCTOR

juris utriusque doctor. See J.U.D.

#### JUROR

juror (joo-r<<schwa>>r also joo-r-or). A person serving on a jury panel. — Also formerly

termed layperson; juryman; jurator.

grand juror. A person serving on a grand jury.

petit juror (pet-ee). A trial juror, as opposed to a grand juror.

presiding juror. The juror who chairs the jury during deliberations and speaks for the jury in court by announcing the verdict. • The presiding juror is usu. elected by the jury at the start of deliberations. — Also termed foreman; foreperson; (in Scots law) jury chancellor. [Cases: Jury 147. C.J.S. Juries § 495.]

stealth juror. A juror who hides a potentially disqualifying bias or conflict of interest in order to serve on a jury. • A stealth juror may want to influence the outcome of the trial or may plan to reap a financial benefit from having inside access to the jury deliberations, esp. by writing a book about a high-profile trial.

tales-juror (tay-leez- ortaylz-joor-<<schwa>>r). See TALESMAN.

#### JUROR MISCONDUCT

juror misconduct. See MISCONDUCT.

#### JURY

jury, n. A group of persons selected according to law and given the power to decide questions of fact and return a verdict in the case submitted to them. • In certain contexts, jury embraces any fact-trier, including an arbitrator or a trial judge sitting in a nonjury proceeding. — Also termed empaneled jury; impaneled jury.

advisory jury. A jury empaneled to hear a case when the parties have no right to a jury trial. See Fed. R. Civ. P. 39(c). • The judge may accept or reject the advisory jury's verdict. [Cases: Federal Civil Procedure 2252; Trial 369. C.J.S. Trial § 1029.]

blue-ribbon jury. A jury consisting of jurors who are selected for their special qualities, such as advanced education or special training, sometimes used in a complex civil case (usu. by stipulation of the parties) and sometimes also for a grand jury (esp. one investigating governmental corruption). • A blue-ribbon jury is not allowed in criminal trials because it would violate the defendant's right to trial by a jury of peers. An even more elite group of jurors, involving specialists in a technical field, is called a blue-blue-ribbon jury.

common jury. See petit jury.

coroner's jury. A jury summoned by a coroner to investigate the cause of death. [Cases: Coroners 12. C.J.S. Coroners and Medical Examiners § 15.]

deadlocked jury. See hung jury.

death-qualified jury. Criminal law. A jury that is fit to decide a case involving the death penalty because the jurors have no absolute ideological bias against capital punishment. Cf.

life-qualified jury. [Cases: Jury 33(2.15). C.J.S. Juries §§ 409, 446.]

fair and impartial jury. See impartial jury.

foreign jury. A jury obtained from a jurisdiction other than that in which the case is brought. [Cases: Jury 7. C.J.S. Juries § 5.]

good jury. See special jury.

grand jury. See GRAND JURY.

homage jury. Hist. A jury in a court baron, consisting of tenants who made homage to the lord. See COURT BARON.

hung jury. A jury that cannot reach a verdict by the required voting margin. — Also termed deadlocked jury.

impartial jury. A jury that has no opinion about the case at the start of the trial and that bases its verdict on competent legal evidence. — Also termed fair and impartial jury. [Cases: Jury 33(2.10). C.J.S. Juries §§ 224–225, 248, 396.]

inquest jury. A jury summoned from a particular district to appear before a sheriff, coroner, or other ministerial officer and inquire about the facts concerning a death. See INQUEST. — Also termed jury of inquest. [Cases: Coroners 12. C.J.S. Coroners and Medical Examiners § 15.]

jury de medietate linguae (dee mee-dee-<<schwa>>-tay-tee ling-gwee). [Latin “jury of halfness of language”] Hist. A jury made up of half natives and half aliens, allowed when one of the parties is an alien.

jury of indictment. See GRAND JURY.

jury of inquest. See inquest jury.

jury of matrons. Hist. A jury of “discreet and lawful women” impaneled to try a question of pregnancy, as when a woman sentenced to death pleads, in stay of execution, that she is pregnant. See PLEAD (ONE'S) BELLY.

jury of the vicinage (vis-<<schwa>>-nij). 1. At common law, a jury from the county where the crime occurred. 2. A jury from the county where the court is held. See VICINAGE. [Cases: Jury 33(3). C.J.S. Juries § 278.]

life-qualified jury. Criminal law. In a case involving a capital crime, a jury selected from a venire from which the judge has excluded anyone unable or unwilling to consider a sentence of life imprisonment, instead of the death penalty, if the defendant is found guilty. Cf. death-qualified jury. [Cases: Jury 33(2.15). C.J.S. Juries §§ 409, 446.]

mixed jury. A jury composed of both men and women or persons of different races. [Cases: Jury 8. C.J.S. Juries § 3.]

petit jury (pet-ee). A jury (usu. consisting of 6 or 12 persons) summoned and empaneled in the trial of a specific case. — Also termed petty jury; trial jury; common jury; traverse jury. Cf.



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**GRAND JURY.**

police jury. See POLICE JURY.

presenting jury. See GRAND JURY.

shadow jury. A group of mock jurors paid to observe a trial and report their reactions to a jury consultant hired by one of the litigants. • The shadow jurors, who are matched as closely as possible to the real jurors, provide counsel with information about the jury's likely reactions to the trial. — Also termed phantom jury.

sheriff's jury. Hist. A jury selected and summoned by a sheriff to hold inquests for various purposes, such as assessing damages in an action in which the defendant makes no defense or ascertaining the mental condition of an alleged lunatic.

special jury. 1. A jury chosen from a panel that is drawn specifically for that case. • Such a jury is usu. empaneled at a party's request in an unusually important or complicated case. — Also termed struck jury. See STRIKING A JURY. [Cases: Jury 6, 71. C.J.S. Juries §§ 4, 346–347.] 2. At common law, a jury composed of persons above the rank of ordinary freeholders, usu. summoned to try more important questions than those heard by ordinary juries. — Also termed good jury.

struck jury. 1. A jury selected by allowing the parties to alternate in striking from a list any person whom a given party does not wish to have on the jury, until the number is reduced to the appropriate number (traditionally 12). See STRIKING A JURY. 2. See special jury (1). [Cases: Jury 6, 71. C.J.S. Juries §§ 4, 346–347.]

traverse jury. See petit jury.

trial jury. See petit jury.

**JURY BOX**

jury box. The enclosed part of a courtroom where the jury sits. — Also spelled jury-box.

**JURY CHALLENGE**

jury challenge. See CHALLENGE(2).

**JURY CHANCELLOR**

jury chancellor. See presiding juror under JUROR.

**JURY CHARGE**

jury charge. 1. JURY INSTRUCTION. 2. A set of jury instructions. — Often shortened to charge.

**JURY COMMISSIONER**

jury commissioner. See COMMISSIONER.

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**JURY DIRECTION**

jury direction. See JURY INSTRUCTION.

**JURY DUTY**

jury duty. 1. The obligation to serve on a jury. 2. Actual service on a jury. — Also termed jury service.

**JURY FEE**

jury fee. See FEE(1).

**JURY-FIXING**

jury-fixing. The act or an instance of illegally procuring the cooperation of one or more jurors who actually influence the outcome of the trial. — Also termed fixing a jury. Cf. EMBRACERY; JURY-PACKING. — jury-fixer, n.

**JURY INSTRUCTION**

jury instruction. (usu. pl.) A direction or guideline that a judge gives a jury concerning the law of the case. — Often shortened to instruction. — Also termed jury charge; charge; jury direction; direction. [Cases: Criminal Law 769; Federal Civil Procedure 2171–2185; Trial 182. C.J.S. Criminal Law §§ 1302–1305; Trial §§ 484–486, 488, 492, 498, 500.]

additional instruction. A jury charge, beyond the original instructions, that is usu. given in response to the jury's question about the evidence or some point of law. — Also termed further instruction. [Cases: Criminal Law 863; Federal Civil Procedure 1975; Trial 312, 314(1). C.J.S. Criminal Law §§ 1382, 1384–1385, 1540; Trial §§ 811–812, 815.]

affirmative converse instruction. An instruction presenting a hypothetical that, if true, commands a verdict in favor of the defendant. • An affirmative converse instruction usu. begins with language such as “your verdict must be for the defendant if you believe ....” [Cases: Trial 203(3). C.J.S. Trial § 559.]

affirmative instruction. An instruction that removes an issue from the jury's consideration, such as an instruction that whatever the evidence, the defendant cannot be convicted under the indictment count to which the charge is directed. — Also termed affirmative charge. [Cases: Trial 194, 234(4), 253. C.J.S. Trial §§ 526, 626, 672.]

argumentative instruction. An instruction that assumes facts not in evidence, that singles out or unduly emphasizes a particular issue, theory, or defense, or that otherwise invades the jury's province regarding the weight, probative value, or sufficiency of the evidence. [Cases: Criminal Law 807; Federal Civil Procedure 2173.1; Trial 240. C.J.S. Trial § 582.]

binding instruction. See mandatory instruction.

cautionary instruction. 1. A judge's instruction to the jurors to disregard certain evidence or consider it for specific purposes only. [Cases: Criminal Law 673, 783, 783.5; Federal Civil

Procedure 2173; Trial 207. C.J.S. Criminal Law § 1206; Trial §§ 489, 567.] 2. A judge's instruction for the jury not to be influenced by outside factors and not to talk to anyone about the case while the trial is in progress. [Cases: Criminal Law 768, 852; Federal Civil Procedure 2173; Trial 201, 217. C.J.S. Criminal Law §§ 1308, 1371; Trial §§ 543–546, 552–553.]

curative instruction. A judge's instruction that is intended to correct an erroneous instruction. [Cases: Federal Civil Procedure 2184; Trial 296. C.J.S. Trial § 757.]

deliberate-indifference instruction. See JEWELL INSTRUCTION.

disparaging instruction. A jury charge that discredits or defames a party to a lawsuit.

formula instruction. A jury charge derived from a standardized statement of the law on which the jury must base its verdict.

further instruction. See additional instruction.

general instruction. Any jury instruction that does not present a question or issue to be answered.

