

F.

F. 1.abbr.The first series of the Federal Reporter, which includes federal decisions (trial and appellate) from 1880 to 1924. 2.Hist. A letter branded on a felon who claimed benefit of clergy so that the felon could claim the benefit only once. • Additionally, those convicted for an affray (fray) or falsity were so branded.

“He that shall maliciously strike any person with a Weapon in Church or Churchyard, or draw any Weapon there with intent to strike, shall have one of his Ears cut off; and, if he have no Ears, then shall be marked on the Cheek with a hot Iron, having the Letter F, whereby he may be known for a Fray-maker or Fighter.” Thomas Blount, *Nomo-Lexicon: A Law-Dictionary* (1670).

“F, Is a Letter wherewith Felons, &c. are branded and marked with an hot Iron, on their being admitted to the Benefit of Clergy.” Giles Jacob, *A New Law-Dictionary* (8th ed. 1762).

F. 2D

F.2d.abbr.The second series of the Federal Reporter, which includes federal appellate decisions from 1924 to 1993.

F. 3D

F.3d.abbr.The third series of the Federal Reporter, which includes federal appellate decisions from 1993.

FAA

FAA.abbr.1.FEDERAL AVIATION ADMINISTRATION. 2.FEDERAL ARBITRATION ACT. 3.FREE OF ALL AVERAGE.

FABRICARE

fabricare (fab-r<<schwa>>-kair-ee), vb. [Law Latin “to make”] Hist. 1.To make a coin lawfully or unlawfully. 2. To forge, esp. a bill of lading. • The term sometimes appeared in indictments: *fabricavit et contrafecit* (“[he] forged and counterfeited”).

FABRICATE

fabricate,vb. To invent, forge, or devise falsely. • To fabricate a story is to create a plausible version of events that is advantageous to the person relating those events. The term is softer than lie. See LIE(1).

FABRICATED EVIDENCE

fabricated evidence.See EVIDENCE.

FABRICATED FACT

fabricated fact.See fabricated evidence under EVIDENCE.

FABRIC LAND

fabric land. See LAND.

FABULA

fabula (fab-y<<schwa>>-l<<schwa>>). [Law Latin] Hist. A contract or covenant, esp. a nuptial contract.

FAC

FAC. abbr. Failure to answer a (traffic) citation. • In some jurisdictions, if someone fails to respond after receiving a ticket, the court notifies the relevant administrative agency, which records this information and suspends the defendant's driver's license until the FAC is vacated and any fines or fees are paid.

FACE

FACE. abbr. FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT.

face, n. 1. The surface of anything, esp. the front, upper, or outer part <the face of a clock>. 2. By extension, the apparent or explicit part of a writing or record <the fraud must appear on the face of the record>. 3. The inscribed side of a document, instrument, or judgment <although the contract appeared valid on its face, the buyer did not have the legal capacity to enter into it>.

FACE AMOUNT

face amount. 1. PAR VALUE. 2. Insurance. The amount payable under an insurance policy. — Also termed face value; face amount insured by the policy; face of policy. [Cases: Insurance 2037. C.J.S. Insurance §§ 518–519, 742–745, 749–754.]

FACE-AMOUNT CERTIFICATE

face-amount certificate. See STOCK CERTIFICATE(1).

FACE-AMOUNT CERTIFICATE COMPANY

face-amount certificate company. See COMPANY.

FACE-AMOUNT CERTIFICATE OF THE INSTALLMENT TYPE

face-amount certificate of the installment type. See face-amount certificate (1) under STOCK CERTIFICATE(1).

FACE AMOUNT INSURED BY THE POLICY

face amount insured by the policy. See FACE AMOUNT.

FACE OF POLICY

face of policy. See FACE AMOUNT.

FACE RATE

face rate.See nominal rate under INTEREST RATE.

FACE VALUE

face value.See FACE AMOUNT.

FACIAL

facial,adj. Apparent; on the face of things; prima facie <a facial challenge to the statute>.

FACIAL ATTACK

facial attack.A challenge to the sufficiency of a complaint, such as a motion to dismiss in federal practice. [Cases: Federal Civil Procedure 1742(1).]

FACIAL CHALLENGE

facial challenge.See CHALLENGE(1).

FACIALLY SUFFICIENT

facially sufficient,adj. (Of a document) appearing valid on its face. • A search-warrant affidavit's facial sufficiency will not protect it from attack if the affidavit is based on false testimony by the officer making the affidavit. See FRANKS HEARING.

FACIALLY VOID

facially void.See VOID.

FACIAS

facias (fay-shee-<<schwa>>s). [Law Latin] That you cause. • Facias is used in writs as an emphatic word. See FIERI FACIAS; LEVARI FACIAS; SCIRE FACIAS. It also appears in the phrase ut facias (“so that you do”). See DO UT FACIAS; FACIO UT DES; FACIO UT FACIAS.

FACIES

facies (fay-shee-eez). [Latin] The outward appearance or surface (of a thing).

FACILE

facile (fas-<<schwa>>l), adj. Scots law.(Of a mentally deficient person) so susceptible to outside influence as to need legal protection (such as a guardian).

FACILITATE

facilitate,vb. Criminal law. To make the commission of a crime easier. • Property (such as a vehicle or home) that facilitates the commission of certain offenses may be forfeited. — facilitator,n.

FACILITATED NEGOTIATION

facilitated negotiation.See MEDIATION.

FACILITATION

facilitation, n. 1. The act or an instance of aiding or helping; esp., in criminal law, the act of making it easier for another person to commit a crime. 2. CONCILIATION.

FACILITY AND CIRCUMVENTION

facility and circumvention. Scots law. Conduct intended to persuade a person vulnerable to outside influence to act against his or her own interest. • Any contract brought under conditions of facility and circumvention would be void. — Sometimes shortened to facility.

FACILITY-OF-PAYMENT CLAUSE

facility-of-payment clause. 1. Insurance. An insurance-policy provision allowing the appointment of a person to receive payment from the insurer on the beneficiary's behalf. [Cases: Insurance 3468.] 2. Trusts. A trust provision that allows anyone who owes money to an incapacitated trust beneficiary to discharge the debt by paying the money owed to the custodial trustee.

FACIO UT DES

facio ut des (fay-shee-oh <<schwa>>t deez). [Latin "I do so that you give"] Civil law. 1. An innominate contract in which a person agrees to do something for recompense. See innominate contract under CONTRACT. 2. The consideration in such a contract.

FACIO UT FACIAS

facio ut facias (fay-shee-oh <<schwa>>t fay-shee-<<schwa>>s). [Latin "I do that you may do"] Civil law. 1. An innominate contract in which a person agrees to do something for another person who agrees to do something in return, such as an agreement to marry. 2. The consideration in such a contract. See innominate contract under CONTRACT.

"These valuable considerations are divided by the civilians into four species.... The second species is, facio, ut facias: as when I agree with a man to do his work for him, if he will do mine for me; or if two persons agree to marry together; or to do any positive acts on both sides. Or, it may be to forbear on one side in consideration of something done on the other; as, that in consideration A, the tenant, will repair his house, B, the landlord, will not sue him for waste." 2 William Blackstone, Commentaries on the Laws of England 444 (1766).

FACSIMILE

facsimile (fak-sim-<<schwa>>-lee). 1. An exact copy. 2. FAX.

FACSIMILE SIGNATURE

facsimile signature. See SIGNATURE.

FACSIMILE TRANSMISSION

facsimile transmission. 1. FAX(1), 2. FAX(3).

FACT

fact. 1. Something that actually exists; an aspect of reality <it is a fact that all people are mortal>. • Facts include not just tangible things, actual occurrences, and relationships, but also states of mind such as intentions and opinions. 2. An actual or alleged event or circumstance, as distinguished from its legal effect, consequence, or interpretation <the jury made a finding of fact>.3. An evil deed; a crime <an accessory after the fact>.

“A fact is any act or condition of things, assumed (for the moment) as happening or existing.”
John H. Wigmore, *A Students' Textbook of the Law of Evidence* 7 (1935).

ablative fact. See divestitive fact.

adjudicative fact (<<schwa>>-joo-di-kay-tiv or -k<<schwa>>-tiv). A controlling or operative fact, rather than a background fact; a fact that concerns the parties to a judicial or administrative proceeding and that helps the court or agency determine how the law applies to those parties. • For example, adjudicative facts include those that the jury weighs. Cf. legislative fact. [Cases: Administrative Law and Procedure 442. C.J.S. Public Administrative Law and Procedure § 115.]

alienative fact (ay-lee-<<schwa>>-nay-tiv or ay-lee-<<schwa>>-n<<schwa>>-tiv). A fact that divests a person of a right by transferring it to another.

ancient fact. A fact about a person, thing, or event that existed or occurred a very long time ago, and about which no living person has firsthand knowledge. — Also termed fact in pais.

collateral fact. A fact not directly connected to the issue in dispute, esp. because it involves a different transaction from the one at issue. [Cases: Evidence 99. C.J.S. Evidence §§ 2–5, 197–199, 204, 206.]

collative fact. See investitive fact.

denotative fact (dee-noh-tay-tiv or di-noh-t<<schwa>>-tiv). A fact relevant to the use of a nonlegal term in a legal rule.

destitutive fact. See divestitive fact.

dispositive fact (dis-poz-<<schwa>>-tiv). 1. A fact that confers rights or causes the loss of rights. • A dispositive fact may be either an investitive or a divestitive fact. — Also termed vestitive fact (ves-t<<schwa>>-tiv). 2. A fact that is decisive of a legal matter; evidence that definitively resolves a legal issue or controversy. See DISPOSITION.

divestitive fact (di-ves-t<<schwa>>-tiv or dI-). A fact that causes the loss of rights; an act or event modifying or extinguishing a legal relation. — Also termed extinctive fact; destitutive fact; ablative fact.

elemental fact. See ultimate fact.

evaluative fact. A fact used to assess an action as being reasonable or negligent.

evidentiary fact (ev-i-den-sh<<schwa>>-ree). 1. A fact that is necessary for or leads to the

determination of an ultimate fact. — Also termed predicate fact. 2. A fact that furnishes evidence of the existence of some other fact. — Also termed evidential fact. 3. See fact in evidence.

exonerative fact (eg-zon-*<<schwa>>*-*<<schwa>>*-tiv or -ay-tiv). A divestitive fact that extinguishes a duty.

extinctive fact. See divestitive fact.

fact in evidence. A fact that a tribunal considers in reaching a conclusion; a fact that has been admitted into evidence in a trial or hearing. — Also written fact-in-evidence. — Also termed evidentiary fact.

“A fact-in-evidence, or, briefly, evidence, signifies any facts considered by the tribunal as data to persuade them to reach a reasoned belief upon a probandum. This process of thought by which the tribunal reasons from fact to probandum is termed inference.” John H. Wigmore, *A Students' Textbook of the Law of Evidence* 7 (1935).

fact in issue. (usu. pl.) 1. Hist. A fact that one party alleges and that the other controverts. 2. A fact to be determined by a fact-trier; PROBANDUM. — Also written fact-in-issue. — Also termed principal fact.

“A fact-in-issue is a fact as to the correctness of which the tribunal, under the law of the case, must be persuaded; the term ‘probandum’ (thing to be proved) will here be used as the convenient single word.” John H. Wigmore, *A Students' Textbook of the Law of Evidence* 7 (1935).

fact in pais. See ancient fact.

fact material to risk. Insurance. A fact that may increase the risk and that, if disclosed, might induce the insurer either to decline to insure or to require a higher premium. [Cases: Insurance 2958, 2963. C.J.S. Insurance §§ 549, 565, 580, 582, 586, 760.]

foundational fact. See predicate fact.

immaterial fact. A fact that is not relevant to a matter in issue.

impositive fact. An investitive fact that imposes duties.

inferential fact. A fact established by conclusions drawn from other evidence rather than from direct testimony or evidence; a fact derived logically from other facts. [Cases: Evidence 595. C.J.S. Evidence §§ 1300, 1341.]

investitive fact (in-ves-t*<<schwa>>*-tiv). A fact that confers rights. — Also termed collative fact (k*<<schwa>>*-lay-tiv).

judicial fact. A fact that the court accepts as proved without hearing evidence. See JUDICIAL NOTICE. [Cases: Criminal Law 304; Evidence 1. C.J.S. Criminal Law § 657; Evidence §§ 8–11, 106.]

jurisdictional fact. (usu. pl.) A fact that must exist for a court to properly exercise its jurisdiction over a case, party, or thing. See JURISDICTIONAL-FACT DOCTRINE.

legal fact.A fact that triggers a particular legal consequence.

legislative fact.A fact that explains a particular law's rationality and that helps a court or agency determine the law's content and application. • Legislative facts are not ordinarily specific to the parties in a proceeding. Cf. adjudicative fact.