Jewell instruction. See JEWELL INSTRUCTION.

mandatory instruction. An instruction requiring a jury to find for one party and against the other if the jury determines that, based on a preponderance of the evidence, a given set of facts exists. — Also termed binding instruction. [Cases: Trial 234(3, 4), 253. C.J.S. Trial §§ 625–626, 672.]

model jury instruction. A form jury charge usu. approved by a state bar association or similar group regarding matters arising in a typical case. • Courts usu. accept model jury instructions as authoritative. — Also termed pattern jury instruction; pattern jury charge; model jury charge.

ostrich instruction. Criminal procedure. Slang. An instruction stating that a defendant who deliberately avoided acquiring actual knowledge can be found to have acted knowingly. [Cases: Criminal Law 772(5). C.J.S. Criminal Law § 1312.]

pattern jury instruction. See model jury instruction.

peremptory instruction. A court's explicit direction that a jury must obey, such as an instruction to return a verdict for a particular party. See directed verdict under VERDICT. [Cases: Trial 234, 253. C.J.S. Trial §§ 623, 672.]

single-juror instruction. An instruction stating that if any juror is not reasonably satisfied with the plaintiff's evidence, then the jury cannot render a verdict for the plaintiff.

special instruction. An instruction on some particular point or question involved in the case, usu. in response to counsel's request for such an instruction. — Also termed special charge.

standard instruction. A jury instruction that has been regularly used in a given jurisdiction.

JURY LIST

jury list.A list of persons who may be summoned to serve as jurors. [Cases: Jury 60. C.J.S. Juries § 305.]

#### JURYMAN

juryman.Archaic. See JUROR.

#### JURY NULLIFICATION

jury nullification.A jury's knowing and deliberate rejection of the evidence or refusal to apply the law either because the jury wants to send a message about some social issue that is larger than the case itself or because the result dictated by law is contrary to the jury's sense of justice, morality, or fairness. [Cases: Criminal Law 731; Trial 128, 304.C.J.S. Criminal Law §§ 1273–1275; Trial §§ 296, 775–784, 786–789.]

#### JURY OF INDICTMENT

#### JURY-PACKING

jury-packing. The act or an instance of contriving to have a jury composed of persons who are predisposed toward one side or the other. — Also termed packing a jury. Cf. EMBRACERY; JURY-FIXING.

#### JURY PANEL

jury panel.See VENIRE(1).

#### JURY PARDON

jury pardon.A rule that permits a jury to convict a defendant of a lesser offense than the offense charged if sufficient evidence exists to convict the defendant of either offense.

#### JURY POOL

jury pool.See VENIRE(1).

#### JURY PROCESS

jury process. 1. The procedure by which jurors are summoned and their attendance is enforced. [Cases: Jury 67. C.J.S. Juries § 319.] 2. The papers served on or mailed to potential jurors to compel their attendance.

#### JURY QUESTION

jury question. 1. An issue of fact that a jury decides. See QUESTION OF FACT. [Cases: Federal Civil Procedure 2141.] 2. A special question that a court may ask a jury that will deliver a special verdict. See special interrogatory under INTERROGATORY. [Cases: Federal Civil Procedure 2231; Trial 350. C.J.S. Trial §§ 942–945.]

#### JURY SEQUESTRATION

jury sequestration.See SEQUESTRATION(8).

## JURY SERVICE

jury service. See JURY DUTY.

## JURY SUMMATION

jury summation. See CLOSING ARGUMENT.

## JURY-TAMPERING

jury-tampering. See EMBRACERY.

## JURY TRIAL

jury trial. See TRIAL.

## JURY WAIVER

jury waiver. See WAIVER(2).

## JURY WHEEL

jury wheel. A physical device or electronic system used for storing and randomly selecting names of potential jurors. [Cases: Jury 65.C.J.S. Juries § 309.]

## JURYWOMAN

jurywoman. Archaic. A female juror; esp., a member of a jury of matrons. See jury of matrons under JURY.

## JUS

jus (j<<schwa>>s also joos or yoos), n. [Latin "law, right"] 1. Law in the abstract. 2. A system of law. 3. A legal right, power, or principle. 4. Roman law. Man-made law. • The term usu. refers to a right rather than a statute. Cf. FAS(1); JUS ANTIQUUM; LEX. — Abbr. J. — Also spelled ius. Pl. jura (joor-<<schwa>> also yoor-<<schwa>>).

"Ius, when used in a general sense, answers to our word Law in its widest acceptance. It denotes, not one particular law nor collection of laws, but the entire body of principles, rules, and statutes, whether written or unwritten, by which the public and the private rights, the duties and the obligations of men, as members of a community, are defined, inculcated, protected and enforced." William Ramsay, *A Manual of Roman Antiquities* 285–86 (Rodolfo Lanciani ed., 15th ed. 1894).

## JUS ABSTINENDI

jus abstinendi (j<<schwa>>s ab-st<<schwa>>-nen-di), n. [Law Latin "right of abstaining"] Roman & civil law. The right of an heir to renounce or decline an inheritance, as when it would require taking on debt.

## JUS ABUTENDI

jus abutendi (j<<schwa>>s ab-y<<schwa>>-ten-di), n. [Latin "right of abusing"] Roman &

civil law. The right to make full use of property, even to the extent of wasting or destroying it. Cf. **JUS UTENDI**.

#### **JUS ACCRESCENDI**

*jus accrescendi* (j<<schwa>>s ak-r<<schwa>>-sen-dI), n.[Latin “right of accretion”] A right of accrual; esp., the right of survivorship that a joint tenant enjoys. See **RIGHT OF SURVIVORSHIP**. Cf. **JUS NON DECRESCENDI**. [Cases: Joint Tenancy 6. C.J.S. Joint Tenancy §§ 3, 5, 7, 10–15, 19–20, 38–40.]

#### **JUS ACTIONIS**

*jus actionis* (j<<schwa>>s ak-shee-oh-nis). [Latin] Scots law. A right of action.

#### **JUS ACTUS**

*jus actus* (j<<schwa>>s ak-t<<schwa>>s). [Latin] Roman law. See **ACTUS(3)**.

#### **JUS ADMINISTRATIONES**

*jus administrationes* (j<<schwa>>s ad-mi-ni-stray-shee-oh-neeZ). [Latin] Scots law. Hist. The outmoded right by which a husband had unfettered control of his wife's heritable property.

#### **JUS AD REM**

*jus ad rem* (j<<schwa>>s ad rem), n.[Law Latin “right to a thing”] A right in specific property arising from another person's duty and valid only against that person; an inchoate or incomplete right to a thing. Cf. **JUS IN RE**.

#### **JUS AEDILIUM**

*jus aedilium* (j<<schwa>>s ee-dil-ee-<<schwa>>m). [Latin “law of the aediles”] Roman law. The body of law developed through the edicts of aediles. — Also termed *jus aedilicium* (j<<schwa>>s ee-dI-lish-ee-<<schwa>>m). See **AEDILE**; **JUS HONORARIUM** .

#### **JUS AELIANUM**

*Jus Aelianum* (j<<schwa>>s ee-lee-ay-n<<schwa>>m). [Latin] Roman law. A manual of laws drawn up in the second century B.C. by the consul Sextus Aelius, consisting of three parts: (1) the laws of the Twelve Tables; (2) a commentary on them; and (3) the forms of procedure. See **TWELVE TABLES**.

#### **JUS AEQUUM**

*jus aequum* (j<<schwa>>s ee-kw<<schwa>>m). [Latin “law that is equal or fair”] Roman law. Law characterized by equity, flexibility, and adaptation to the circumstances of a particular case. Cf. **JUS STRICTUM**.

#### **JUS AESNECIAE**

*jus aesneciae* (j<<schwa>>s ees-neesh-ee-ee). [Latin] Hist. The right of primogeniture. — Also spelled *jus esneciae*.

## JUS AGENDI

jus agendi (j<<schwa>>s <<schwa>>-jen-dI). [Latin] Scots law. One's power to take action to pursue one's rights.

## JUS ALBANAGII

jus albanagii (j<<schwa>>s al-b<<schwa>>-nay-jee-I), n.[Law Latin “confiscating the goods of aliens”] See DROIT D'AUBAINE.

## JUS ALBINATUS

jus albinatus (j<<schwa>>s al-bi-nay-t<<schwa>>s), n.[Law Latin “right of alien confiscation”] See DROIT D'AUBAINE.

## JUS ANGARIAE

jus angariae (j<<schwa>>s ang-gair-ee-ee), n.[Latin “right of angary”] See ANGARY.

## JUS ANTIQUUM

jus antiquum (j<<schwa>>s an-tI-kw<<schwa>>m). [Latin] Roman law. The old law. — Also termed jus vetus. Cf. JUS NOVUM.

“In the later Empire (which dates from the fourth century) there were two groups of sources of law: first, the ‘jus vetus’, or ‘jus’ simply, i.e. the old traditional law, the development of which was completed in the classical period of Roman jurisprudence (in the course of the second and the beginning of the third century); secondly, the ‘leges’ or ‘jus novum’, i.e. the later law which had sprung from imperial legislation. These two classes of law, ‘jus’ and ‘leges’, mutually supplementing each other, constituted the whole body of law as it existed at the time, and, taken together, represented the result of the entire development of Roman law from the earliest times down to ... the epoch of the later Empire.” Rudolph Sohm, *The Institutes: A Textbook of the History and System of Roman Private Law* 116–17 (James Crawford Ledlie trans., 3d ed. 1907).

## JUS APPARENTIAE

jus apparentiae (j<<schwa>>s ap-<<schwa>>-ren-shee-ee). [Law Latin] Scots law. The right of apparenry. • An heir who was open to a succession but not fully vested in title had the right of apparenry, a right that allowed the heir to take certain actions on behalf of the estate, such as defending the ancestor's title.

## JUS AQUAEDUCTUS

jus aquaeductus (j<<schwa>>s ak-w<<schwa>>-d<<schwa>>k-t<<schwa>>s), n.[Latin] Roman & civil law. A servitude that gives a landowner the right to conduct water from another's land through pipes or channels.

## JUS AQUAEHAUSTUS

jus aquaehaustus (j<<schwa>>s ak-wee-haws-t<<schwa>>s). [Latin] Roman law. See AQUAEHAUSTUS.

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**JUS AUCUPANDI**

jus aucupandi (j<<schwa>>s awk-yuu-pan-dI). [Latin] Scots law. The right of catching birds; the right of fowling.

**JUS BANCI**

jus banci (j<<schwa>>s ban-sI), n.[Law Latin “right of bench”] Hist. The right or privilege of having an elevated and separate seat of judgment, formerly allowed only to the king's judges, who administered what was from then on called “high justice.”

**JUS BELLI**

jus belli (j<<schwa>>s bel-I), n.[Latin “law of war”] The law of nations as applied during wartime, defining in particular the rights and duties of the belligerent powers and of neutral nations.

**JUS BELLUM DICENDI**

jus bellum dicendi (j<<schwa>>s bel-<<schwa>>m di-sen-dI), n.[Latin] The right of proclaiming war.

**JUS CANONICUM**

jus canonicum (j<<schwa>>s k<<schwa>>-non-i-k<<schwa>>m), n.[Law Latin] See CANON LAW(1).

**JUS CAPIENDI**

jus capiendi (j<<schwa>>s kap-ee-en-dI). [Latin “the right to take or receive”] Roman law. The right of taking property under a will.

**JUS CIVILE**

jus civile (j<<schwa>>s si-vI-lee). [Latin] Roman law. The traditional law of the city of Rome, beginning with the Twelve Tables and developed by juristic interpretation. • It covered areas of law restricted to Roman citizens, such as the formalities of making a will. Over time, the jus civile was modified by, for example, the jus honorarium (which modified the requisites for a valid will) and the jus sentium (which modified the stipulation). The original jus civile was eventually absorbed into a general Roman law. See CIVIL LAW(1); JUS QUIRITIUM.

**JUS CIVITATIS**

jus civitatis (j<<schwa>>s siv-i-tay-t<<schwa>>s). [Latin] Roman law. The right of citizenship; the right of a Roman citizen.

**JUS CLOACAE**

jus cloacae (j<<schwa>>s kloh-ay-see), n.[Latin “right of sewer or drain”] Civil law. An easement consisting in the right of having a sewer or conducting surface water over or through the land of one's neighbor.



## JUS COGENS

*jus cogens* (j<<schwa>>s koh-jenz), n.[Latin “compelling law”] 1. A mandatory or peremptory norm of general international law accepted and recognized by the international community as a norm from which no derogation is permitted. • A peremptory norm can be modified only by a later norm that has the same character. Cf. JUS DISPOSITIVUM. [Cases: International Law 1. C.J.S. International Law §§ 2–4.] 2.Civil law. A mandatory rule of law that is not subject to the disposition of the parties, such as an absolute limitation on the legal capacity of minors below a certain age. — Also termed (in sense 2) peremptory norm.

## JUS COMMERCII

*jus commercii* (j<<schwa>>s k<<schwa>>-m<<schwa>>r-shee-I), n.[Latin “right of commerce”] Roman & civil law. The right to make contracts, acquire and transfer property, and conduct business transactions.

## JUS COMMUNE

*jus commune* (j<<schwa>>s k<<schwa>>-myoo-nee), n.1.Roman & civil law. The common or public law or right, as opposed to a law or right established for special purposes. Cf. JUS SINGULARE. 2. The common law of England. See COMMON LAW(3).3. The shared law of much of continental Western Europe during the Middle Ages, consisting of a blend of canon law and rediscovered Roman law.

“[J]us commune is a phrase well known to the canonists. They use it to distinguish the general and ordinary law of the universal church both from any rules peculiar to this or that provincial church, and from those papal privilegia which are always giving rise to ecclesiastical litigation.” 1 Frederick Pollock & Frederic William Maitland, *History of English Law Before the Time of Edward I* 176 (2d ed. 1898).

## JUS COMPASCUUM

*jus compascuum* (j<<schwa>>s k<<schwa>>-m-pas-kyoo-<<schwa>>m), n.[Latin “the right to feed together”] Hist. The right of common pasture. See COMMON(1).

## JUS CONNUBII

*jus connubii* (j<<schwa>>s k<<schwa>>-n[y]oo-bee-I), n.[Latin “right of marriage”] See CONUBIUM.

## JUS CORONAE

*jus coronae* (j<<schwa>>s k<<schwa>>-roh-nee), n.[Latin “right of the Crown”] The right of succession to the English throne.

## JUS CREDITI

*jus crediti* (j<<schwa>>s kred-i-ti). [Latin “the right of credit”] Roman & Scots law. A creditor's right to a debt; a creditor's right to recover a debt through legal process. Cf. JUS EXIGENDI.

“[T]he term is frequently used in contradistinction to a mere spes, or defeasible expectancy. This jus crediti is often of great importance; for although a person may not be entitled to be put in immediate possession of a subject, yet the obligation to deliver it to him at some future time creates in him a vested right, which forms part of his estate.” William Bell, *Bell's Dictionary and Digest of the Law of Scotland* 620 (George Watson ed., 7th ed. 1890).

#### JUS CUDENDAE MONETAE

jus cudendae monetae (j<<schwa>>s kyoo-den-dee m<<schwa>>-nee-tee), n.[Law Latin] Hist. The right of coining money.

#### JUS CURIALITATIS

jus curialitatis (j<<schwa>>s kyoor-ee-al-<<schwa>>-tay-tis), n.[Law Latin] Hist. The right of curtesy.

#### JUS DARE

jus dare (j<<schwa>>s dair-ee), vb.[Latin] To give or make the law. • This is the function and prerogative of the legislature. Cf. JUS DICERE.

#### JUS DELATUM

jus delatum (j<<schwa>>s di-lay-t<<schwa>>m). [Law Latin] Scots law. A transferred right.

#### JUS DELIBERANDI

jus deliberandi (j<<schwa>>s di-lib-<<schwa>>-ran-dI), n.[Latin “right of deliberating”] Roman & civil law. A right granted to an heir to take time to consider whether to accept or reject an inheritance. Cf. tempus deliberandi under TEMPUS.

#### JUS DE NON APPELLANDO

jus de non appellando (j<<schwa>>s dee non ap-<<schwa>>-lan-doh). [Latin] Hist. The supreme judicial power.

#### JUS DEVOLUTUM

jus devolutum (j<<schwa>>s dev-<<schwa>>-loo-t<<schwa>>m). [Law Latin “a devolved right”] Scots law. The right of the presbytery to appoint a minister to a vacant church if a patron failed to present a fit minister within six months of the vacancy. See TANQUAM JURE DEVOLUTO.

#### JUS DICERE

jus dicere (j<<schwa>>s dI-s<<schwa>>-r-ee), vb.[Latin] Hist. To declare or decide the law. • This is the function and prerogative of the judiciary. Cf. JUS DARE.

#### JUS DISPONENDI

jus disponendi (j<<schwa>>s dis-p<<schwa>>-nen-dI), n.[Latin “right of disposing”] The right to dispose of property; the power of alienation.

## JUS DISPOSITIVUM

jus dispositivum (j<<schwa>>s dis-poz-<<schwa>>-tI-v<<schwa>>m), n.[Latin “law subject to the disposition of the parties”] Int'l law. A norm that is created by the consent of participating nations, as by an international agreement, and is binding only on the nations that agree to be bound by it. Cf. JUS COGENS(1).

## JUS DISTRAHENDI

jus distrahendi (j<<schwa>>s dis-tr<<schwa>>-hen-dI), n.[Latin “right of distraining”] The right to sell pledged goods upon default.

## JUS DIVIDENDI

jus dividendi (j<<schwa>>s div-i-den-dI), n.[Latin “right of dividing”] The right to dispose of real property by will.

## JUS DIVINUM

jus divinum (j<<schwa>>s di-vI-n<<schwa>>m). 1.DIVINE LAW. 2.NATURAL LAW.

## JUS DOMINO PROXIMUM

jus domino proximum (j<<schwa>>s dom-<<schwa>>-noh prok-s<<schwa>>-m<<schwa>>m). [Law Latin] Scots law. A right nearly equal to that of absolute property; a feuholder's right. See FEU.

“Jus domino proximum .... Such a right is enjoyed by one who holds lands in feu, for he is entitled to sell the subjects, or alter or use them in any way he thinks proper. And yet the property is not absolutely his — that is, he does not hold the property so absolutely as did the superior from whom he acquired, because the land is burdened with the feu-duty payable to the superior, and to this extent the absolute right of property is restricted. Similar to the right of a feuar under our law, was that of the emphyteuta under the civil law.” John Trayner, *Trayner's Latin Maxims* 304–05 (4th ed. 1894).

## JUS DUPLICATUM

jus duplicatum (j<<schwa>>s d[y]oo-pIi-kay-t<<schwa>>m). See DROIT-DROIT.

## JUS ECCLESIASTICUM

jus ecclesiasticum (j<<schwa>>s e-klee-z[h]ee-as-ti-k<<schwa>>m). [Law Latin] See ECCLESIASTICAL LAW.

## JUS EDICENDI

jus edicendi (j<<schwa>>s ed-i-sen-dIor ee-di-). [Latin “right of decreeing”] Roman law. The right (esp. of the praetors) to issue edicts. See JUS PRAETORIUM .

## JUS ET NORMA LOQUENDI

jus et norma loquendi (j<<schwa>>s et nor-m<<schwa>> loh-kwen-dI). [Latin “the law and

rule of speech”] Idiomatic language, including speech and pronunciation, as established by the custom of a particular nation.

#### JUS EXIGENDI

*jus exigendi* (j<<schwa>>s ek-si-jen-dī). [Latin] Scots law. A creditor's right to enforce immediate payment of a debt. Cf. *JUS CREDITI*.

“For example, where a testator directs his testamentary trustees to pay a certain legacy, which he has unconditionally bequeathed to the legatee, six months after his (the testator's) death, the legacy vests on the death of the testator, and the legatee acquires then the *jus crediti*, but he cannot enforce payment of the legacy until after the expiry of the six months; he acquires the *jus exigendi* when the debt has become prestable.” John Trayner, *Trayner's Latin Maxims* 305 (4th ed. 1894).