“[L]egislative fact includes matters needed to construe statutes or regulations, and factual assumptions a court makes when called upon to ‘legislate.’ Examples of the latter might include the fact that spouses will communicate less if they are not granted a privilege covering their confidences, or that marital harmony will be strained if spouses can be compelled to testify against each other — facts which might be useful in helping a court decide whether to create or continue a common-law marital privilege Obviously, legislative facts of this nature do not and cannot meet the indisputability criterion of the Rule [Fed. R. Evid. 201], nor are they required to.” Paul F. Rothstein, *The Federal Rules of Evidence* 35–36 (3d ed. 2003).

material fact.A fact that is significant or essential to the issue or matter at hand. [Cases: Evidence 143; Federal Civil Procedure 2470.1; Judgment 181(2). C.J.S. Evidence §§ 197, 201–204.]

minor fact.A subordinate fact or circumstance.

operative fact. 1. A fact that affects an existing legal relation, esp. a legal claim. • When applying the hearsay rule, this term distinguishes between out-of-court statements that are operative facts (e.g., a party's saying “I agree to reimburse you” in a case for breach of oral contract), and hearsay, out-of-court statements that only relate to operative facts (e.g., “Joel told me Mike said he would reimburse me”).2. A fact that constitutes the transaction or event on which a claim or defense is based.

physical fact.A fact having a physical existence, such as a fingerprint left at a crime scene.

predicate fact (pred-*<<schwa>>-kit*).1. A fact from which a presumption or inference arises. 2. A fact necessary to the operation of an evidentiary rule. • For example, there must actually be a conspiracy for the co-conspirator exception to the hearsay rule to apply. — Also termed foundational fact; evidentiary fact. [Cases: Evidence 53. C.J.S. Evidence §§ 2, 130–132, 134, 1341.]

primary fact.A fact that can be established by direct testimony and from which inferences are made leading to ultimate facts. See ultimate fact.

principal fact.See fact in issue, ultimate fact.

private fact.A fact that has not been made public. • Whether a fact is private often arises in invasion-of-privacy claims. Cf. public fact.

probative fact (proh-*b<<schwa>>-tiv*). A fact in evidence used to prove an ultimate fact, such as skid marks used to show speed as a predicate to a finding of negligence.

psychological fact.A fact that is related to mental state, such as motive or knowledge.

public fact. For the purpose of an invasion-of-privacy claim, a fact that is in a public record or in the public domain. Cf. private fact. [Cases: Torts 8.5(7). C.J.S. Right of Privacy and Publicity §§ 6, 12–14, 16, 22–24, 26–27, 29, 31, 39, 42.]

relative fact. A fact incidental to another fact; a minor fact.

simulated fact. A fabricated fact intended to mislead; a lie.

translative fact (trans- or tranz-lay-tiv). A fact by means of which a right is transferred from one person to another; a fact that fulfills the double function of terminating one person's right to an object and of originating another's right to it.

transvestitive fact. A fact that is simultaneously investitive and divestitive.

“When a person transfers the rights he has to another, the transfer divests him of the potestas, and invests that other with it. This is quite distinct from the creation or extinction of the potestas. A new descriptive term is wanted, and after the analogy of the other words, ‘transvestitive’ has been coined for the purpose.” W.A. Hunter, *A Systematic and Historical Exposition of Roman Law* 141 (4th ed. 1902).

ultimate fact. A fact essential to the claim or the defense. — Also termed elemental fact; principal fact.

undisputed fact. An uncontested or admitted fact.

vestitive fact. See dispositive fact (1).

FACTA

facta (fak-t<<schwa>>). [Latin] pl. FACTUM.

FACT-FINDER

fact-finder. One or more persons — such as jurors in a trial or administrative-law judges in a hearing — who hear testimony and review evidence to rule on a factual issue. — Also termed finder of fact; fact-trier or trier of fact (in a judicial proceeding); fact-finding board (for a group or committee). See FINDING OF FACT.

FACT-FINDING

fact-finding. 1. The process of taking evidence to determine the truth about a disputed point of fact. 2. Int'l law. The gathering of information for purposes of international relations, including the peaceful settlement of disputes and the supervision of international agreements. • Examples of fact-finding include legislative tours and the acquisition of information required for making decisions at an international level. — Also termed inquiry.

“[F]act-finding must be as impartial and as fair to the parties as procedural and evidentiary rules can render it without making the inquiry's task impossible, not merely for ethical reasons, but in order to maximize the credibility and impact of the facts found. To this end, fact-finders must develop procedures that sharply distinguish them from those bodies that assemble prosecutorial

evidence.” Thomas M. Franck & H. Scott Fairley, *Procedural Due Process in Human Rights Fact-Finding by International Agencies*, 74 *Am. J. Int'l L.* 308, 310 (1980).

3. A method of alternative dispute resolution in which an impartial third party determines and studies the facts and positions of disputing parties that have reached an impasse, with a view toward clarifying the issues and helping the parties work through their dispute. [Cases: Arbitration 1. C.J.S. Arbitration §§ 2–3.]

FACT-FINDING BOARD

fact-finding board. See FACT-FINDER.

FACTION

faction. A number of citizens, whether a majority or a minority, who are united and motivated by a common impulse or interest that is adverse to the rights of others or to the permanent or aggregate interests of the community. • This definition is adapted from *The Federalist*, No. 10.

FACTIO TESTAMENTI

factio testamenti (fak-shee-oh tes-t<<schwa>>-men-tl). See TESTAMENTI FACTIO.

FACT ISSUE

fact issue. See issue of fact under ISSUE(1).

FACTO

facto (fak-toh), adj. In or by the fact. See DE FACTO; IPSO FACTO.

FACTO ET ANIMO

facto et animo (fak-toh et an-<<schwa>>-moh). [Latin] In fact and intent < taking possession facto et animo>.

FACTOR

factor, n. 1. An agent or cause that contributes to a particular result < punishment was a factor in the court's decision>. 2. An agent who is employed to sell property for the principal and who possesses or controls the property; a person who receives and sells goods for a commission < a factor was employed to sell goods for the company>. • A factor differs from a broker because the factor possesses or controls the property. — Also termed commission merchant; del credere bailiff. Cf. BROKER. [Cases: Factors 1. C.J.S. Agriculture §§ 163, 165, 178.]

“A factor by the rules of common law and of mercantile usage is an agent to whom goods are consigned for the purpose of sale, and he has possession of the goods, power to sell them in his own name, and a general discretion as to their sale. He may sell them on the usual terms of credit, may receive the price, and give a good discharge to the buyer.” William R. Anson, *Principles of the Law of Contract* 523 (Arthur L. Corbin ed., 3d Am. ed. 1919).

3. One who buys accounts receivable at a discount < the company sold its receivables to a

factor at only 5% of their stated value>.4. A garnishee <the factor held \$400 of the debtor's property when the writ of garnishment was served>. [Cases: Garnishment 13–24.] 5. A person in charge of managing property, esp. real property.

judicial factor.Scots law. An administrator or factor specially appointed by the Court of Session to manage an estate.

FACTORAGE

factorage. 1. The compensation paid to a factor for his or her services. [Cases: Factors 44. C.J.S. Agriculture §§ 171–173, 176–177.] 2. The business of a factor. [Cases: Factors 1, 5.C.J.S. Agriculture §§ 163, 165, 178.]

FACTORING

factoring,n. The buying of accounts receivable at a discount. • The price is discounted because the factor (who buys them) assumes the risk of delay in collection and loss on the accounts receivable. [Cases: Factors 1, 5, 10. C.J.S. Agriculture §§ 163, 165, 178.]

FACTORIZE

factorize (fak-t<<schwa>>-rIz), vb.1.GARNISH(2).2.GARNISH(3).

FACTORIZING PROCESS

factorizing process.A procedure or legal process by which a third party, rather than the creditor, attaches a debtor's property; GARNISHMENT. — Also termed trustee process; process by foreign attachment. [Cases: Garnishment 1.]

“In Vermont and Connecticut, the [garnishee] is also sometimes called the factor, and the process [of garnishing], factorizing process.” Charles D. Drake, *A Treatise on the Law of Suits by Attachment in the United States* § 451, at 386 (7th ed. 1891).

FACTOR'S ACT

factor's act.A statute protecting one who buys goods from a factor or agent by creating the presumption that the agent was acting on the owner's behalf and with the owner's approval. [Cases: Factors 58.]

FACTOR'S LIEN

factor's lien.See LIEN.

FACTORY ACT

factory act.A statute that regulates workers' hours, health, and safety. See FAIR LABOR STANDARDS ACT.

FACT PLEADING

fact pleading.See code pleading under PLEADING(2).

FACT QUESTION

fact question. See QUESTION OF FACT.

FACT-TRIER

fact-trier. See FACT-FINDER.

FACTUAL CAUSE

factual cause. See but-for cause under CAUSE(1).

FACTUAL IMPOSSIBILITY

factual impossibility. See IMPOSSIBILITY.

FACTUAL PRESUMPTION

factual presumption. See presumption of fact under PRESUMPTION.

FACTUM

factum (fak-t<<schwa>>m), n. [Latin] 1. A fact, such as a person's physical presence in a new domicile. 2. An act or deed, such as the due execution of a will. • Over time, factum in this sense came to mean “charter” — that is, the act or deed of conveying land, reduced to written form. See fraud in the factum under FRAUD.

“[I]t is only a short step to holding as a matter of law that a ‘deed’ — and by a deed (fet, factum) men are beginning to mean a sealed piece of parchment — has an operative force of its own which intentions expressed, never so plainly, in other ways have not. The sealing and delivering of the parchment is the contractual act. Further, what is done by ‘deed’ can only be undone by ‘deed.’ ” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 220 (2d ed. 1899).

factum imprestabile (fak-t<<schwa>>m im-pres-tay-b<<schwa>>-lee). [Law Latin] Hist. An act that cannot be performed; an impossibility.

factum juridicum (fak-t<<schwa>>m juu-rid-i-k<<schwa>>m). [Latin] A juridical fact.

factum probandum (fak-t<<schwa>>m pr<<schwa>>-ban-d<<schwa>>m). [Latin] A fact to be proved.

“Evidence is always a relative term. It signifies a relation between two facts, the factum probandum, or proposition to be established, and the factum probans, or material evidencing the proposition. The former is necessarily to be conceived of as hypothetical; it is that which the one party affirms and the other denies, the tribunal being as yet not committed in either direction. The latter is conceived of for practical purposes as existent and is offered as such for the consideration of the tribunal. The latter is brought forward as a reality for the purpose of convincing the tribunal that the former is also a reality.” John Henry Wigmore, *Evidence in Trials at Common Law* § 2, at 14–15 (Peter Tillers ed., 1983).

factum probans (fak-t<<schwa>>m proh-banz). [Latin] A probative or evidentiary fact; a subsidiary fact tending to prove a principal fact in issue.

factum proprium et recens (fak-t<<schwa>>m proh-pree-<<schwa>>m et ree-senz). [Law Latin] Hist. One's own act recently performed.

3. A statement of facts. 4. BRIEF(1). Pl. facta.

FACTUM OF A WILL

factum of a will. The formal ceremony of making a will; a will's execution by the testator and attestation by the witnesses.

FACT WORK PRODUCT

fact work product. See WORK PRODUCT.

FACULTATIVE CERTIFICATE

facultative certificate (fak-<<schwa>>l-tay-tiv). Insurance. A contract of reinsurance separately negotiated to cover risks under a single insurance policy. • Facultative reinsurance allows the reinsurer the “faculty” of assessing and possibly rejecting a particular risk (esp. if underwriting information is inadequate). [Cases: Insurance 3605. C.J.S. Insurance § 1504.]

FACULTATIVE REINSURANCE

facultative reinsurance. See REINSURANCE.

FACULTIES

faculties. Hist. Eccles. law. 1. An authorization granted to a person to do what otherwise would not be allowed. 2. The extent of a husband's estate; esp., the ability to pay alimony. See ALLEGATION OF FACULTIES.

FACULTIES, COURT OF

Faculties, Court of. See COURT OF FACULTIES.

FACULTIES, MASTER OF THE

Faculties, Master of the. See MASTER OF THE FACULTIES.

FACULTY OF ADVOCATES

Faculty of Advocates. Scots law. The society comprising the members of the Scottish bar. • Unlike the English bar, the advocates do not have chambers, but all share the facilities of Advocates' Library in Parliament House.