#### JUS EX NON SCRIPTO

*jus ex non scripto* (j<<schwa>>s eks non skrip-toh). See *UNWRITTEN LAW*.

#### JUS FALCANDI

*jus falcandi* (j<<schwa>>s fal-kan-dī), n.[Latin] Hist. The right of mowing or cutting.

#### JUS FETIALE

*jus fetiale* (j<<schwa>>s fee-shee-ay-lee), n.[Latin] 1.FETIAL LAW. 2. The law of negotiation and diplomacy. • This phrase captured the classical notion of international law. — Also spelled *jus feciale*.

#### JUS FIDUCIARIUM

*jus fiduciarium* (j<<schwa>>s fi-d[y]oo-shee-air-<<schwa>>m), n.[Latin] Civil law. A right in trust. Cf. *JUS LEGITIMUM*.

#### JUS FLUMINUM

*jus fluminum* (j<<schwa>>s floo-m<<schwa>>-n<<schwa>>m), n.[Latin] Civil law. The right to use rivers.

#### JUS FODIENDI

*jus fodiendi* (j<<schwa>>s foh-dee-en-dī), n.[Latin] Civil law. The right to dig on another's land.

#### JUS FRUENDI

*jus fruendi* (j<<schwa>>s froo-en-dī), n.[Latin “right of enjoying”] Roman & civil law. The right to use and enjoy another's property without damaging or diminishing it. See *USUFRUCT*.

#### JUS FUTURUM

*jus futurum* (j<<schwa>>s fyoo-t[y]oor-<<schwa>>m), n.[Latin “future right”] Civil law. A right that has not fully vested; an inchoate or expectant right.

## JUS GENTIUM

jus gentium (j<<schwa>>s jen-shee-<<schwa>>m). [Latin "law of nations"]  
 1.INTERNATIONAL LAW. 2.Roman law. The body of law, taken to be common to all civilized peoples, and applied in dealing with the relations between Roman citizens and foreigners. — Also termed jus inter gentes.

“The early Roman law (the jus civile) applied only to Roman citizens. It was formalistic and hard and reflected the status of a small, unsophisticated society rooted in the soil. It was totally unable to provide a relevant background for an expanding, developing nation. This need was served by the creation and progressive augmentation of the jus gentium. This provided simplified rules to govern the relations between foreigners, and between foreigners and citizens.... The progressive rules of the jus gentium gradually overrode the narrow jus civile until the latter system ceased to exist. Thus, the jus gentium became the common law of the Roman Empire and was deemed to be of universal application.” Malcolm N. Shaw, *International Law* 15 (4th ed. 1997).

## JUS GENTIUM PRIVATUM

jus gentium privatum (j<<schwa>>s jen-shee-<<schwa>>m prI-vay-t<<schwa>>m). See private international law under INTERNATIONAL LAW.

## JUS GENTIUM PUBLICUM

jus gentium publicum (j<<schwa>>s jen-shee-<<schwa>>m p<<schwa>>b-li-k<<schwa>>m). See INTERNATIONAL LAW.

## JUS GLADII

jus gladii (j<<schwa>>s glad-ee-I). [Latin "right of the sword"] Roman law. The executory power of the law, esp. for provincial governors; the power or right to inflict the death penalty. • This term took on a similar meaning under English law. — Also termed potestas gladii.

“And the prosecution of these offences is always at the suit and in the name of the king, in whom, by the texture of our constitution, the jus gladii, or executory power of the law, entirely resides.” 4 William Blackstone, *Commentaries on the Laws of England* 177 (1765).

## JUS HABENDI

jus habendi (j<<schwa>>s h<<schwa>>-ben-dI), n.[Latin] Civil law. The right to have a thing; the right to be put in actual possession of property.

## JUS HAEREDITATIS

jus haereditatis (j<<schwa>>s h<<schwa>>-red-<<schwa>>-tay-tis), n.[Latin] Civil law. The right of inheritance.

## JUS HAURIENDI

jus hauriendi (j<<schwa>>s haw-ree-en-dI), n.[Latin] Civil law. The right of drawing water.

## JUS HONORARIUM

*jus honorarium* (j<<schwa>>s [h]on<<schwa>>-rair-ee<<schwa>>m). [Latin “magisterial law”] Roman law. The body of law established by the edicts of magistrates, esp. the praetors (*jus praetorium*) and the aediles (*jus aedilium*). • In the Roman Republic, the term sometimes referred collectively to all the proclamations of magistrates of the Roman Republic, such as the consuls, praetors, aediles, quaestors, censors, provincial governors, and pontifices. Although these magistrates were not legislators, they were entitled and indeed bound to declare by edict how they proposed to administer justice, and their edicts were a supplementary source of law. — Also termed *edicta magistratum*.

#### JUS HONORUM

*jus honorum* (j<<schwa>>s [h]<<schwa>>-nor<<schwa>>m). [Latin] Roman law. The right of a citizen to hold public office, whether civil, military, or sacred. Cf. *JUS SUFFRAGII*.

#### JUS IMAGINIS

*jus imaginis* (j<<schwa>>s <<schwa>>-maj<<schwa>>-nis). [Latin] Roman law. The right to use or display pictures or statues of ancestors. • The right was restricted to upper-class Roman citizens.

#### JUS IMMUNITATIS

*jus immunitatis* (j<<schwa>>s i-myoo-n<<schwa>>-tay-tis), n.[Latin “law of immunity”] Civil law. Exemption from the burden of public office.

#### JUS INCOGNITUM

*jus incognitum* (j<<schwa>>s in-kog-n<<schwa>>-t<<schwa>>m), n.[Latin] Civil law. An unknown or obsolete law.

#### JUS INCORPORALE

*jus incorporale* (j<<schwa>>s in-kor-p<<schwa>>-ray-lee). [Latin] Hist. An incorporeal right. See *INCORPOREAL*.

#### JUS INDIVIDUUM

*jus individuum* (j<<schwa>>s in-d<<schwa>>-vij-oo<<schwa>>m), n.[Latin] An individual or indivisible right; a right that cannot be divided.

#### JUS IN PERSONAM

*jus in personam* (j<<schwa>>s in p<<schwa>>-r-soh-n<<schwa>>m), n.[Latin “right against a person”] A right of action against a particular person to enforce that person's obligation. — Also termed *jura in personam*. See *right in personam* under *RIGHT*.

#### JUS IN RE

*jus in re* (j<<schwa>>s in ree), n.[Law Latin “right in or over a thing”] A right in property valid against anyone in the world; a complete and perfect right to a thing. — Also termed *jus in rem*; *jura in rem*. Cf. *JUS AD REM*.

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**JUS IN RE ALIENA**

jus in re aliena (j<<schwa>>s in ree ay-lee-ee-n<<schwa>> or al-ee-), n.[Latin] An easement or right in or over another's property; ENCUMBRANCE. — Also termed right in re aliena.

**JUS IN REM**

jus in rem (j<<schwa>>s in rem), n.[Latin “right against a thing”] See **JUS IN RE** .

**JUS IN RE PROPRIA**

jus in re propria (j<<schwa>>s in ree proh-pree-<<schwa>>), n.[Latin] The right of enjoyment that is incident to full ownership of property; full ownership itself. — Also termed right in re propria.

**JUS INTER GENTES**

jus inter gentes (j<<schwa>>s in-t<<schwa>>r jen-teez), n.[Latin “law among nations”] See **JUS GENTIUM**.

**JUS ITALICUM**

jus Italicum (j<<schwa>>s I-tal-<<schwa>>k<<schwa>>m). [Latin] Roman law. A privilege granted by the emperor to cities outside Italy, giving them the status of communities within Italy. • This privilege included the right to own land by quiritarian title.

**JUS ITINERIS**

jus itineris (j<<schwa>>s I-tin-<<schwa>>-ris). [Latin] Roman law. A rustic praedial servitude granting the right to pass over an adjoining property on foot or horseback.

**JUSJURANDUM**

jusjurandum (j<<schwa>>s-juu-ran-d<<schwa>>m), n.[Latin] An oath. See **JURAMENTUM**.

**JUS LATII**

jus Latii (j<<schwa>>s lay-shee-I). [Latin] Roman law. Rights granted to a citizen of a Roman colony. • The colonial citizen's status was midway between peregrine and full citizen of Rome. — Also termed jus Latium.

**JUS LEGITIMUM**

jus legitimum (j<<schwa>>s l<<schwa>>-jit-<<schwa>>-m<<schwa>>m), n.[Latin] Civil law. A right enforceable in law. Cf. **JUS FIDUCIARIUM**.

**JUS LIBERORUM**

jus liberorum (j<<schwa>>s lib-<<schwa>>-ror-<<schwa>>m). [Latin “right of children”] Roman law. A privilege conferred on a parent who has several children; esp., the immunity from compulsory guardianship (tutela) given to a woman with three or more children. — Also termed

jus trium liberorum.

#### JUS MARITI

jus mariti (j<<schwa>>s mah-ree-tlor m<<schwa>>-rI-tI). [Law Latin] Scots law. Hist. The outmoded right under which a husband acquired ownership of all his wife's movable property.

#### JUS MERAЕ FACULTATIS

jus merae facultatis (j<<schwa>>s meer-ee fak-<<schwa>>l-tay-tis). [Law Latin] Hist. A right of mere power; a right of power merely to act.

#### JUS MERUM

jus merum (j<<schwa>>s meer-<<schwa>>m). See MERE RIGHT.

#### JUS MORIBUS CONSTITUTUM

jus moribus constitutum (j<<schwa>>s mor-<<schwa>>-b<<schwa>>s kon-st<<schwa>>-t[y]oo-t<<schwa>>m). [Latin] See UNWRITTEN LAW.

#### JUS NATURAE

jus naturae (j<<schwa>>s n<<schwa>>-t[y]oor-ee). [Latin] See NATURAL LAW.

#### JUS NATURALE

jus naturale (j<<schwa>>s nach-<<schwa>>-ray-lee). [Latin] See NATURAL LAW.