FADERFIUM

faderfium (fah-th<<schwa>>r-fee-<<schwa>>m). Hist. A marriage gift to the bride from her father or brother.

FAEDER-FEOH

faeder-feoh (fah-th<<schwa>>r-fee).Hist. Property brought by a wife to her husband at marriage. • If the husband died, the property reverted to the widow if the heir of the deceased husband refused consent to her second marriage. The property reverted to the widow's family if she returned to them.

FAGGOT

faggot.Hist. 1. A piece of firewood used to burn a heretic alive. 2. An embroidered figure of a faggot, required to be worn by heretics who had recanted.

FAIL

fail,n. A transaction between securities brokers in which delivery and payment do not occur at the prescribed time, usu. on the settlement date. — Also termed fail contract.

fail to deliver.The nondelivery of securities from a selling broker to a buying broker by the settlement date.

fail to receive.The failure of a buying broker to receive delivery of securities from the selling broker by the settlement date.

fail,vb. 1. To be deficient or unsuccessful; to fall short <they failed to settle the dispute>.2. To become insolvent or bankrupt <two banks failed last week>.3. To lapse <the bequest failed as a result of ademption>.

FAILED DEVISE

failed devise.See lapsed devise under DEVISE.

FAILED GIFT

failed gift.1. See lapsed devise under DEVISE. 2. See lapsed legacy under LEGACY.

FAILED LEGACY

failed legacy.See lapsed legacy under LEGACY.

FAILING CIRCUMSTANCES

failing circumstances.See INSOLVENCY.

FAILING-COMPANY DOCTRINE

failing-company doctrine.Antitrust. The rule that allows an otherwise proscribed merger or acquisition between competitors when one is bankrupt or near failure. 15 USCA §§ 12–27. — Also termed failing-firm defense. [Cases: Monopolies 20(1). C.J.S. Monopolies §§ 106–111, 115–116, 125.]

“The 1992 guidelines provide a limited defense for failing firms and failing divisions of firms. The defense is available if impending failure would cause the assets of one party to leave the

market if the merger does not occur. Thus to establish a failing firm defense, the parties must show that the failing firm cannot (1) meet its financial obligations, (2) reorganize in bankruptcy, and (3) find another buyer whose purchase of the firm would pose lesser anticompetitive risks. The parties must further show that (4) without the merger, the failing firm's assets will exit the market." Ernest Gellhorn & William E. Kovacic, *Antitrust Law and Economics in a Nutshell* 398–99 (4th ed. 1994).

FAIL POSITION

fail position. A situation existing when, after all transactions in a security have been netted out, a broker owes another broker more securities than it has coming in from other firms.

FAILURE

failure. 1. Deficiency; lack; want. 2. An omission of an expected action, occurrence, or performance. See LAPSE(2).

failure of a condition. The nonoccurrence of an event that has been made a condition of the contract. • The usual result is that one or both of the parties do not have to perform because of the failure of the condition.

failure of consideration. See FAILURE OF CONSIDERATION.

failure of good behavior. A civil servant's act that is ground for removal. [Cases: Officers and Public Employees 69.7. C.J.S. Officers and Public Employees §§ 133, 164–166.]

failure of issue. See FAILURE OF ISSUE.

failure of justice. See MISCARRIAGE OF JUSTICE.

failure of proof. A party's not having produced evidence establishing a fact essential to a claim or defense.

failure of title. A seller's inability to establish a good claim to the property contracted for sale. Cf. clear title under TITLE(2). [Cases: Vendor and Purchaser 129(1). C.J.S. Vendor and Purchaser §§ 314–319, 321–322.]

failure of trust. The invalidity of a trust because the instrument creating it has a defect or because of its illegality or other legal impediment. [Cases: Trusts 68. C.J.S. Trover and Conversion §§ 129, 137.]

failure of will. The invalidity of a will that was not executed with necessary statutory formalities.

failure otherwise than on the merits. The defeat of a plaintiff's claim by a procedural device without a decision on the existence of the claim's elements.

failure to bargain collectively. An employer's refusal to discuss labor issues with a union. [Cases: Labor Relations 388. C.J.S. Labor Relations §§ 153–154, 159–160, 391–395, 397.]

failure to claim. Patents. A finding by the U.S. Patent and Trademark Office or by a court that

a patent applicant or patentee has forfeited the right to broader protection by not seeking protection for some disclosed subject matter. • Any art outside the explicit claims, including foreseeable alteration of the claimed structure, is considered dedicated to the public domain.

failure to make delivery. Nondelivery or misdelivery.

failure to meet obligations. 1. BANKRUPTCY(4). 2. INSOLVENCY.

failure to perform. A party's not meeting its obligations under a contract. See CONTRACT(4). [Cases: Contracts 261(1), 312(1), 315. C.J.S. Contracts §§ 467, 470, 472, 480, 561.]

failure to state a cause of action. A plaintiff's not having alleged facts in the complaint sufficient to maintain a claim. • This failure warrants dismissal of the complaint. [Cases: Pleading 48. C.J.S. Pleading §§ 116–124, 132–133.]

failure to testify. A party's — esp. a criminal defendant's — decision not to testify. • Under the Fifth Amendment, the prosecutor and the judge cannot comment to the jury on a criminal defendant's failure to testify. But comments on the failure are usu. permissible in a civil case. [Cases: Criminal Law 317; Evidence 76; Witnesses 88. C.J.S. Criminal Law §§ 641–644, 705–706; Evidence §§ 174–175.]

FAILURE OF CONSIDERATION

failure of consideration. A seriously deficient contractual performance that causes a contract's basis or inducement to cease to exist or to become worthless. • Scholars disapprove of this term as misleading, since failure of performance is more accurate. Unlike consideration, the phrase failure of consideration relates not to the formation of a contract but to its performance. See CONSIDERATION(1). Cf. WANT OF CONSIDERATION. [Cases: Contracts 83, 260, 309(1). C.J.S. Contracts §§ 133, 466, 520–522, 524.]

“An illustration will help indicate how the term is used. If C promises to build a structure for O and O promises to make payment when the work is completed, it is clear that there is consideration on both sides of this contract and that therefore a contract was formed upon the exchange of promises. If C fails to perform, the result is sometimes described as a ‘failure of consideration.’ ‘Failure of consideration’ simply means a failure to perform and as used covers both a material breach of constructive conditions and a failure to perform an express condition. The use of the term ‘failure of consideration’ in this sense appears to be an unnecessary invitation to confusion because the word consideration is being used in two different senses. Fortunately, the use of this phrase has gradually fallen into disuse. It is, however, still sufficiently widespread to be mentioned here. This volume nowhere utilizes ‘failure of consideration’ as an operative concept.” John D. Calamari & Joseph M. Perillo, *The Law of Contracts* § 11-21, at 474–75 (3d ed. 1987).

partial failure of consideration. A party's incomplete performance of a contract with multiple, severable performances, so that if some of the performances are not accomplished, the appropriate part of the agreement can be apportioned to whatever has been completed. [Cases: Contracts 86, 260. C.J.S. Contracts §§ 84, 133, 135, 466.]

total failure of consideration. A situation in which the contract is indivisible so that a complete

lack of consideration voids the contract. [Cases: Contracts 85, 260. C.J.S. Contracts §§ 134–135, 466.]

FAILURE OF GOOD BEHAVIOR

failure of good behavior. See FAILURE.

FAILURE OF ISSUE

failure of issue. The fact of a person's dying when the person has no surviving children or other descendants who are eligible to inherit the person's estate. — Also termed dying without issue; definite failure of issue; default of issue. See ISSUE(3). [Cases: Descent and Distribution 14–16. C.J.S. Descent and Distribution §§ 14–15, 20–21.]

“There has been considerable litigation during the past several centuries over the meaning of a gift to ‘A and his heirs, but if A shall die without issue, to B and his heirs.’ First of all, what does ‘die without issue’ mean? The answer appears simple — you look to the time of A's death to determine whether or not he has any children or grandchildren. But that is not the way the English courts originally construed this language. The English adopted the so-called ‘indefinite failure of issue’ construction — if at any time in the future A's line of descent should come to an end, then there was a gift over to B and his heirs. The effect of this was a fee tail in A and a remainder in B. This seems a distortion of the language, and particularly unsuited to American circumstances since the fee tail never found a real home here. Most of our jurisdictions, by judicial decision or statute, adopted the so-called ‘definite failure of issue’ construction — you look to the date of A's death to determine whether he has issue, and to that time alone. If A has issue at that time, then the gift over to B fails. This seems to be the literal meaning of the words, and it is the only sensible conclusion in a system where the fee tail is virtually a dead letter. The English also struck down the constructional preference for indefinite failure by statute in the nineteenth century.” Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 236–37 (2d ed. 1984).

indefinite failure of issue. A failure of issue whenever it happens, without any certain period within which it must happen. [Cases: Descent and Distribution 14, 57, 58. C.J.S. Descent and Distribution §§ 14–15, 63.]

FAILURE OF JUSTICE

FAILURE OF PROOF

failure of proof. See FAILURE.

FAILURE-OF-PROOF DEFENSE

failure-of-proof defense. The defense that a party's proof does not establish a fact essential to a claim or defense.

FAILURE OF RECORD

failure of record. Hist. In a trial by record, a party's inability to produce the record and thereby prove a pleading; an absence of proof to support a party's pleading. • The other party was entitled

to summary judgment. See trial by record under TRIAL.

FAILURE OF TITLE

failure of title. See FAILURE.

FAILURE OF TRUST

failure of trust. See FAILURE.

FAILURE OF WILL

failure of will. See FAILURE.

FAILURE OTHERWISE THAN ON THE MERITS

failure otherwise than on the merits. See FAILURE.

FAILURE TO BARGAIN COLLECTIVELY

failure to bargain collectively. See FAILURE.

FAILURE TO CLAIM

failure to claim. See FAILURE.

FAILURE-TO-DISCLOSE-BEST-MODE REJECTION

failure-to-disclose-best-mode rejection. See REJECTION.

FAILURE TO MAKE DELIVERY

failure to make delivery. See FAILURE.

FAILURE TO MEET OBLIGATIONS

FAILURE TO PERFORM

failure to perform. See FAILURE.

FAILURE-TO-PERFORM EXCLUSION

failure-to-perform exclusion. See EXCLUSION(3).

FAILURE TO PROTECT

failure to protect. Family law. The refusal or inability of a parent or guardian to prevent abuse of a child under his or her care.

FAILURE TO STATE A CAUSE OF ACTION

failure to state a cause of action. See FAILURE.

FAILURE-TO-SUPERVISE STATUTE

failure-to-supervise statute. See PARENTAL-LIABILITY STATUTE.

FAILURE TO TESTIFY

failure to testify. See FAILURE.

FAILURE TO THRIVE

failure to thrive. Family law. 1. A medical and psychological condition in which a child's height, weight, and motor development fall significantly below average growth rates. • Failure to thrive is sometimes asserted as a ground for alleging abuse or neglect by a parent or caregiver. 2. A condition, occurring during the first three years of a child's life, in which the child suffers marked retardation or ceases to grow. — Abbr. FTT.

FAINT ACTION

faint action. See FEIGNED ACTION.

FAINT PLEADER

faint pleader. A false, fraudulent, or collusive manner of pleading.

FAIR

fair, adj. 1. Impartial; just; equitable; disinterested <everyone thought that Judge Jones was fair>. 2. Free of bias or prejudice <in jury selection, the lawyers tried to select a fair and impartial jury>.

fair, n. Hist. A privileged market for the buying and selling of goods. • A fair was an incorporeal hereditament granted to a town by royal patent or franchise or established by prescription. The franchise to hold a fair conferred important privileges, and a fair, as a legally recognized institution, possessed distinctive legal characteristics, most of which are now obsolete. Cf. market overt under MARKET.

FAIR-AND-EQUITABLE REQUIREMENT

fair-and-equitable requirement. Bankruptcy. A Bankruptcy Code standard requiring a forced, nonconsensual Chapter 11 plan (a “cramdown” plan) to provide adequately for each class of interests that has not accepted the plan. • In determining whether a cramdown plan is fair and equitable and thus can be confirmed, a bankruptcy court must apply the Code's detailed statutory criteria, consider the plan as a whole, and weigh all the circumstances surrounding the treatment of each impaired class of interests. In addition to the fair-and-equitable requirement, the Chapter 11 cramdown plan must (1) be accepted by at least one impaired class of claims, and (2) not discriminate unfairly among impaired classes that have not accepted the plan. 11 USCA § 1129(b). See CRAMDOWN. [Cases: Bankruptcy 3563. C.J.S. Bankruptcy § 396.]

FAIR AND IMPARTIAL JURY

fair and impartial jury. See impartial jury under JURY.

FAIR AND IMPARTIAL TRIAL

fair and impartial trial. See FAIR TRIAL.

FAIR AND PROPER LEGAL ASSESSMENT

fair and proper legal assessment. See EQUALIZATION(2).

FAIR AND REASONABLE VALUE

fair and reasonable value. See fair market value under VALUE(2).

FAIR AND VALUABLE CONSIDERATION

fair and valuable consideration. See fair consideration under CONSIDERATION (1).

FAIR AVERAGING

fair averaging. The process of assessing taxes by using the average of the amount and price of goods acquired over a 12-month period rather than the amount and price at a particular time of the year.

FAIR CASH MARKET VALUE

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

FAIR CASH VALUE

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

FAIR COMMENT

fair comment. A statement based on the writer's or speaker's honest opinion about a matter of public concern. • Fair comment is a defense to libel or slander. [Cases: Libel and Slander 48(1). C.J.S. Libel and Slander; Injurious Falsehood §§ 91–92, 96, 98, 102–104.]

FAIR COMPETITION

fair competition. See COMPETITION.

FAIR CONSIDERATION

fair consideration. See CONSIDERATION(1).

FAIR CREDIT BILLING ACT

Fair Credit Billing Act. A federal law that facilitates the correction of billing errors by credit-card companies and makes those companies more responsible for the quality of goods purchased by cardholders. 15 USCA §§ 1666–1666j. [Cases: Consumer Credit 30. C.J.S. Interest and Usury; Consumer Credit §§ 317–318.]

FAIR-CREDIT-REPORTING ACT

fair-credit-reporting act. A federal or state law that regulates the keeping of credit reports and ensures the right of consumers to get and correct their credit reports. • The federal Fair Credit Reporting Act was enacted in 1970. 15 USCA §§ 1681–1681u. [Cases: Credit Reporting Agencies 1–4. C.J.S. Credit Reporting Agencies; Consumer Protection §§ 2–22.]

FAIR-CROSS-SECTION REQUIREMENT

fair-cross-section requirement. Constitutional law. The principle that a person's right to an impartial jury, guaranteed by the Sixth Amendment, includes a requirement that the pool of potential jurors fairly represent the composition of the jurisdiction's population. • The pool of potential jurors need not precisely match the composition of the jurisdiction. But the representation of each group must be fair — no group should be systematically excluded or underrepresented. A minimal disparity in a particular group's representation, such as an absolute disparity of 10%, will not ordinarily violate this principle unless some aggravating factor exists. See **DUREN TEST**; **ABSOLUTE DISPARITY**; **COMPARATIVE DISPARITY**; **STATISTICAL-DECISION THEORY Y**. [Cases: Jury 33(1.1). C.J.S. Juries §§ 269–273, 279, 306.]

FAIR DEALING

fair dealing.n.1. The conduct of business with full disclosure, usu. by a corporate officer with the corporation. [Cases: Corporations 314, 316. C.J.S. Corporations §§ 507, 510.] 2. A fiduciary's transacting of business so that, although the fiduciary might derive a personal benefit, all interested persons are fully apprised of that potential and of all other material information about the transaction. Cf. **SELF-DEALING**. 3. Canadian law. **FAIR USE**.

FAIR HEARING

fair hearing. See **HEARING**.

FAIR LABOR STANDARDS ACT

Fair Labor Standards Act. A federal law, enacted in 1938, that regulates minimum wages, overtime pay, and the employment of minors. 29 USCA §§ 201–219. — Abbr. **FLSA**. [Cases: Labor Relations 1102. C.J.S. Labor Relations § 1018.]

FAIRLY-DEBATABLE RULE

fairly-debatable rule. 1. Insurance. In some states, a test that requires an insurer to have a plausible basis for denying a claim to avoid bad-faith liability. [Cases: Insurance 3336. C.J.S. Insurance §§ 1163, 1342, 1576, 1578–1581.] 2. Zoning. A doctrine that bars a court from interfering with a zoning decision that is supported by substantial evidence, although it is one on which reasonable minds can differ. • A court will not interfere with a decision supported by substantial evidence. [Cases: Zoning and Planning 602, 605, 703. C.J.S. Zoning and Land Planning § 273.]

FAIR MARKET PRICE

fair market price. See fair market value under **VALUE(2)**.

FAIR MARKET VALUE

fair market value. See **VALUE(2)**.

FAIRNESS DOCTRINE

fairness doctrine. A former FCC rule that required the broadcast media to furnish a reasonable opportunity for discussion of conflicting views on issues of public importance. • The FCC abandoned the fairness doctrine in 1987. Cf. EQUAL-TIME DOCTRINE. [Cases: Telecommunications 435.C.J.S. Telegraphs, Telephones, Radio, and Television §§ 178–179, 183–187.]

FAIR NOTICE

fair notice. See NOTICE.

FAIR ON ITS FACE

fair on its face. (Of a document) having the appearance of being regular or legal and not capable of being shown to be defective without extraneous evidence.

FAIR PERSUASION

fair persuasion. See PERSUASION.

FAIR PLAY

fair play. Equity, candor, and fidelity in dealings with another.

FAIR PLAY AND SUBSTANTIAL JUSTICE

fair play and substantial justice. The fairness requirement that a court must meet in its assertion of personal jurisdiction over a nonresident defendant to comport with due process. *International Shoe Co. v. Washington*, 326 U.S. 310, 66 S.Ct. 154 (1945). See MINIMUM CONTACTS. [Cases: Constitutional Law 305(5). C.J.S. Constitutional Law § 1151.]

FAIR PREPONDERANCE OF THE EVIDENCE

fair preponderance of the evidence. See PREPONDERANCE OF THE EVIDENCE.

FAIR RATE OF RETURN

fair rate of return. See RATE OF RETURN.

FAIR-REPORT PRIVILEGE

fair-report privilege. A defense to liability for publishing defamatory matter from a report of an official or judicial proceeding, when the report is a full, fair, and accurate account of the proceeding. [Cases: Libel and Slander 39, 42. C.J.S. Libel and Slander; Injurious Falsehood §§ 69–70, 99–100, 103.]

FAIR REPRESENTATION

fair representation. Labor law. Union representation that adequately covers all union members in collective bargaining and in the lodging of grievances. [Cases: Labor Relations 219, 221. C.J.S. Labor Relations §§ 213–214.]

FAIR RETURN ON INVESTMENT

fair return on investment. See RETURN.

FAIR SALE

fair sale. See SALE.

FAIR-SHARE MEMBERSHIP

fair-share membership. See FINANCIAL-CORE MEMBERSHIP.

FAIR TRADE

fair trade, n. Commerce conducted under a fair-trade agreement.

FAIR-TRADE AGREEMENT

fair-trade agreement. A commercial agreement that a seller will sell all of a producer's goods at or above a specified minimum price. • Fair-trade agreements were valid until 1975, when the Consumer Goods Pricing Act made them illegal. 15 USCA §§ 1, 45.

FAIR-TRADE LAW

fair-trade law. A state statute that protects and enforces fair-trade agreements. • At one time, many states had fair-trade laws. But when applied to interstate commerce, the laws may violate the Sherman Antitrust Act, so most states have repealed them.

FAIR TRIAL

fair trial. A trial by an impartial and disinterested tribunal in accordance with regular procedures; esp., a criminal trial in which the defendant's constitutional and legal rights are respected. — Also termed fair and impartial trial.

FAIR USE

fair use. Copyright. A reasonable and limited use of a copyrighted work without the author's permission, such as quoting from a book in a book review or using parts of it in a parody. • Fair use is a defense to an infringement claim, depending on the following statutory factors: (1) the purpose and character of the use, (2) the nature of the copyrighted work, (3) the amount of the work used, and (4) the economic impact of the use. 17 USCA § 107. — Also termed private-use exception; (in Canadian law) fair dealing. [Cases: Copyrights and Intellectual Property 53.2. C.J.S. Copyrights and Intellectual Property §§ 45–46, 48–50.]

“[Fair use is] the most troublesome [problem] in the whole law of copyright.” *Dellar v. Samuel Goldwyn, Inc.*, 104 F.2d 661, 662 (2d Cir. 1939)(per curiam).

“Fair use is a judicial safety valve, empowering courts to excuse certain quotations or copies of copyrighted material even though the literal terms of the Copyright Act prohibit them.” Paul Goldstein, *Copyright's Highway* 84 (1994).

FAIR VALUE

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

FAIR-VALUE ACCOUNTING METHOD

fair-value accounting method. See ACCOUNTING METHOD.

FAIR-VALUE LAW

fair-value law. A statute allowing a credit against a deficiency for the amount that the fair market value of land exceeds the price at foreclosure. — Also termed fair-value legislation. [Cases: Mortgages 559(7), 561.7. C.J.S. Mortgages §§ 938, 943, 956.]

FAIR WARNING

fair warning. Criminal law. The requirement that a criminal statute define an offense with enough precision so that a reasonable person can know what conduct is prohibited and so that a reasonably skilled lawyer can predict what conduct falls within the statute's scope. — Also termed fair notice. [Cases: Criminal Law 13.1(1). C.J.S. Criminal Law § 26.]

FAIR WEAR AND TEAR

fair wear and tear. See WEAR AND TEAR.

FAIT

fait (fay or fe). [Law French fr. Latin factum] Anything done; an act or deed. • The term fait accompli (fay or fe t<<schwa>>-kom-plee), meaning “a deed accomplished,” which is not merely legal, is related to this word.

FAIT ENROLLE

fait enrolle (fay or fe ton-rohl). [Law French] Hist. An enrolled deed of a sale of a freehold estate.

FAITH AND TRUST

faith and trust. See FLIM FLAM.

FAITHFULLY EXECUTED CLAUSE

Faithfully Executed Clause. The clause of the U.S. Constitution providing that the President must take care that the laws are carried out faithfully. U.S. Const. art. II, § 3. [Cases: United States 26. C.J.S. United States §§ 45–47.]

FAITH-HEALING EXEMPTION

faith-healing exemption. Family law. In a child-abuse or child-neglect statute, a provision that a parent who provides a child with faith healing (in place of standard medical treatment) will not, for that reason alone, be charged with abuse or neglect. • Nearly all states have enacted some form of faith-healing exemption. But the statutes differ greatly. For example, they differ on whether the exemption is available as a defense to manslaughter or murder charges brought against a parent whose child dies as a result of the parent's having refused to consent to medical treatment. — Also

termed religious-exemption statute; spiritual-treatment exemption. Cf. medical neglect under NEGLECT.

FAKE

fake, n. Something that is not what it purports to be. See FORGERY (2); IMPOSTOR.

fake, vb. To make or construct falsely. See COUNTERFEIT.

FALCIDIAN LAW

Falcidian law (fal-sid-ee-<<schwa>>n). Roman law. A law prescribing that one could give no more than three-fourths of one's property in legacies and that the heirs should receive at least one-fourth (the Falcidian portion). • If the testator violated this law, the heir had the right to deduct proportionally from each legatee as necessary. The law, proposed by the Roman tribune Falcidius, was enacted in 40 B.C. — Also termed *lex Falcidia*. See LEGITIME.

“A large number of small legacies might [either] leave nothing for the heir ... [or] make his part so small as to seem valueless in his eyes. But a Falcidian law, passed in the year 40 B.C., put an end to the whole difficulty. This law secured to the heir a quarter of the net value of the estate; the legatees could obtain only three-quarters: if the legatees named in the will amounted to more than this, they were diminished by proportional reductions.... Few measures have accomplished their purpose more satisfactorily than the Falcidian law, which remained in force through the history of the empire, and holds an important place in the system of Justinian.” James Hadley, *Introduction to Roman Law* 321–22 (1881).

FALCIDIAN PORTION

Falcidian portion. Roman law. The one-fourth part of an estate that one or more instituted heirs are entitled to retain. La. Civ. Code art. 1494. — Also termed *quarta Falcidiana*. See forced heir under HEIR; LEGITIME. Cf. QUARTA TREBELLIANICA .

FALCONER ERROR

Falconer error. A trial court's failure to instruct the jury that a guilty finding on a manslaughter charge requires acquittal on a murder charge. *Falconer v. Lane*, 905 F.2d 1129 (7th Cir. 1990).

FALDAGE

faldage (fahl-dij), n. Hist. 1. A landowner's right to require tenants to graze their sheep in designated temporary folds so that the manure will fertilize the field. — Also termed *foldage*; *fold soc*. 2. A sum of money paid to the landowner by a sheep-owning tenant in lieu of keeping the animals in the landowner's temporary fold. — Also termed *faldfee*.