#### JUS NAVIGANDI

jus navigandi (j<<schwa>>s nav-<<schwa>>-gan-dI), n.[Latin] Civil law. The right of navigation; the right of commerce by sea.

#### JUS NECESSITATIS

jus necessitatis (j<<schwa>>s n<<schwa>>-ses-i-tay-tis), n.[Latin] A person's right to do what is required for which no threat of legal punishment is a dissuasion. • This idea implicates the proverb that necessity knows no law (necessitas non habet legem), so that an act that would be objectively understood as necessary is not wrongful even if done with full and deliberate intention.

#### JUS NOBILIUS

jus nobilius (j<<schwa>>s noh-bil-ee-<<schwa>>s). [Law Latin] Hist. A superior right.

#### JUS NON DECRESCENDI

jus non decrescendi (j<<schwa>>s non dee-kre-sen-dI). [Law Latin] Scots law. The right of not suffering diminution. Cf. JUS ACCRESCENDI.

#### JUS NON SACRUM

jus non sacrum (j<<schwa>>s non say-kr<<schwa>>m). [Latin “nonsacred law”] Hist. The body of law regulating the duties of a civil magistrate in preserving the public order. Cf. JUS



## SACRUM.

## JUS NON SCRIPTUM

jus non scriptum (j<<schwa>>s non skrip-t<<schwa>>m). See UNWRITTEN LAW.

## JUS NOVUM

jus novum (j<<schwa>>s noh-v<<schwa>>m). [Latin] Roman law. The new law; the law of the later Roman Empire. — Also termed leges. See LEX. Cf. JUS ANTIQUUM .

## JUS OBLIGATIONIS

jus obligationis (j<<schwa>>s ob-li-gay-shee-oh-nis). [Law Latin “a right of obligation”] Hist. A personal right. See JUS AD REM.

## JUS OFFERENDI

jus offerendi (j<<schwa>>s ahf- or awf-<<schwa>>-ren-dI). [Latin] Roman law. The right of subrogation; the right to succeed to a senior creditor's lien and priority upon tendering the amount due to that creditor. — Also termed jus offerendae pecuniae.

## JUS ONERIS FERENDI

jus oneris ferendi (j<<schwa>>s on-<<schwa>>-ris f<<schwa>>-ren-dI). [Latin] Roman law. An urban praedial servitude granting the right for one's own house to be supported by a neighbor's.  
• The servitude was exceptional in requiring a positive duty of the servient owner.

## JUS PASCENDI

jus pascendi (j<<schwa>>s p<<schwa>>-sen-dI). See servitus pascendi under SERVITUS.

## JUS PATRONATUS

jus patronatus (j<<schwa>>s pa-tr<<schwa>>-nay-t<<schwa>>s), n.[Latin] Eccles. law. The right of patronage; the right to present a clerk to a benefice.

## JUS PERSEQUENDI IN JUDICIO QUOD SIBI DEBETUR

jus persequendi in judicio quod sibi debetur (j<<schwa>>s p<<schwa>>r-s<<schwa>>-kwen-dI in joo-dish-ee-oh kwod sib-Ideb-<<schwa>>-t<<schwa>>r). [Latin] Roman law. The right of suing before a court for that which is due to us. • The phrase is Justinian's definition of an action.

## JUS PERSONARUM

jus personarum (j<<schwa>>s p<<schwa>>r-s<<schwa>>-nair-<<schwa>>m), n.[Latin “law of persons”] Civil law. The law governing the rights of persons having special relations with one another (such as parents and children or guardians and wards) or having limited rights (such as aliens or incompetent persons). See LAW OF PERSONS. Cf. JUS RERUM.

## JUS PIGNORIS

*jus pignoris* (j<<schwa>>s pig-n<<schwa>>-ris). [Latin “the right of pledge”] Roman law. A creditor's right in the property that a debtor pledges to secure a debt.

#### JUS POENITENDI

*jus poenitendi* (j<<schwa>>s pen-i-ten-dI), n.[Latin] The right to rescind or revoke an executory contract when the other party defaults.

#### JUS PORTUS

*jus portus* (j<<schwa>>s por-t<<schwa>>s), n.[Latin] Civil & maritime law. The right of port or harbor.

#### JUS POSITIVUM

*jus positivum* (j<<schwa>>s poz-<<schwa>>-tiv-<<schwa>>m). See POSITIVE LAW.

#### JUS POSSESSIONIS

*jus possessionis* (j<<schwa>>s p<<schwa>>-zes[h]-ee-oh-nis), n.[Latin] Civil law. A right of which possession is the source or title; a possessor's right to continue in possession. Cf. JUS PROPRIETATIS.

#### JUS POSSIDENDI

*jus possidendi* (j<<schwa>>s pos-<<schwa>>-den-dI), n.[Latin] Civil law. A person's right to acquire or to retain possession; an owner's right to possess.

#### JUS POSTLIMINII

*jus postliminii* (j<<schwa>>s pohst-l<<schwa>>-min-ee-I). [Latin] See POSTLIMINIUM.

#### JUS PRAESENS

*jus praesens* (j<<schwa>>s pree-senz or -zenz), n.[Latin “present right”] Civil law. A right that has been completely acquired; a vested right.

#### JUS PRAETORIUM

*jus praetorium* (j<<schwa>>s pri-tor-ee-<<schwa>>m). [Latin “law of the praetors”] Roman law. The body of law developed through the edicts of the praetors. • This was the mainspring of Republican reform. See PRAETOR; EDICTUM PRAETORIS; JUS HONORARIUM.

#### JUS PRAEVENTIONIS

*jus praeventionis* (j<<schwa>>s pree-ven-shee-oh-nis). [Law Latin “a right of preference”] Scots law. A court's jurisdictional superiority by virtue of being the first court to exercise its jurisdiction in a case.

#### JUS PRECARIUM

*jus precarium* (j<<schwa>>s pri-kair-ee-<<schwa>>m), n.[Latin] Civil law. A right to a thing held for another, for which there was no remedy by legal action but only by entreaty or request.

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**JUS PRESENTATIONIS**

jus presentationis (j<<schwa>>s prez-<<schwa>>n-tay-shee-oh-nis), n.[Latin] Civil law. The right to present a clerk to a church.

**JUS PRIMAE NOCTIS**

jus primae noctis (j<<schwa>>s prI-mee nok-tis). [Latin “right of first night”] See DROIT DU SEIGNEUR.

**JUS PRIVATUM**

jus privatum (j<<schwa>>s prI-vay-t<<schwa>>m), n.[Latin “private law”] 1.Roman & civil law. Private law, consisting of all the branches of law that regulate the relations of citizens to one another, including family law, property, obligations, and testate and intestate succession. 2. The right, title, or dominion of private ownership. See PRIVATE LAW. Cf. JUS PUBLICUM.

**JUS PROJICIENDI**

jus projiciendi (j<<schwa>>s pr<<schwa>>-jish-ee-en-dI), n.[Latin] Civil law. A servitude granting the right to build a projection (such as a balcony) from one's house in the open space belonging to a neighbor.

**JUS PROPRIETATIS**

jus proprietatis (j<<schwa>>s pr<<schwa>>-prI-<<schwa>>-tay-tis), n.[Latin] Civil law. A right in property based on ownership rather than actual possession. Cf. JUS POSSESSIONIS.

**JUS PROTEGENDI**

jus protegendi (j<<schwa>>s proh-t<<schwa>>-jen-dI), n.[Latin] Civil law. A servitude granting the right to make the roof or tiling of one's house extend over a neighbor's house.

**JUS PROVOCATIONIS**

jus provocationis (j<<schwa>>s prov-<<schwa>>-kay-shee-oh-nis). [Latin] Roman law. The right possessed by every Roman citizen to appeal to the people in their Comitia, or later the emperor, from the infliction of summary punishment by a magistrate (coercitio). • Modern Romanists disagree about the precise meaning of this term. — Also termed jus provocatio.

**JUS PUBLICUM**

jus publicum (j<<schwa>>s p<<schwa>>b-li-k<<schwa>>m), n.[Latin “public law”] 1.Roman & civil law. Public law, consisting of constitutional law, administrative law, criminal law and procedure, and the law relating to sacred rites (jus sacrum).2. The right, title, or dominion of public ownership; esp., the government's right to own real property in trust for the public benefit. See PUBLIC LAW. Cf. JUS PRIVATUM.

**JUS QUAESITUM**

jus quaesitum (j<<schwa>>s kwi-sI-t<<schwa>>m or -zI-t<<schwa>>m), n.[Latin] Civil law.

1. A right to ask or recover, as from one who is under an obligation. 2. An acquired right.

#### JUS QUAESITUM TERTIO

jus quaesitum tertio (j<<schwa>>s kwi-sI-t<<schwa>>m t<<schwa>>r-shee-oh). [Law Latin] Scots law. A contractual right conferred on a third party. • A third-party right may be conferred on a specified individual or on an identifiable class of people.

“Where, in a contract between two parties, a stipulation is introduced in favour of a third, who is not a contracting party, the right thus created is said to be jus quaesitum tertio. Such a right, generally speaking, cannot be recalled by the contracting parties, and the third party, so far as he is concerned, may require exhibition and implementation of the contract.” William Bell, *Bell's Dictionary and Digest of the Laws of Scotland* 622 (George Watson ed., 7th ed. 1890).

#### JUS QUIRITIUM

jus quiritium (j<<schwa>>s kwi-rI-shee-<<schwa>>m). [Latin] Roman law. The ancient, primitive law of the Romans before the development of the jus praetorium and the jus gentium; the original jus civile.

#### JUS RECUPERANDI

jus recuperandi (j<<schwa>>s ri-k[y]oo-p<<schwa>>-ran-dI), n.[Latin] Civil law. The right of recovering, esp. lands.

#### JUS REGALE

jus regale (j<<schwa>>s ri-gay-lee). [Law Latin] Scots law. A royal right; a sovereign's right.

#### JUS REGENDI

jus regendi (j<<schwa>>s ri-jen-dI), n.[Law Latin] A proprietary right vested in a sovereign.