FALDFEE

faldfee (fahld-fee), n. Hist. See FALDAGE(2).

FALDWORTH

faldworth (fahld-w<<schwa>>rth), n. Hist. A person who resides in a rural community where everyone above a certain age is responsible for the good conduct of all other members of the community and who has reached that age of responsibility. • This was part of the frankpledge system. See DECENARY; FRANKPLEDGE.

FALLO

fallo (fahl-yoh), n. Spanish law. The mandate in a court's judgment; the dispositive sentence in a judicial pronouncement.

FALL OF THE HAMMER

fall of the hammer. An auctioneer's closing of bidding <the bureau will be sold at the fall of the hammer>. • Traditionally, an auctioneer bangs a hammer, gavel, or other object when bidding is closed. In some circumstances, such as online auctions, a verbal announcement that bidding is closed substitutes.

FALSA CAUSA

falsa causa. See CAUSA(2).

FALSA DEMONSTRATIO

falsa demonstratio (fal-s<<schwa>> orfawl-s<<schwa>> dem-<<schwa>>n-stray-shee-oh). Roman law. A false designation; an erroneous description of a person or thing in a legal instrument. • Generally, a simple error in description, grammar, or spelling will not void an instrument or even a single provision in it (such as a bequest by will). — Also termed false demonstration.

FALSA MONETA

falsa moneta (fal-s<<schwa>> orfawl-s<<schwa>> m<<schwa>>-nee-t<<schwa>>). Roman law. Counterfeit money.

FALSARE

falsare (fal-sair-ee or fawl-), vb. [Law Latin] Hist. To counterfeit; to falsify.

FALSARIUS

falsarius (fal-sair-ee-<<schwa>>s or fawl-). [Law Latin] Hist. A counterfeiter. — Also spelled falcarious. — Also termed falsonarius.

FALSE

false, adj. 1. Untrue <a false statement>. 2. Deceitful; lying <a false witness>. 3. Not genuine; inauthentic <>false coinage>. • What is false can be so by intent, by accident, or by mistake.

false, vb. 1. Scots law. To make or prove false. 2. Archaic. FALSIFY(1).

FALSE ACTION

false action. See FEIGNED ACTION.

FALSE ADVERTISING

false advertising, n. 1. The tortious and sometimes criminal act of distributing an advertisement that is untrue, deceptive, or misleading; esp., under the Lanham Trademark Act, an advertising statement that tends to mislead consumers about the characteristics, quality, or geographic origin of one's own or someone else's goods, services, or commercial activity. • Under § 43(a) of the Lanham Act, false advertising is actionable by anyone who reasonably believes that he or she has been or is likely to be damaged by the statement. An exaggerated opinion ("puffing") is an immaterial statement and therefore not actionable. [Cases: Consumer Protection 7; Fraud 1; Trade Regulation 870. C.J.S. Credit Reporting Agencies; Consumer Protection § 59.] 2. At common law, a statement in a defendant's advertising about its own goods or services intended to deceive or confuse customers into buying those goods or services instead of the plaintiff's, and causing actual damage to the plaintiff, esp. the loss of sales. — Also termed (in both senses) deceptive advertising.

FALSE ANSWER

false answer. See ANSWER(1).

FALSE ARREST

false arrest. See ARREST.

FALSE-ASSOCIATION CLAIM

false-association claim. Intellectual property. A claim based on the wrongful use of a distinctive name, mark, trade dress, or other device to misrepresent sponsorship, origin of goods or services, or affiliation. • The power to assert a false-association claim is not limited to trademark registrants. Any person who claims an injury caused by deceptive use of a trademark or its equivalent may have standing to bring suit. See 15 USCA § 1125(a)(1)(A).

FALSE CHARACTER

false character. Hist. The crime of impersonating a servant's master or mistress. See IMPOSTOR.

FALSE CHECK

false check. See bad check under CHECK.

FALSE CLAIM

false claim. An assertion or statement that is untrue; esp., overbilling.

FALSE CLAIMS ACT

False Claims Act. A federal statute establishing civil and criminal penalties against persons who bill the government falsely, deliver less to the government than represented, or use a fake record to decrease an obligation to the government. 18 USCA §§ 286–287; 31 USCA §§

3729–3733. • The Act may be enforced either by the attorney general or by a private person in a qui tam action. See QUI TAM ACTION. [Cases: United States 120.C.J.S. United States §§ 205, 242, 272.]

FALSE CONFLICT OF LAWS

false conflict of laws. See CONFLICT OF LAWS.

FALSE DEMONSTRATION

false demonstration. See FALSA DEMONSTRATIO.

FALSE DESIGNATION OF ORIGIN

false designation of origin. Trademarks. A mark, design, or similar element that creates a misleading or erroneous impression of a good or product's source. [Cases: Trade Regulation 870(2). C.J.S. Patents § 348.]

FALSE EVIDENCE

false evidence. See false testimony under TESTIMONY.

FALSEHOOD

falsehood. A lie. See LIE; PERJURY.

FALSE IMPERSONATION

false impersonation. See IMPERSONATION.

FALSE-IMPLICATION LIBEL

false-implication libel. See LIBEL.

FALSE IMPRISONMENT

false imprisonment. A restraint of a person in a bounded area without justification or consent. • False imprisonment is a common-law misdemeanor and a tort. It applies to private as well as governmental detention. Cf. false arrest under ARREST. [Cases: False Imprisonment 2.]

“[In the phrase false imprisonment,] false is ... used not in the ordinary sense of mendacious or fallacious, but in the less common though well-established sense of erroneous or wrong; as in the phrases false quantity, false step, false taste, etc.” R.F.V. Heuston, *Salmond on the Law of Torts* 123 n.38 (17th ed. 1977).

“False imprisonment was a misdemeanor at common law and is recognized by some states today. It differs from kidnapping in that asportation is not required. If the imprisonment is secret, some jurisdictions treat it as kidnapping.” Arnold H. Loewy, *Criminal Law in a Nutshell* 65 (2d ed. 1987).

“Some courts have described false arrest and false imprisonment as causes of action which are distinguishable only in terminology. The two have been called virtually indistinguishable, and

identical. However, the difference between them lies in the manner in which they arise. In order to commit false imprisonment, it is not necessary either to intend to make an arrest or actually to make an arrest. By contrast, a person who is falsely arrested is at the same time falsely imprisoned.” 32 Am. Jur. 2d False Imprisonment § 3 (1995).

FALSE JUDGMENT

false judgment.Hist. A writ filed to obtain review of a judgment of a court not of record.

“After judgment given, a writ also of false judgment lies to the courts at Westminster to rehear and review the cause, and not a writ of error; for this is not a court of record” 3 William Blackstone, Commentaries on the Laws of England 34 (1768).

FALSE LIGHT

false light. 1.Torts. In an invasion-of-privacy action, a plaintiff's allegation that the defendant attributed to the plaintiff views that he or she does not hold and placed the plaintiff before the public in a highly offensive and untrue manner. • If the matter involves the public interest, the plaintiff must prove the defendant's malice. See invasion of privacy by false light under INVASION OF PRIVACY. [Cases: Torts 8.5. C.J.S. Right of Privacy and Publicity § 2.] 2. (usu. pl.) Maritime law. A signal displayed intentionally to lure a vessel into danger. 18 USCA § 1658(b). — Also termed false light or signal.

FALSE MAKING

false making.See FORGERY(1).

FALSE-MEMORY SYNDROME

false-memory syndrome.The supposed recovery of memories of traumatic or stressful episodes that did not actually occur, often in session with a mental-health therapist. • This term is most frequently applied to claims by adult children that repressed memories of prolonged and repeated child sexual abuse, usu. by parents, have surfaced, even though there is no independent evidence to substantiate the claims. Cf. REPRESSED-MEMORY SYNDROME.

FALSE MEMORY SYNDROME FOUNDATION

False Memory Syndrome Foundation.An organization of parents who claim that their adult children have falsely accused them of childhood sexual abuse. • The organization was formed for the purpose of aiding persons who claim to have been wrongly accused as a result of the recovery of repressed memories. — Abbr. FMSF. Cf. VICTIMS OF CHILD ABUSE LAWS.

FALSE MISREPRESENTATION

false misrepresentation.See MISREPRESENTATION. • This phrase is redundant, since misrepresentation includes the idea of falsity.

FALSE NEWS

false news.Hist. The misdemeanor of spreading false information that causes discord between

the monarch and the people or between important people in the realm.³ Edw. 1, ch. 34.

FALSE OATH

false oath. See PERJURY.

FALSE PERSONATION

false personation. See false impersonation under IMPERSONATION.

FALSE PLEA

false plea. See sham pleading under PLEADING(1).

FALSE PRETENSES

false pretenses. The crime of knowingly obtaining title to another's personal property by misrepresenting a fact with the intent to defraud. • Although unknown to English common law, false pretenses became a misdemeanor under a statute old enough to make it common law in the United States. Modern American statutes make it either a felony or a misdemeanor, depending on how valuable the property is. — Also termed obtaining property by false pretenses; fraudulent pretenses. Cf. larceny by trick under LARCENY; EMBEZZLEMENT. [Cases: False Pretenses 1.]

FALSE PROMISE

false promise. See PROMISE.

FALSE REPORT

false report. Criminal law. The criminal offense of informing law enforcement about a crime that did not occur. [Cases: Obstructing Justice 7.C.J.S. Obstructing Justice or Governmental Administration §§ 4, 10, 12–29, 31–32, 38.]

FALSE REPRESENTATION

false representation. See MISREPRESENTATION.

FALSE RETURN

false return. 1. A process server's or other court official's recorded misrepresentation that process was served, that some other action was taken, or that something is true. See RETURN(2). [Cases: Process 132–144, 153, 160. C.J.S. Process §§ 79–85, 87–91, 94, 96–97.] 2. A tax return on which taxable income is incorrectly reported or the tax is incorrectly computed. See TAX RETURN. [Cases: Internal Revenue 4480. C.J.S. Internal Revenue § 635.]

FALSE STATEMENT

false statement. See STATEMENT.

FALSE SWEARING

false swearing. See PERJURY.

FALSE TESTIMONY

false testimony. See TESTIMONY.

FALSE TOKEN

false token. See TOKEN.

FALSE VERDICT

false verdict. See VERDICT.

FALSE WEIGHT

false weight. (usu. pl.) A weight or measure that does not comply with governmentally prescribed standards or with the prevailing custom in the place and business in which the weight or measure is used. [Cases: Weights and Measures 10. C.J.S. Weights and Measures §§ 9, 14.]

FALSI CRIMEN

falsi crimen. See CRIMEN FALSI.

FALSIFY

falsify, vb. 1. To make something false; to counterfeit or forge <the chiropractor falsified his records to help the plaintiff>. — Also termed (archaically) false. See COUNTERFEIT; FORGERY. 2. Rare. To prove something to be false or erroneous <their goal in the appeal was to falsify the jury's verdict>. — falsification, n.

FALSIFYING A RECORD

falsifying a record. The crime of making false entries or otherwise tampering with a public record with the intent to deceive or injure, or to conceal wrongdoing. 18 USCA §§ 1506, 2071, 2073; Model Penal Code § 224.4. [Cases: Fraud 68; Records 22. C.J.S. Records §§ 32, 57–59.]

FALSING OF DOOMS

falsing of dooms, n. See APPEAL(1).

FALSITY

falsity, n. 1. Something (such as a statement) that is false. See LIE. 2. The quality of being false. See FALSE.

FALSONARIUS

falsionarius. See FALSARIUS.

FALSO RETORNO BREVIUM

falso retorno brevium (fal-soh [orfawl-soh] ri-tor-noh bree-vee-<<schwa>>m). [Law Latin] Hist. A writ against a sheriff for falsely returning a writ.

FALSUM

falsum (fal-s<<schwa>>m orfawl-s<<schwa>>m), n.[Latin] Roman law. 1. A false statement. See *crimen falsi* under *CRIMEN*. 2. A crime involving forgery or falsification. • Until the later Roman Empire, the term applied to both documents and counterfeited coins.

FALSUS IN UNO DOCTRINE

falsus in uno doctrine (fal-s<<schwa>>s [orfawl-s<<schwa>>s] in yoo-noh). [fr. Latin falsus in uno, falsus in omnibus “false in one thing, false in all”] The principle that if the jury believes that a witness's testimony on a material issue is intentionally deceitful, the jury may disregard all of that witness's testimony. [Cases: Trial 187, 210; Witnesses 317.C.J.S. Trial §§ 505, 571; Witnesses § 570.]

“[T]here is an old maxim ‘falsus in uno, falsus in omnibus’ (false in one thing, false in all), which is often much overemphasized by counsel, though it is recognized by many courts in their charges to the jury. But this is only primitive psychology, and should be completely discarded.” John H. Wigmore, *A Students' Textbook of the Law of Evidence* 181 (1935).

FALTERING-COMPANY EXCEPTION

faltering-company exception. A provision in the Worker Adjustment and Retraining Notification Act exempting an employer from giving the required 60-day notice for a plant shutdown if (1) at the time notice was due, the employer was seeking capital or resources that would have allowed the employer to avoid a shutdown, and (2) the employer reasonably believed that providing the notice would have precluded the employer from obtaining the necessary capital or other resources. 29 USCA § 2102(b)(1). See *WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT* .

FAMA PUBLICA

fama publica (fay-m<<schwa>> p<<schwa>>b-li-k<<schwa>>). [Latin “public repute”] Hist. A person's reputation in the community. • A person's fama publica could be used against him or her in a criminal proceeding. Cf. *ILL FAME* .

“Now in the thirteenth century we find in the sheriff's turn a procedure by way of double presentment, and we may see it often, though not always, when a coroner is holding an inquest over the body of a dead man. The fama publica is twice distilled. The representatives of the villis make presentments to a jury of twelve freeholders which represents the hundred, and then such of these presentments as the twelve jurors are willing to ‘avow,’ or make their own, are presented by them to the sheriff... From the very first the legal forefathers of our grand jurors are not in the majority of cases supposed to be reporting crimes that they have witnessed, or even to be the originators of the fama publica. We should be guilty of an anachronism if we spoke of them as ‘endorsing a bill’ that is ‘preferred’ to them; but still they are handing on and ‘avowing’ as their own a rumour that has been reported to them by others.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 643 (2d ed. 1899).

FAMILIA

familia (f<<schwa>>-mil-ee-<<schwa>>), n. [Latin] Roman law. 1. All persons, free and

slave, in the power of a paterfamilias. See PATERFAMILIAS. 2. One's legal relations through and with one's family, including all property, ancestral privileges, and duties.

“The testator conveyed to him outright his whole ‘familia,’ that is, all the rights he enjoyed over and through the family; his property, his slaves, and all his ancestral privileges, together, on the other hand, with all his duties and obligations.” Henry S. Maine, *Ancient Law* 170 (17th ed. 1901).

3. A family, including household servants. “Familia.... A family or household, including servants, that is, hired persons (mercenarii or conductitii,) as well as bondsmen, and all who were under the authority of one master, (dominus.) Bracton uses the word in the original sense, as denoting servants or domestics.” 1 Alexander M. Burrill, *A Law Dictionary and Glossary* 603–04 (2d ed. 1867).

FAMILIAE EMPTOR

familiae emptor (f<<schwa>>-mil-ee-ee emp-tor). [Latin “estate purchaser”] Roman law. A trustee who received an inheritance by a fictitious purchase and distributed it as the testator instructed. — Also termed emptor familiae. See mancipatory will under WILL.

“At some date, probably long before the XII Tables, men on the point of death, unable to make a true will because there was no imminent sitting of the Comitia, adopted the practice of conveying all their property ... to a person who is described as the familiae emptor, and who is said by Gaius to be in loco heredis. Instructions were no doubt given to him as to the disposal of the property or part of it, but it is not clear that these were enforceable” W.W. Buckland, *A Manual of Roman Private Law* 175 (2d ed. 1953).

FAMILIAE ERCISCUNDAE

familiae erciscundae (f<<schwa>>-mil-ee-ee <<schwa>>r-sis-k<<schwa>>n-dee). See actio familiae erciscundae under ACTIO.

FAMILIARES REGIS

familiares regis (f<<schwa>>-mil-ee-air-eez ree-jis). [Law Latin] Hist. 1. Persons of the king's household. 2. The ancient title of the six clerks of chancery in England.

FAMILY

family, n. 1. A group of persons connected by blood, by affinity, or by law, esp. within two or three generations. 2. A group consisting of parents and their children. 3. A group of persons who live together and have a shared commitment to a domestic relationship. See RELATIVE. — familial, adj.

blended family. The combined families of persons with children from earlier marriages or relationships.

extended family. 1. The immediate family together with the collateral relatives who make up a clan; GENS. 2. The immediate family together with collateral relatives and close family friends.

immediate family. 1. A person's parents, spouse, children, and siblings. 2. A person's parents, spouse, children, and siblings, as well as those of the person's spouse. • Stepchildren and adopted children are usu. immediate family members. For some purposes, such as taxes, a person's immediate family may also include the spouses of children and siblings.

intact family.A family in which both parents live together with their children.

FAMILY ALLOWANCE

family allowance.See ALLOWANCE(1).

FAMILY AND MEDICAL LEAVE ACT

Family and Medical Leave Act.A 1993 federal statute providing that employees may take unpaid, job-protected leave for certain family reasons, as when a family member is sick or when a child is born.²⁹ USCA §§ 2601 et seq. • The statute applies to businesses with 50 or more employees. An employee may take up to 12 weeks of unpaid leave per year under the FMLA. — Abbr. FMLA. Cf. FAMILY LEAVE.

FAMILY ARRANGEMENT

family arrangement.An informal agreement among family members, usu. to distribute property in a manner other than what the law provides for. — Also termed family settlement. [Cases: Descent and Distribution 82.C.J.S. Descent and Distribution § 78.]

FAMILY-AUTOMOBILE DOCTRINE

family-automobile doctrine.See FAMILY-PURPOSE RULE.

FAMILY-AUTONOMY DOCTRINE

family-autonomy doctrine.See PARENTAL-AUTONOMY DOCTRINE.

FAMILY-CAR DOCTRINE

family-car doctrine.See FAMILY-PURPOSE RULE.

FAMILY COMPACT

family compact.See COMPACT.

FAMILY COUNCIL

family council.See FAMILY MEETING.

FAMILY COURT

family court.See COURT.

FAMILY-COURT JUDGE

family-court judge.See JUDGE.

FAMILY DISTURBANCE

family disturbance.See DOMESTIC DISPUTE.

FAMILY DIVISION

Family Division.English law. A section of the High Court that has jurisdiction over family matters such as divorce and custody and over uncontested probate matters.

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

Family Educational Rights and Privacy Act.An act that prescribes minimum standards for the maintenance and dissemination of student records by educational institutions. 20 USCA § 1232g. — Abbr. FERPA. — Also termed Buckley Amendment.

FAMILY-EXPENSE STATUTE

family-expense statute. 1. A state law that permits a charge against the property of a spouse for family debts such as rent, food, clothing, and tuition. [Cases: Husband and Wife 19(1).] 2. A section of the federal tax code providing that a person may not deduct expenses incurred for family, living, or personal purposes. IRC (26 USCA) § 262. See NECESSARIES. [Cases: Internal Revenue 3364. C.J.S. Internal Revenue §§ 270, 280.]

FAMILY FARMER

family farmer.See FARMER.

FAMILY-FARMER BANKRUPTCY

family-farmer bankruptcy.See CHAPTER12 (2).

FAMILY HOME

family home.A house that was purchased during marriage and that the family has resided in, esp. before a divorce. • In some jurisdictions, the court may award the family home to the custodial parent until (1) the youngest child reaches the age of 18 or is otherwise emancipated, (2) the custodial parent moves, or (3) the custodial parent remarries. In making such an award, the court reasons that it is in the best interests of the child to remain in the family home. — Also termed marital home; marital residence.

FAMILY-INCOME INSURANCE

family-income insurance.See INSURANCE.

FAMILY LAW

family law. 1. The body of law dealing with marriage, divorce, adoption, child custody and support, child abuse and neglect, paternity, juvenile delinquency, and other domestic-relations issues. — Also termed domestic relations; domestic-relations law. 2. (More broadly) the bodies of law dealing with wills and estates, property, constitutional rights, contracts, employment, and finance as they relate to families.

FAMILY LEAVE

family leave. An unpaid leave of absence from work taken to have or care for a baby or to care for a sick family member. See FAMILY AND MEDICAL LEAVE ACT. [Cases: Civil Rights 1231. C.J.S. Civil Rights §§ 64–65.]

FAMILY MEETING

family meeting. Hist. Civil law. 1. An advisory council called to aid the court in a family-law matter, such as arrangement of a guardianship for a minor or an incompetent adult. • If a person had no relatives, the court could summon friends of the person instead. 2. A council of relatives of a minor assembled to advise the minor in his or her affairs and to help administer the minor's property. — Also termed family council. [Cases: Guardian and Ward 9.]

FAMILY OF MARKS

family of marks. Trademarks. A group of trademarks that share a recognizable characteristic so that they are recognized by consumers as identifying a single source. • An example of a family of marks is the variety of marks beginning with Mc- and identifying items served at McDonald's restaurants.

FAMILY OF NATIONS

family of nations. Int'l law. The community of countries to which international law applies. • This term is now obsolescent. It is increasingly rejected as Eurocentric.

“ ‘The family of nations' is an aggregate of States which, as the result of their historical antecedents, have inherited a common civilisation, and are at a similar level of moral and political opinion.” Thomas E. Holland, *The Elements of Jurisprudence* 396 (13th ed. 1924).

FAMILY PARTNERSHIP

family partnership. See PARTNERSHIP.

FAMILY-PARTNERSHIP RULES

family-partnership rules. Laws or regulations designed to prevent the shifting of income among partners, esp. family members, who may not be dealing at arm's length. [Cases: Partnership 70. C.J.S. Partnership § 77.]

FAMILY-POT TRUST

family-pot trust. See TRUST.

FAMILY-PURPOSE RULE

family-purpose rule. Torts. The principle that a vehicle's owner is liable for injuries or damage caused by a family member's negligent driving. • Many states have abolished this rule. — Also termed family-purpose doctrine; family-automobile doctrine; family-car doctrine. Cf. GUEST STATUTE. [Cases: Automobiles 195(5). C.J.S. Motor Vehicles § 843.]

“A number of jurisdictions have adopted the so-called ‘family purpose’ doctrine, under which the owner of a motor vehicle purchased or maintained for the pleasure of his family is liable for

injuries inflicted by the negligent operation of the vehicle while it is being used by members of the family for their own pleasure, on the theory that the vehicle is being used for the purpose or business for which it was kept, and that the person operating it is therefore acting as the owner's agent or servant in using it." 8 Am. Jur. 2d Automobiles and Highway Traffic § 715, at 296 (1997).

FAMILY REUNIFICATION

family reunification. See REUNIFICATION.

FAMILY SETTLEMENT

family settlement. See FAMILY ARRANGEMENT.

FAMILY SHELTER

family shelter. See women's shelter under SHELTER.

FAMILY SUPPORT

family support. A combined award of child support and alimony that does not apportion the amount of each.

FAMILY SUPPORT ACT OF 1988

Family Support Act of 1988. A federal statute requiring states to develop and implement child-support guidelines. 42 USCA § 667. See CHILD-SUPPORT GUIDELINES .

FAMILY TRUST

family trust. See TRUST.

FAMILY VIOLENCE

family violence. See domestic violence under VIOLENCE.

FAMOSUS

famosus (f<<schwa>>-moh-s<<schwa>>s), adj. [Latin] Hist. 1. (Of a statement) having a defamatory character. 2. (Of an action) involving infamy if the defendant lost the case.

FAMOSUS LIBELLUS

famosus libellus (f<<schwa>>-moh-s<<schwa>>s li-bel-<<schwa>>s). [Latin] Roman law. 1. A libelous writing. 2. The species of injury that is caused by libel.

FAMOUS MARK

famous mark. See famous trademark under TRADEMARK.

FAMOUS TRADEMARK

famous trademark. See TRADEMARK.

FANCIFUL MARK

fanciful mark. See fanciful trademark under TRADEMARK.

FANCIFUL TERM

fanciful term. See fanciful trademark under TRADEMARK.

FANCIFUL TRADEMARK

fanciful trademark. See TRADEMARK.

FANNIE MAE

Fannie Mae (fan-ee may). See FEDERAL NATIONAL MORTGAGE ASSOCIATION.

FAR

FAR. (often pl.) abbr. FEDERAL AVIATION REGULATION <the pilot violated several FARs before the crash>.

FARLEY

farley (fahr-lee). Hist. Money paid by a tenant in lieu of a chattel (or heriot). • The term invariably referred to a tenant in the west of England. See HERIOT.

FARM

farm, n. 1. Land and connected buildings used for agricultural purposes. 2. Hist. Rent. • By extension, the term came to mean the land for which the rent was paid. — Also termed and spelled ferm; fearm; firme.

farm, vb. 1. To cultivate land; to conduct the business of farming. 2. To lease. See FARM OUT.