#### JUS RELICTAE

jus relictæ (j<<schwa>>s ri-lik-tee), n.[Law Latin “right of a widow”] Civil & Scots law. A widow's claim to her share of her deceased husband's movable estate. • If the widow has children, her share is one-third; if not, her share is one-half.

#### JUS RELICTI

jus relictæ (j<<schwa>>s ri-lik-tI), n.[Law Latin “right of a widower”] Civil & Scots law. A widower's right in his deceased wife's separate movable estate, historically two-thirds if there were surviving children, and otherwise one-half. Under the Married Women's Property Act of 1881, the amount became one-third in the case of surviving children, and otherwise one-half.

#### JUS REPRAESENTATIONIS

jus repraesentationis (j<<schwa>>s rep-ri-zen-tay-shee-oh-nis), n.[Latin] Civil law. The right to represent or be represented by another.

#### JUS RERUM

*jus rerum* (j<<schwa>>s reer-<<schwa>>m), n.[Latin "law of things"] Civil law. The law regulating the rights and powers of persons over things, as how property is acquired, enjoyed, and transferred. See LAW OF THINGS. Cf. JUS PERSONARUM .

#### JUS RESPONDENDI

*jus respondendi* (j<<schwa>>s ree-spon-den-dI). [Latin "the right of responding"] Roman law. The authority conferred on certain jurists when delivering legal opinions. • Modern Romanists disagree about the precise meaning of this term.

#### JUS RETENTIONIS

*jus retentionis* (j<<schwa>>s ri-ten-shee-oh-nis), n.[Latin] Civil law. The right to retain a thing until the delivery of something else that the person retaining the thing is entitled to.

#### JUS RETINENDI ET INSISTENDI

*jus retinendi et insistendi* (j<<schwa>>s ret-i-nen-dI et in-sis-ten-dI). [Law Latin] Scots law. A right of retention and of insisting. • The phrase usu. referred to a seaman's right to recover wages both by taking a lien against the ship and by proceeding against the owner for payment.

#### JUS RETRACTUS

*jus retractus* (j<<schwa>>s ri-trak-t<<schwa>>s), n.[Latin "the right of retraction"] Civil law. 1. The right of certain relatives of one who has sold immovable property to repurchase it. 2. A debtor's right, upon sale of the debt by the creditor, to have a third person redeem it within a year for the price paid by the purchaser.

#### JUS RUSTICORUM PRAEDIORUM

*jus rusticorum praediorum*. See rural servitude under SERVITUDE(2).

#### JUS SACRUM

*jus sacrum* (j<<schwa>>s say-kr<<schwa>>m). [Latin "sacred law"] Roman law. The body of law regulating matters of public worship, such as sacrifices and the appointment of priests. Cf. JUS NON SACRUM.

#### JUS SANGUINIS

*jus sanguinis* (j<<schwa>>s sang-gw<<schwa>>-nis), n.[Latin "right of blood"] The rule that a child's citizenship is determined by the parents' citizenship. • Most nations follow this rule. Cf. JUS SOLI.

#### JUS SCRIPTUM

*jus scriptum* (j<<schwa>>s skrip-t<<schwa>>m). [Latin] See WRITTEN LAW.

#### JUS SIBI DICERE

*jus sibi dicere* (j<<schwa>>s sib-IdI-s<<schwa>>r-ee). [Latin] Hist. To declare the law for oneself; to take the law into one's own hand.

## JUS SINGULARE

jus singulare (j<<schwa>>s sing-gy<<schwa>>-lair-ee), n.[Latin “individual law”] Roman & civil law. A law or right established for special purposes, as opposed to the common or public law or right. Cf. JUS COMMUNE(1).

## JUS SOLI

jus soli (j<<schwa>>s soh-II), n.[Latin “right of the soil”] The rule that a child's citizenship is determined by place of birth. • This is the U.S. rule, as affirmed by the 14th Amendment to the Constitution. Cf. JUS SANGUINIS.

## JUS SPATIANDI

jus spatiani (j<<schwa>>s spay-shee-an-dI), n.[Latin “right of walking about”] Civil law. The public's right-of-way over specific land for purposes of recreation and instruction.

## JUS STAPULAE

jus stapulae (j<<schwa>>s stay-py<<schwa>>-lee), n.[Law Latin “right of staple”] Civil law. A town's right or privilege of stopping imported merchandise and forcing it to be offered for sale in its own market. See STAPLE.

## JUS STRICTUM

jus strictum (j<<schwa>>s strik-t<<schwa>>m). [Latin “strict law”] Roman law. Law rigorously interpreted according to the letter. — Also termed strictum jus. See STRICTI JURIS. Cf. JUS AEQUUM.

## JUS SUFFRAGII

jus suffragii (j<<schwa>>s s<<schwa>>-fray-jee-I). [Latin] Roman law. The right of a citizen to vote. Cf. JUS HONORUM.

## JUST

just,adj. Legally right; lawful; equitable.

## JUSTA CAUSA

justa causa (j<<schwa>>s-t<<schwa>> kaw-z<<schwa>>), n.[Latin] Civil law. A just cause; a lawful ground. See good cause under CAUSE(2).

## JUSTAE NUPTIAE

justae nuptiae (j<<schwa>>s-tee n<<schwa>>p-shee-ee). [Latin “legal marriage”] Roman law. A marriage between two persons who had the legal capacity to wed. • Justae nuptiae was the only union that created the familial relationship known as patria potestas. — Also termed justum matrimonium. See patria potestas under POTESTAS. Cf. CONCUBINATUS.

“Justae nuptiae is such a marriage as satisfies all the rules of civil law. Any marriage between two persons who had the capacity of civil marriage with each other (conubium) was necessarily

iustae nuptiae, for if the union was defective in any other respect it was no marriage at all. On the other hand, if there was no conubium between the parties it might still be actually a marriage (nuptiae, nuptiae non iustae), the wife being uxor non iusta, the children liberi non iusti. Such a marriage, in which one party at least would not be a civis, did not produce patria potestas over children ....” W.W. Buckland, *A Manual of Roman Private Law* 63–64 (2d ed. 1953).

#### JUS TALIONIS

jus talionis. See LEX TALIONIS.

#### JUST-AS-PROBABLE RULE

just-as-probable rule. Workers' compensation. A doctrine whereby a workers'-compensation claim will be denied if it is equally likely that the injury resulted from a non-work-related cause as from a work-related cause. [Cases: Workers' Compensation 1487–1492. C.J.S. Workmen's Compensation §§ 1035–1040, 1046.]

#### JUST CAUSE

just cause. See good cause under CAUSE(2).

#### JUST COMPENSATION

just compensation. See COMPENSATION.

#### JUST COMPENSATION CLAUSE

Just Compensation Clause. See TAKINGS CLAUSE.

#### JUST DESERTS

just deserts (di-z<<schwa>>rts). What one really deserves; esp., the punishment that a person deserves for having committed a crime. — Also termed deserts.

#### JUS TERTII

jus tertii (j<<schwa>>s t<<schwa>>r-shee-I), n. [Latin] 1. The right of a third party. [Cases: Action 13; Federal Civil Procedure 103.4. C.J.S. Actions §§ 57–63.]

“[N]o defendant in an action of trespass can plead the jus tertii — the right of possession outstanding in some third person — as against the fact of possession in the plaintiff.” R.F.V. Heuston, *Salmond on the Law of Torts* 46 (17th ed. 1977).

2. The doctrine that, particularly in constitutional law, courts do not decide what they do not need to decide. “Jus tertii ... says nothing about the nature of legal argument on the merits of a case once formed, but as a symbol for the separability of cases is a useful term of art. Translated, however, it reads ‘right of a third person.’ It may once have been associated with a presumption of common-law jurisprudence that one cannot be harmed by an action that achieves its effect through effects upon others, cannot be ‘indirectly’ harmed.” Joseph Vining, *Legal Identity* 120 (1978).

#### JUSTICE

justice. 1. The fair and proper administration of laws.

commutative justice (k<<schwa>>-myoo-t<<schwa>>-tiv orkom-y<<schwa>>-tay-tiv). Justice concerned with the relations between persons and esp. with fairness in the exchange of goods and the fulfillment of contractual obligations.

distributive justice. Justice owed by a community to its members, including the fair allocation of common advantages and sharing of common burdens.

Jedburgh justice (jed-b<<schwa>>r<<schwa>>). A brand of justice involving punishment (esp. execution) first and trial afterwards. • The term alludes to Jedburgh, a Scottish border town where in the 17th century raiders were said to have been hanged without the formality of a trial. Jedburgh justice differs from lynch law in that the former was administered by an established court (albeit after the fact). — Also termed Jeddart justice; Jedwood justice. Cf. LIDFORD LAW; LYNCH LAW.

justice in personam. See personal justice.

justice in rem. See social justice.

natural justice. Justice as defined in a moral, as opposed to a legal, sense. — Also termed *justitia naturalis*. Cf. NATURAL LAW.

“Although the judges have frequently asserted that a foreign judgment which contravenes the principles of natural justice cannot be enforced in England, it is extremely difficult to fix with precision the exact cases in which the contravention is sufficiently serious to justify a refusal of enforcement. *Shadwell V.-C.* once said that ‘whenever it is manifest that justice has been disregarded, the court is bound to treat the decision as a matter of no value and no substance.’ [*Price v. Dewhurst*, 8 Sim 279, 302 (1837).] But this goes too far.... The expression ‘contrary to natural justice’ has, however, figured so prominently in judicial statements that it is essential to fix, if possible, its exact scope. The only statement that can be made with any approach to accuracy is that in the present context, the expression is confined to something glaringly defective in the procedural rules of the foreign law.... In other words, what the courts are vigilant to watch is that the defendant has not been deprived of an opportunity to present his side of the case.” G.C. Cheshire, *Private International Law* 675 (6th ed. 1961).

personal justice. Justice between parties to a dispute, regardless of any larger principles that might be involved. — Also termed justice in personam.

popular justice. Demotic justice, which is usu. considered less than fully fair and proper even though it satisfies prevailing public opinion in a particular case. Cf. social justice.