FARM CREDIT ADMINISTRATION

Farm Credit Administration. An independent federal agency that regulates and examines the borrower-owned banks and cooperative associations that make up the federal farm credit system. • The agency was created in 1929 under the title “Federal Farm Board,” became an agency in the Department of Agriculture in 1933, and again became independent in 1971. — Abbr. FCA. See FEDERAL FARM CREDIT SYSTEM . [Cases: United States 53(7). C.J.S. United States §§ 90, 92–93.]

FARMEE

farmee. See FARMOUTEE.

FARMER

farmer. A person engaged in the business of farming.

family farmer. A person or entity whose income and debts primarily arise from a family-owned and -operated farm; esp., person who received more than 80% of gross income from a farm in the taxable year immediately preceding a Chapter 12 filing. • Only a family farmer can

file for Chapter 12 bankruptcy. 11 USCA § 101(18). See CHAPTER12. [Cases: Bankruptcy 2229. C.J.S. Bankruptcy § 46.]

FARMER BANKRUPTCY

farmer bankruptcy. See CHAPTER12 (2).

FARMERS' HOME ADMINISTRATION

Farmers' Home Administration. An agency, formerly in the U.S. Department of Agriculture, responsible for making mortgages and insuring loans to farmers and for funding rural public-works projects. • The agency was abolished in 1994, and its functions were assumed by other agencies in the Department. — Abbr. FmHA; FHA. [Cases: United States 53(7). C.J.S. United States §§ 90, 92–93.]

FARMINEE

farminee. See FARMOUTEE.

FARMING OPERATION

farming operation. Bankruptcy. A business engaged in farming, tillage of soil, dairy farming, ranching, raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state. 11 USCA § 101(21). See CHAPTER12. [Cases: Bankruptcy 2021.1.]

FARMINOR

farminor. See FARMOUTOR.

FARM LET

farm let, vb. Hist. To lease; to let land for rent. • To farm let is a phrasal verb that commonly appeared in real-property leases; it corresponds with its Latin root, *ad firmam tradidi*.

“A lease is properly a conveyance of any lands or tenements, (usually in consideration of rent or other annual recompense) made for life, for years, or at will, but always for a less time than the lessor hath in the premises: for if it be for the whole interest, it is more properly an assignment than a lease. The usual words of operation in it are, ‘demise, grant, and to farm let; dimisi, concessi, et ad firmam tradidi.’ ” 2 William Blackstone, *Commentaries on the Laws of England* 317–18 (1766).

FARMOR

farmor. See FARMOUTOR.

FARM OUT

farm out, vb. 1. To turn over something (such as an oil-and-gas lease) for performance by another. • The term evolved from the Roman practice of transferring the right to collect taxes to a third party for a fee. It was later practiced in England, Scotland, and France but has been long abolished. 2. Hist. To lease for a term. 3. To exhaust farmland, esp. by continuously raising a single

crop.

FARMOUT AGREEMENT

farmout agreement.Oil & gas. An agreement by which one who owns an oil-and-gas lease (the farmoutor or farmor) agrees to assign to another (the farmoutee or farmee) an interest in the lease in return for drilling and testing operations on the lease. • For the farmor, the agreement either (1) maintains the lease by securing production or complying with the implied covenant to develop or offset, or (2) obtains an interest in production without costs. For the farmee, the agreement obtains acreage that is not otherwise available or at lower cost than would otherwise be possible. A farmout agreement may also serve as a device to keep people and equipment gainfully employed. — Often shortened to farmout. — Also written farm out agreement; farm-out agreement. See ASSIGNMENT. [Cases: Mines and Minerals 74(8). C.J.S. Mines and Minerals §§ 318–319.]

FARMOUTEE

farmoutee (fahr-ow-tee). An oil-and-gas sublessee to whom the lease is assigned for purposes of drilling a well. — Also termed farmee; farminee. [Cases: Mines and Minerals 74(8). C.J.S. Mines and Minerals §§ 318–319.]

FARMOUTOR

farmoutor (fahr-ow-tor or -t<<schwa>>r). An oil-and-gas lessee who assigns the lease to another, who agrees to drill a well. — Also spelled farmouter. — Also termed farmor; farminor. [Cases: Mines and Minerals 74(8).C.J.S. Mines and Minerals §§ 318–319.]

FARM PRODUCTS

farm products.Crops, livestock, and supplies used or produced in farming or products of crops or livestock in their unmanufactured states, if they are in the possession of a debtor engaged in farming. UCC § 9-102(a)(34). Cf. growing crops under CROPS. [Cases: Secured Transactions 17. C.J.S. Secured Transactions § 16.]

FARM SERVICE AGENCY

Farm Service Agency.An agency in the U.S. Department of Agriculture responsible for administering farm-commodity, crop-insurance, and resource-conservation programs for farmers and ranchers and for making or guaranteeing farm emergency and operating loans through a network of state and county offices. — Abbr. FSA.

FARTHING OF LAND

farthing of land (fahr-thing).Hist. An area of land measured as one-quarter of a larger area (much as a farthing was one-quarter of a penny). • A farthing of land ranged from a quarter of a hide to a quarter of an acre.

FARVAND

farvand (fahr-v<<schwa>>nd).Hist. Maritime law. Voyage or passage by water under a

charterparty.

FAS

FAS.abbr.1.FREE ALONGSIDE SHIP. 2.FETAL ALCOHOL SYNDROME. 3.FOREIGN AGRICULTURAL SERVICE .

fas (fas), n.[Latin] Roman law. 1. Moral law of divine origin; divine law. • Jus, by contrast, is created by man. See JUS. 2. What is right, proper, lawful, and permitted. Cf. NEFAS.

“The first element to be noted in the Roman composite existing in primitive times, when religion and law were not distinguished, is fas — the will of the gods, embodied in rules that regulated not only ceremonials but the conduct of all men as such.” Hannis Taylor, *The Science of Jurisprudence* 65 (1908).

“It is true that the two spheres of ius and fas overlapped.... All this, however, concerned merely the question of where to draw the line between ius and fas; it did not blur the distinction between the two. From the standpoint of the history of Roman law, this distinction, consciously made from very early times, was of great importance, since it enabled the Romans to delimit the scope and the contents of strictly legal rules. This attitude may occasionally have caused a certain cold aloofness from purely human problems, but it undoubtedly contributed to the clarity of the legal system.” Hans Julius Wolff, *Roman Law: An Historical Introduction* 51–52 (1951).

FASB

FASB (faz-bee).abbr.FINANCIAL ACCOUNTING STANDARDS BOARD.

FASB STATEMENT

FASB statement.An official pronouncement from the Financial Accounting Standards Board establishing a given financial-accounting practice as acceptable. [Cases: Accountants 3.1.]

FAST ESTATE

fast estate.See real property under PROPERTY.

FASTI

fasti (fas-tī). [Latin] Roman law. 1. The days on which court can be held. • In this sense, fasti is a shortened form of dies fasti. 2. A calendar of days on which court can be held. See dies fasti under DIES.

FAST LAND

fast land.See LAND.

FAST-TRACKING

fast-tracking,n. A court's method of accelerating the disposition of cases in an effort to clear its docket. • For example, a judge might order that all discovery must be finished within 90 days and that trial is set for 30 days later. See ROCKET DOCKET. — fast-track,vb.

FATAL

fatal,adj.1. Of or relating to death; producing death <the decision had fatal consequences> <fatal blow>.2. Providing grounds for legal invalidity <a fatal defect in the contract>.

FATAL DEFECT

fatal defect.See DEFECT.

FATAL ERROR

fatal error.See ERROR(2).

FATAL VARIANCE

fatal variance.See VARIANCE(1).

FATHER

father. A male parent. See PARENT. [Cases: Parent and Child 1. C.J.S. Parent and Child §§ 1–12, 201.]

acknowledged father.The admitted biological father of a child born to unmarried parents. See ACKNOWLEDGMENT(1).

adoptive father.See adoptive parent under PARENT.

biological father.The man whose sperm impregnated the child's biological mother. — Also termed natural father; birth father; genetic father. [Cases: Children Out-of-Wedlock 35. C.J.S. Children Out-of-Wedlock §§ 46, 49, 91.]

birth father.See biological father.

de facto father.See de facto parent under PARENT.

filiated father.The proven biological father of a child born to unmarried parents. See FILIATION.

foster father.See foster parent under PARENT.

genetic father.See biological father.

godfather. See GODPARENT.

intentional father.See intentional parent under PARENT.

legal father.The man recognized by law as the male parent of a child. • A man is the legal father of a child if he was married to the child's natural mother when the child was born, if he has recognized or acknowledged the child, or if he has been declared the child's natural father in a paternity action. If a man consents to the artificial insemination of his wife, he is the legal father of the child that is born as a result of the artificial insemination even though he may not be the genetic father of the child. [Cases: Children Out-of-Wedlock 12, 68; Parent and Child 1. C.J.S. Children Out-of-Wedlock §§ 25–26, 126–127; Parent and Child §§ 1–12, 201.]

natural father. See biological father.

presumed father. The man presumed to be the father of a child for any of several reasons: (1) because he was married to the child's natural mother when the child was conceived or born (even though the marriage may have been invalid), (2) because the man married the mother after the child's birth and agreed either to have his name on the birth certificate or to support the child, or (3) because the man welcomed the child into his home and held out the child as his own. • This term represents a complicated category, and state laws vary in their requirements. See PRESUMPTION OF PATERNITY. [Cases: Children Out-of-Wedlock 43. C.J.S. Children Out-of-Wedlock § 100.]

psychological father. See psychological parent under PARENT.

putative father (pyoo-t<<schwa>>-tiv). The alleged biological father of a child born out of wedlock. [Cases: Children Out-of-Wedlock 35. C.J.S. Children Out-of-Wedlock §§ 46, 49, 91.]

stepfather. The husband of one's mother by a later marriage. — Formerly also termed vitricus. [Cases: Parent and Child 15. C.J.S. Parent and Child §§ 345–350, 357–358.]

FATHERLY POWER

fatherly power. See patria potestas under POTESTAS.

FATICO<TT> HEARING

Fatico hearing (fat-<<schwa>>-koh). Criminal procedure. A sentencing hearing at which the prosecution and the defense may present evidence about what the defendant's sentence should be. *United States v. Fatico*, 603 F.2d 1053 (2d Cir. 1979). [Cases: Sentencing and Punishment 325. C.J.S. Criminal Law §§ 1480, 1492–1493, 1495, 1779.]

FATUUM JUDICIUM

fatuum iudicium (fach-oo-<<schwa>>m joo-dish-ee-<<schwa>>m). [Latin] A foolish judgment or verdict.

FAUCES TERRAE

fauces terrae (faw-seez ter-ee). [Latin “narrow passage of the land”] A body of water that experiences tides and is partially enclosed by land. • This includes inlets, rivers, harbors, creeks, bays, basins, and similar aquatic bodies.

FAULT

fault. 1. An error or defect of judgment or of conduct; any deviation from prudence or duty resulting from inattention, incapacity, perversity, bad faith, or mismanagement. See NEGLIGENCE. Cf. LIABILITY. 2. Civil law. The intentional or negligent failure to maintain some standard of conduct when that failure results in harm to another person.

contractual fault. Civil law. Fault resulting from the intentional or negligent failure to perform an enforceable obligation in a contract.

delictual fault. Civil law. Fault resulting from intentional or negligent misconduct that violates

a legal duty.

inscrutable fault. Maritime law. Fault ascribed solely to human error but for which no responsible party or parties can be identified.

“ ‘Inscrutable fault’ exists when a collision clearly resulted from human fault but the court is unable to locate it or allocate the fault among the parties.” *Atkins v. Lorentzen*, 328 F.2d 66, 69 (5th Cir. 1964).

FAULT-BASED LIABILITY

fault-based liability. See fault liability under LIABILITY.

FAULT DIVORCE

fault divorce. See DIVORCE.

FAULT-FIRST METHOD

fault-first method. A means by which to apply a settlement credit to a jury verdict, by first reducing the amount of the verdict by the percentage of the plaintiff's comparative fault, then subtracting from the remainder the amount of any settlements the plaintiff has received on the claim. See SETTLEMENT CREDIT . Cf. SETTLEMENT-FIRST METHOD. [Cases: Damages 63. C.J.S. Damages §§ 169–171.]

FAULTLESS PARDON

faultless pardon. See PARDON.

FAULT LIABILITY

fault liability. See LIABILITY.

FAULT OF OMISSION

fault of omission. Negligence resulting from a negative act. See negative act under ACT; NONFEASANCE.