“Nothing is more treacherous than popular justice in many of its manifestations, subject as it is to passion, to fallacy, and to the inability to grasp general notions or to distinguish the essential from the inessential.” Carleton K. Allen, *Law in the Making* 387 (7th ed. 1964).

positive justice. Justice as it is conceived, recognized, and incompletely expressed by the civil law or some other form of human law. Cf. POSITIVE LAW.



preventive justice. Justice intended to protect against probable future misbehavior. • Specific types of preventive justice include appointing a receiver or administrator, issuing a restraining order or injunction, and binding over to keep the peace.

social justice. Justice that conforms to a moral principle, such as that all people are equal. — Also termed justice in rem. Cf. personal justice.

substantial justice. Justice fairly administered according to rules of substantive law, regardless of any procedural errors not affecting the litigant's substantive rights; a fair trial on the merits.

2. A judge, esp. of an appellate court or a court of last resort. — Abbr. J. (and, in plural, JJ.). [Cases: Judges 1. C.J.S. Judges §§ 2–7.]

associate justice. An appellate-court justice other than the chief justice.

chief justice. The presiding justice of an appellate court, usu. the highest appellate court in a jurisdiction and esp. the U.S. Supreme Court. — Abbr. C.J.

circuit justice. 1. A justice who sits on a circuit court. 2. A U.S. Supreme Court justice who has jurisdiction over one or more of the federal circuits, with power to issue injunctions, grant bail, or stay execution in those circuits. [Cases: Federal Courts 446.]

circuit-riding justice. Hist. A U.S. Supreme Court justice who, under the Judiciary Act of 1789, was required to travel within a circuit to preside over trials. • In each of three circuits that then existed, two justices sat with one district judge. See CIRCUIT-RIDING.

3. Hist. Judicial cognizance of causes or offenses; jurisdiction.

high justice. Hist. Jurisdiction over crimes of every kind, including high crimes.

low justice. Hist. Jurisdiction over petty offenses.

#### JUSTICE-BROKER

justice-broker. Archaic. A judge who sells judicial decisions.

#### JUSTICE COURT

justice court. See COURT.

#### JUSTICE EJECTMENT

justice ejectment. See EJECTMENT.

#### JUSTICE IN EYRE

justice in eyre (air). Hist. One of the itinerant judges who, in medieval times, investigated allegations of wrongdoing, tried cases, and levied fines. — Also termed *justicia errante*; *justiciar in itinere*. See EYRE.

#### JUSTICEMENT

justicement. Archaic. 1. The administration of justice. 2. (pl.) All things relating to justice.

## JUSTICE OF THE PEACE

justice of the peace. A local judicial officer having jurisdiction over minor criminal offenses and minor civil disputes, and authority to perform routine civil functions (such as administering oaths and performing marriage ceremonies). — Abbr. J.P. Cf. MAGISTRATE(3). [Cases: Justices of the Peace 1, 31. C.J.S. Justices of the Peace §§ 1, 26, 47.]

## JUSTICE-OF-THE-PEACE COURT

justice-of-the-peace court. See justice court under COURT.

## JUSTICE OF THE QUORUM

justice of the quorum. 1. A judge on a panel designated to hear appeals. • In Massachusetts, the panel is sometimes called a quorum. 2. Hist. A county justice or justice of the peace, designated by the governor in a commission of peace, who had to be present or else a court could not sit. 3. Hist. A distinction conferred on a justice of the peace by directing — in the commission authorizing the holding of quarter sessions — that from among those holding court must be two or more specially so named. • The distinction was conferred on some, or occasionally all, of the justices of the peace of a county in England.

## JUSTICER

justicer, n. Archaic. One who administers justice; a judge.

## JUSTICESHIP

justiceship. 1. The office or authority of a justice. 2. The period of a justice's incumbency.

## JUSTICE'S WARRANT

justice's warrant. See peace warrant under WARRANT(1).

## JUSTICIABILITY

justiciability (j<<schwa>>-stish-ee-<<schwa>>-bil-<<schwa>>-tee or j<<schwa>>-stish-<<schwa>>-bil-<<schwa>>-tee), n. The quality or state of being appropriate or suitable for adjudication by a court. See MOOTNESS DOCTRINE; RIPENESS. Cf. STANDING. [Cases: Action 6; Federal Courts 12.1. C.J.S. Actions §§ 38–45.]

“Concepts of justiciability have been developed to identify appropriate occasions for judicial action.... The central concepts often are elaborated into more specific categories of justiciability — advisory opinions, feigned and collusive cases, standing, ripeness, mootness, political questions, and administrative questions.” 13 Charles Alan Wright et al., *Federal Practice and Procedure* § 3529, at 278–79 (2d ed. 1984).

## JUSTICIABLE

justiciable (j<<schwa>>-stish-ee-<<schwa>>-b<<schwa>>l or j<<schwa>>-s-tish-<<schwa>>-b<<schwa>>l), adj. (Of a case or dispute) properly brought before a court of justice; capable of being disposed of judicially <a justiciable controversy>. [Cases: Action 6; Federal

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Courts 12.1. C.J.S. Actions §§ 38–45.]

JUSTICIA ERRANTE

justicia errante. See JUSTICE IN EYRE.

JUSTICIAR

justiciar (j<<schwa>>-stish-ee-<<schwa>>r), n.1.Hist. A royal judicial officer in medieval England; esp., a justice presiding over a superior court. 2.JUSTICIARY(2). — Also spelled justicier.

JUSTICIARII ITINERANTES

justiciarii itinerantes (j<<schwa>>s-tish-ee-air-ee-I I-tin-<<schwa>>-ran-teez), n.[Latin “itinerant justices”] Justices in eyre. See JUSTICE IN EYRE.

JUSTICIARII RESIDENTES

justiciarii residentes (j<<schwa>>s-tish-ee-air-ee-I rez-i-den-teez), n.[Latin “resident justices”] Hist. Justices who usu. held court in Westminster, as opposed to traveling with the eyre. Cf. EYRE.

JUSTICIAR IN ITINERE

justiciar in itinere. See JUSTICE IN EYRE.

JUSTICIARY

justiciary (j<<schwa>>-stish-ee-er-ee), adj. Of or relating to the administration of justice; pertaining to the law. See HIGH COURT OF JUSTICIARY .

justiciary (j<<schwa>>-stish-ee-er-ee), n.1. A justice or judge. 2.Hist. The chief administrator of both government and justice. • From the time of the Norman Conquest in 1066 until the reign of Henry III (1216–1272), the justiciary presided in the King's Court and in the Exchequer, supervising all governmental departments and serving as regent in the king's absence. These functions were later divided among several officials such as the lord chancellor, the chief justice, and the lord high treasurer. — Also termed justiciar; chief justiciar; capitalis justiciarius. 3.Scots law. The administration of justice, esp. of criminal law.

JUSTICIER

justicier. See JUSTICIAR.

JUSTICIES

justicies (j<<schwa>>-stish-ee-eez).Hist. A writ empowering the sheriff to allow certain debt cases in a county court. • The writ was so called because of the significant word in the writ's opening clause, which stated in Latin, “We command you that you do justice to [a person named].”

JUSTICING ROOM

justicing room.Hist. A room in which cases are heard and justice is administered; esp., such a room in the house of a justice of the peace.

#### JUSTIFIABLE

justifiable,adj. Capable of being legally or morally justified; excusable; defensible.

#### JUSTIFIABLE HOMICIDE

justifiable homicide.See HOMICIDE.

#### JUSTIFIABLE WAR

justifiable war.See BELLUM JUSTUM.

#### JUSTIFICATION

justification,n.1. A lawful or sufficient reason for one's acts or omissions; any fact that prevents an act from being wrongful. 2. A showing, in court, of a sufficient reason why a defendant did what the prosecution charges the defendant to answer for. • Under the Model Penal Code, the defendant must believe that the action was necessary to avoid a harm or evil and that the harm or evil to be avoided was greater than the harm that would have resulted if the crime had been committed. Model Penal Code § 3.02. — Also termed justification defense; necessity defense. See lesser-evils defense under DEFENSE. [Cases: Criminal Law 38. C.J.S. Criminal Law §§ 49–53.] 3. A surety's proof of having enough money or credit to provide security for the party for whom it is required. — justify,vb. — justificatory (j<< schwa>>s-ti-fi-k<<schwa>>-tor-ee), adj.

“A little bit of history: the term ‘justification’ was formerly used for cases where the aim of the law was not frustrated, while ‘excuse’ was used for cases where it was not thought proper to punish. Killing a dangerous criminal who had tried to avoid arrest was justified, since the law (if one may personify) wished this to happen, whereas killing in self-defence was merely excused. The distinction was important because justification was a defence to the criminal charge while an excuse was not, being merely the occasion for a royal pardon. By the end of the middle ages (it is difficult to assign a fixed date) even excuses were recognised by the courts, since when there has been no reason to distinguish between justification and excuse.” Glanville Williams, *Textbook of Criminal Law* 39 (1978).

defensive-force justification.A justification defense available when an aggressor has threatened harm to the particular interest that is the subject of the defense — usu. to the actor (self-defense), to other persons (defense of others), or to property (defense of property).

imperfect justification.A reason or cause that is insufficient to completely justify a defendant's behavior but that can be used to mitigate criminal punishment. [Cases: Sentencing and Punishment 72. C.J.S. Criminal Law §§ 1465, 1526.]

judicial-authority justification.A justification defense available when an actor has engaged in conduct constituting an offense in order to comply with a court order.

public-authority justification.A justification defense available when an actor has been

specifically authorized to engage in the conduct constituting an offense in order to protect or further a public interest.

#### JUSTIFICATION DEFENSE

justification defense. Criminal & tort law. A defense that arises when the defendant has acted in a way that the law does not seek to prevent. • Traditionally, the following defenses were justifications: consent, self-defense, defense of others, defense of property, necessity (choice of evils), the use of force to make an arrest, and the use of force by public authority. — Sometimes shortened to justification. Cf. EXCUSE(2). [Cases: Criminal Law 38; Torts 16. C.J.S. Criminal Law §§ 49–53; Right of Privacy and Publicity §§ 20, 28, 31–33, 44; Torts §§ 7, 12, 14–15, 51, 64, 92–93.]

#### JUSTIFICATOR

justificator (j<<schwa>>s-t<<schwa>>-fi-kay-t<<schwa>>r). Hist. 1. A compurgator who testifies under oath in defense of an accused person. 2. A juror.

#### JUSTINIAN CODE

Justinian Code (j<<schwa>>s-tin-ee-<<schwa>>n). Roman law. A collection of imperial constitutions drawn up by a commission of ten persons appointed by Justinian, and published in A.D. 529. • Ten jurists, headed by Tribonian, carried out the project beginning in February A.D. 528 and ending in April 529. It replaced all prior imperial law, but was in force only until A.D. 534, when it was supplanted by a revision, the *Codex Repetitae Praelectionis*. The precise contents of the first work are unknown. But the second work, containing the 12 books of the revised code, includes the imperial constitutions of the Gregorian, Hermogenian, and Theodosian Codes, together with later legislation, revised and harmonized into one systematic whole. It deals with ecclesiastical law, criminal law, administrative law, and private law. In modern writings, the A.D. 534 version is the work referred to as the Justinian Code. — Also termed Justinianean Code (j<<schwa>>s-tin-ee-an-ee-<<schwa>>n); Code of Justinian; *Codex Justinianus* (koh-deks j<<schwa>>s-tin-ee-ay-n<<schwa>>s); *Codex Vetus* (“Old Code”); *Codex Iustinianus Repetitae Praelectionis*.

“By the time when the Digest and Institutes had been completed it was obvious that the Codex, published little more than four years earlier, was incomplete, since in the interval Justinian ... had promulgated other new constitutions. Tribonian, therefore, was appointed to revise the Code, so as to bring it fully up to date, and at the end of the year A.D. 534 this new Code, known as the *Codex Repetitae Praelectionis*, was promulgated, and is the only Code which survives to the present day. Justinian seems to have laboured under the erroneous impression that the system he had framed would be adequate for all time. But as there is nothing static about law, further legislative enactments, termed *Novellae Constitutiones*, were issued during his reign.... In modern times Justinian's various compilations came to be called collectively the *Corpus Juris Civilis*: the Corpus being regarded as a single work, made up of the Institutes, the Digest, the *Codex Repetitae Praelectionis*, and the Novels.” R.W. Leage, *Roman Private Law* 44 (C.H. Ziegler ed., 2d ed. 1930).

## JUSTINIANIST

Justinianist (j<<schwa>>-stin-ee-<<schwa>>-nist), n.1. One who is knowledgeable about the codification of Justinian. 2. One who has been trained in civil law.

## JUSTINIAN'S INSTITUTES

Justinian's Institutes. See INSTITUTE.

## JUSTITIA

justitia (j<<schwa>>s-tish-ee-<<schwa>>), n. [Latin] Justice.

## JUSTITIA DENEGATA

justitia denegata (j<<schwa>>s-tish-ee-<<schwa>> dee-n<<schwa>>-gay-t<<schwa>>). See DENIAL OF JUSTICE.

## JUSTITIA NATURALIS

justitia naturalis (j<<schwa>>s-tish-ee-<<schwa>> nach-<<schwa>>-ray-lis). See natural justice under JUSTICE(1).

## JUSTITIUM

justitium (j<<schwa>>s-tish-ee-<<schwa>>m), n. [Latin] Civil law. A suspension or intermission of the administration of justice in the courts, as for vacation time. [Cases: Courts 66, 76. C.J.S. Courts §§ 115, 120.]

## JUSTO TEMPORE

justo tempore (j<<schwa>>s-toh tem-p<<schwa>>-ree). [Latin "at the right time"] Hist. In due time.

## JUS TRIPERTITUM

jus tripartitum (j<<schwa>>s trI-p<<schwa>>r-tI-t<<schwa>>m). [Latin "law in three parts"] Roman law. The law of wills in the time of Justinian, deriving from the praetorian edicts, from the civil law, and from the imperial constitutions. See testamentum tripartitum under TESTAMENTUM.

## JUS TRIUM LIBERORUM

jus trium liberorum (j<<schwa>>s trI-<<schwa>>m lib-<<schwa>>-ror-<<schwa>>m). [Latin] See JUS LIBERORUM.

## JUST TITLE

just title. See TITLE(2).

## JUSTUM MATRIMONIUM

justum matrimonium. See JUSTAE NUPTIAE.

## JUST VALUE

just value. See fair market value under VALUE(2).

## JUST WAR

just war. BELLUM JUSTUM.

## JUST-WAR DOCTRINE

just-war doctrine. Int'l law. The principle that a war should have a morally and legally sufficient cause, and must be conducted with restraint. • Precisely what is morally or legally sufficient depends on the norms of a time and place. Over the centuries the doctrine has been invoked to justify wars waged in self-defense, to avenge injuries and punish wrongs, and over religious differences. Restraint means that the least amount of force possible under the circumstances should be used and only when necessary. — Also termed just-war theory. See BELLUM JUSTUM.

## JUS URBANORUM PRAEDIORUM

jus urbanorum praediorum. See urban servitude (2) under SERVITUDE(2).

## JUS UTENDI

jus utendi (j<<schwa>>s yoo-ten-dI), n. [Latin "right of using"] Roman & civil law. The right to use another's property without consuming it or destroying its substance. See USUFRUCT. Cf. JUS ABUTENDI.

## JUS VINDICANDI

jus vindicandi (j<<schwa>>s vin-di-kan-dI). Roman law. An owner's right to recover lost possession even from a bona fide possessor who has given value. • This right, which generally does not exist under modern law, had many exceptions. See R.W. Lee, *An Introduction to Roman-Dutch Law* 433 (4th ed. 1946).

## JUS VITAE NECISQUE

jus vitae necisque (j<<schwa>>s vI-tee ni-sis-kwee). [Latin "right of life and death"] Roman law. The power held by the head of the household over persons under his paternal power and over his slaves. • This right was greatly diminished under later Roman law. See patria potestas under POTESTAS.

## JUVENILE

juvenile (joo-v<<schwa>>-n<<schwa>>l or -nIl), n. A person who has not reached the age (usu. 18) at which one should be treated as an adult by the criminal-justice system; MINOR. [Cases: Infants 68.5. C.J.S. Infants §§ 43–45.] — juvenile, adj. — juvenility (joo-v<<schwa>>-nil-<<schwa>>-tee), n.

certified juvenile. A juvenile who has been certified to be tried as an adult.

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**JUVENILE COURT**

juvenile court. See COURT.

**JUVENILE-COURT JUDGE**

juvenile-court judge. See JUDGE.

**JUVENILE DELINQUENCY**

juvenile delinquency. Antisocial behavior by a minor; esp., behavior that would be criminally punishable if the actor were an adult, but instead is usu. punished by special laws pertaining only to minors. Cf. INCORRIGIBILITY. [Cases: Infants 153. C.J.S. Infants §§ 33–35, 41–42, 64, 67.]

“ ‘Juvenile delinquency,’ when employed as a technical term rather than merely a descriptive phrase, is entirely a legislative product ....” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 940 (3d ed. 1982).

**JUVENILE DELINQUENCY PREVENTION ACT**

Juvenile Delinquency Prevention Act. A federal statute whose purpose is (1) to help states and local communities provide preventive services to youths who are in danger of becoming delinquent, (2) to help in training personnel employed in or preparing for employment in occupations that involve the provision of those services, and (3) to give technical assistance in this field. 42 USCA §§ 3801 et seq.

**JUVENILE DELINQUENT**

juvenile delinquent. A minor who is guilty of criminal behavior, usu. punishable by special laws not pertaining to adults. — Sometimes shortened to delinquent. — Also termed juvenile offender; youthful offender; delinquent minor. See OFFENDER. [Cases: Infants 153. C.J.S. Infants §§ 33–35, 41–42, 64, 67.]

**JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT**

Juvenile Justice and Delinquency Prevention Act. A federal statute that provides funding, assistance, training, and support to state-operated juvenile-justice programs, initiatives, and court systems. 42 USCA §§ 5601–5785.

**JUVENILE-JUSTICE SYSTEM**

juvenile-justice system. The collective institutions through which a youthful offender passes until any charges have been disposed of or the assessed punishment has been concluded. • The system comprises juvenile courts (judges and lawyers), law enforcement (police), and corrections (probation officers and social workers).

**JUVENILE OFFENDER**

juvenile offender. See JUVENILE DELINQUENT.



## JUVENILE OFFICER

juvenile officer. See OFFICER(1).

## JUVENILE PAROLE

juvenile parole. See PAROLE.

## JUVENILE PETITION

juvenile petition. See PETITION.

## JUXTA

juxta (j<<schwa>>ks-t<<schwa>>). [Latin] Near; following; according to.

## JUXTA CONVENTIONEM

juxta                                  conventionem                                  (j<<schwa>>ks-t<<schwa>>  
k<<schwa>>n-ven-shee-oh-n<<schwa>>m). [Latin] According to the covenant.

## JUXTA FORMAM STATUTI

juxta formam statuti (j<<schwa>>ks-t<<schwa>> for-m<<schwa>>m st<<schwa>>-t[y]oo  
oo-tI). [Latin] According to the form of the statute.

## JUXTAPOSITION

juxtaposition (j<<schwa>>ks-t<<schwa>>-p<<schwa>>-zish-<<schwa>>n), n.1. The act or  
an instance of placing two or more things side by side or near one another. 2. Patents. See  
AGGREGATION. — juxtapose (j<<schwa>>ks-t<<schwa>>-pohz), vb. — juxtapositional, adj.

## JUXTA RATAM

juxta ratam (j<<schwa>>ks-t<<schwa>> ray-t<<schwa>>m). [Latin] At or after the rate.

## JUXTA TENOREM SEQUENTEM

juxta tenorem sequentem (j<<schwa>>ks-t<<schwa>> t<<schwa>>-nor-<<schwa>>m s<<  
schwa>>-kwen-t<<schwa>>m). [Latin] According to the tenor following.

## JUZGADO

juzgado (hoos-gah-doh). [Spanish "court"] 1. A court of law, esp. one presided over by a  
single judge. 2. A courthouse.