FAUNTLEROY DOCTRINE

Fauntleroy doctrine. The principle that a state must give full faith and credit to another state's judgment if the other state had proper jurisdiction, even though the judgment is based on a claim that is illegal in the state in which enforcement is sought. *Fauntleroy v. Lum*, 210 U.S. 230, 28 S.Ct. 641 (1908). [Cases: Judgment 815, 817. C.J.S. Judgments §§ 965, 967, 969–979.]

FAUTOR

fautor (faw-t<<schwa>>r). Hist. 1. An abettor or supporter; an active partisan. 2. A person who encourages resistance to execution of process.

FAUX

faux (foh), adj. [Law French] Hist. False or counterfeit.

faux (foh), n.[French "false"] Civil law. The fraudulent alteration of the truth. See CRIMEN FALSI.

FAUX ACTION

faux action.A false action. See PLEADING.

FAUX MONEY

faux money.Counterfeit money.

FAUX PEYS

faux peys (foh pay). [French] False weights. See FALSE WEIGHT. [Cases: Weights and Measures 10. C.J.S. Weights and Measures §§ 9, 14.]

FAUX SEREMENT

faux serement (foh ser-mahn). [French] A false oath.

FAVOR

favor,n. See BIAS.

FAVORED BENEFICIARY

favored beneficiary.See BENEFICIARY.

FAVORED NATION

favored nation.See MOST FAVORED NATION.

FAVORED-NATION CLAUSE

favored-nation clause.See MOST-FAVORED-NATION CLAUSE.

FAVORITE OF THE LAW

favorite of the law.A person or status entitled to generous and preferential treatment in legal doctrine.

"It has long been said that the surety is a favorite of the law and his contract strictissimi-juris." Laurence P. Simpson, Handbook on the Law of Suretyship 94 (1950).

FAVORITISM

favoritism. Preference or selection, usu. invidious, based on factors other than merit. See NEPOTISM; PATRONAGE. Cf. DISCRIMINATION(3).

FAVOR LEGITIMATIONIS

favor legitimationis (fay-v<<schwa>>r l<<schwa>>-jit-<<schwa>>-may-shee-oh-nis). [Latin "(in) favor of legitimacy"] The principle that a court should attempt to uphold a child's legitimacy. [Cases: Children Out-of-Wedlock 3. C.J.S. Children Out-of-Wedlock §§ 13-17.]

FAVOR MATRIMONII

favor matrimonii (fay-v<<schwa>>r ma-tr<<schwa>>-moh-nee-I). [Latin “(in) favor of marriage”] The principle that a court should attempt to uphold the validity of a marriage. [Cases: Marriage 40(1). C.J.S. Marriage § 51.]

FAVOR NEGOTII

favor negotii (fay-v<<schwa>>r ni-goh-shee-I). [Latin “(in) favor of business”] The principle that favors upholding a contract against a construction that would render the contract illegal or unenforceable. [Cases: Contracts 153. C.J.S. Contracts §§ 330, 332.]

FAVOR PATERNITATIS

favor paternitatis (fay-v<<schwa>>r p<<schwa>>-t<<schwa>>r-n<<schwa>>-tay-tis). [Latin “(in) favor of paternity”] The principle that a court should interpret facts so as to uphold the paternity of a child. [Cases: Children Out-of-Wedlock 43. C.J.S. Children Out-of-Wedlock § 100.]

FAVOR SOLUTIONIS

favor solutionis (fay-v<<schwa>>r s<<schwa>>-loo-shee-oh-nis). [Latin “(in) favor of payment”] Conflict of laws. The principle that a contract should be interpreted according to the applicable law governing performance. [Cases: Contracts 144. C.J.S. Conflict of Laws §§ 91–93; Contracts §§ 13–23, 25.]

FAVOR TESTAMENTI

favor testamenti (fay-v<<schwa>>r tes-t<<schwa>>-men-tI). [Latin “(in) favor of the testament”] The principle that a court should attempt to uphold a will's validity.

FAX

fax,n.1. A method of transmitting over telephone lines an exact copy of a printing. 2. A machine used for such transmission. — Also termed telecopier. 3. The communication sent or received by such a machine. — Also termed facsimile; (in senses 1 & 3) facsimile transmission. — fax,vb.

FBI

FBI.abbr.FEDERAL BUREAU OF INVESTIGATION.

FCA

FCA.abbr.1.FARM CREDIT ADMINISTRATION. 2.FREE CARRIER.

F. CAS.

F. Cas.abbr.Federal Cases, a series of reported decisions (1789–1880) predating the Federal Reporter.

FCC

FCC.abbr.FEDERAL COMMUNICATIONS COMMISSION.

FCFAA

FCFAA.abbr. FEDERAL COMPUTER FRAUD AND ABUSE ACT.

FCIC

FCIC.abbr. FEDERAL CROP INSURANCE CORPORATION.

FCJ

FCJ.abbr.Failure to comply with a judgment (imposed for a traffic violation). • The defendant's driver's license is suspended until the FCJ is remedied and the fines and fees are paid.

FCPV

FCPV.abbr.Failure to comply with parking-violation (tickets). • If a person has a certain number of unpaid parking tickets (often six) within a jurisdiction, the person will be barred from obtaining or renewing a driver's license.

FDA

FDA.abbr.FOOD AND DRUG ADMINISTRATION.

F/D/B/A

f/d/b/a.abbr.Formerly doing business as.

FDCA

FDCA.abbr.FOOD, DRUG, AND COSMETIC ACT.

FDIC

FDIC.abbr.FEDERAL DEPOSIT INSURANCE CORPORATION.

FEAL

feal (fee-<<schwa>>l), adj. Archaic. Faithful; truthful. — Also termed fele.

FEALTY

fealty (feel-tee orfee-<<schwa>>l-tee).Hist. In feudal law, the allegiance that a tenant or vassal owes to a lord. — Also termed feodality.

“There was the possibility that if the entire top layer of the structure revolted, the king might be deprived of all support. To meet this possibility, the king also bound directly to himself all the important men in the lower strata of the [feudal] structure by an oath of loyalty. This was particularly effective for in medieval times the oath of fealty had all the sanction of the church, and in addition due to the necessity for feudal organization in times of disorder, had also a popular sanction in public opinion so that the man who broke his oath to his lord was one of the most execrable men to be found in the whole social organization.” Charles Herman Kinnane, *A First*

Book on Anglo-American Law 248 (2d ed. 1952).

FEARM

fearm. See FARM.

FEASANCE

feasance (fee-z<<schwa>>nts), n. The doing or execution of an act, condition, or obligation. Cf. MALFEASANCE; MISFEASANCE; NONFEASANCE. — feasor, n.

FEASANT

feasant (fez-<<schwa>>nt or fee-z<<schwa>>nt). Archaic. Doing or causing. See DAMAGE FEASANT.

FEASIBILITY STANDARD

feasibility standard. Bankruptcy. The requirement that, to obtain bankruptcy-court approval, a Chapter 11 reorganization plan must be workable and have a reasonable likelihood of success. [Cases: Bankruptcy 3559. C.J.S. Bankruptcy § 393.]

FEASOR

feasor (fee-z<<schwa>>r), n. An actor; a person who commits an act. See TORTFEASOR.

FEAST

feast, n. 1. Roman law. An established holiday or festival in the ecclesiastical calendar, used as a date in a legal instrument. 2. Hist. One of four principal days (feasts) of the year: March 25, the annunciation of the Virgin Mary; June 24, the birth of John the Baptist; September 28, the feast of St. Michael the Archangel; and December 21, the feast of St. Thomas the Apostle. • The four feast days were used as fixed dates (called “quarter-days”) for paying rent; before 1875, they were used as a reference point to set terms of courts. — Also termed feast day; feast-day.

FEATHERBEDDING

featherbedding. A union practice designed to increase employment and guarantee job security by requiring employers to hire or retain more employees than are needed. • The practice stems from employees' desire for job security in the face of technological improvement. Featherbedding is restricted by federal law but is an unfair labor practice only if, for example, a union exacts pay from an employer for services not performed or not to be performed.

FEC

FEC. abbr. FEDERAL ELECTION COMMISSION.

FECA

FECA. abbr. FEDERAL EMPLOYEES' COMPENSATION ACT.

FECIALES

feciales,n. See FETIALES.

FECIAL LAW

fecial law.See FETIAL LAW.

FED.

Fed.abbr.1.FEDERAL. 2.FEDERAL RESERVE SYSTEM.

FED.APPX.

Fed.Appx.abbr.FEDERSL APPENDIX.

FED. CIR.

Fed. Cir.abbr.UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

FEDERAL

federal,adj. Of or relating to a system of associated governments with a vertical division of governments into national and regional components having different responsibilities; esp., of or relating to the national government of the United States. — Abbr. Fed.

FEDERAL ACQUISITION REGULATION

Federal Acquisition Regulation.(usu. pl.) A federal regulation that governs contracting methods, requirements, and procedures with the federal government. 48 CFR ch. 1. — Also termed Federal Procurement Regulation. [Cases: United States 64.5.]

FEDERAL ACT

federal act.A statute enacted by the U.S. Congress. See FEDERAL LAW.

FEDERAL AGENCY

federal agency.See AGENCY(3).

FEDERAL APPENDIX

Federal Appendix.A set of reports containing all the full-text “unpublished” opinions that West receives from the federal circuit courts of appeals. • These are the opinions not designated for publication in the Federal Reporter. Coverage began January 1, 2001. — Abbr. Fed.Appx.

FEDERAL ARBITRATION ACT

Federal Arbitration Act.A federal statute providing for the enforcement of private agreements to arbitrate disputes related to interstate commercial and maritime matters. • Under the Act, arbitration agreements are enforced in accordance with their terms, just as other contracts are. The Act supersedes substantive state laws that frustrate enforcement of arbitration agreements, but it does not apply to matters of procedure. 9 USCA §§ 1–16. — Abbr. FAA. — Also termed United States Arbitration Act. [Cases: Arbitration 2. C.J.S. Arbitration § 4.]

FEDERAL AVIATION ACT

Federal Aviation Act.A federal law establishing the Federal Aviation Agency (FAA) to be responsible for regulation of aircraft and air travel, including aircraft safety, certification of aircraft personnel, and airport development.49 USCA §§ 44720 et seq. [Cases: Aviation 32.]

FEDERAL AVIATION ADMINISTRATION

Federal Aviation Administration.The federal agency charged with regulating air commerce, promoting civil aviation and a national system of airports, achieving efficient use of navigable airspace, developing and operating a common system of air-traffic control and air navigation, and developing and implementing programs and regulations relating to environmental effects of civil aviation. • The Federal Aviation Agency was established in 1958. 49 USCA § 106. Its name was changed when it became a part of the Department of Transportation in 1967. The FAA was formerly charged with promoting safety in air transportation, but that task was transferred to the Transportation Security Administration after the terrorist attacks of September 11, 2001. — Abbr. FAA. — Formerly also termed Federal Aviation Agency. [Cases: Aviation 31. C.J.S. Aeronautics and Aerospace §§ 15–18, 27, 34.]

FEDERAL AVIATION REGULATION

Federal Aviation Regulation.(usu. pl.) A federal regulation governing the safety, maintenance, and piloting of civil aircraft. 14 CFR ch. 1. — Abbr. FAR. [Cases: Aviation 123.1.]

FEDERAL BUREAU OF INVESTIGATION

Federal Bureau of Investigation.A division of the U.S. Department of Justice charged with investigating all violations of federal laws except those specifically assigned to another federal agency. — Abbr. FBI.

FEDERAL BUREAU OF PRISONS

Federal Bureau of Prisons.The U.S. government unit responsible for the custody and care of federal offenders, whether incarcerated in federal correctional and detention centers or in state-run or privately operated facilities. • The Bureau was established in 1930 to centralize federal-prison administration and ensure consistency in prison operations.

FEDERAL CENSUS

federal census.See CENSUS.

FEDERAL CIRCUIT

Federal Circuit.See UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

FEDERAL CITIZEN

federal citizen.See CITIZEN.

FEDERAL CLAIMS, U.S. COURT OF

Federal Claims, U.S. Court of. See UNITED STATES COURT OF FEDERAL CLAIMS.

FEDERAL-COMITY DOCTRINE

federal-comity doctrine. The principle requiring federal district courts to refrain from interfering in each other's affairs. [Cases: Federal Courts 1143.]

FEDERAL COMMON LAW

federal common law. See COMMON LAW(1).

FEDERAL COMMUNICATIONS COMMISSION

Federal Communications Commission. An independent federal commission that regulates interstate and foreign communications by radio, television, wire, satellite, and cable. • The commission was created by the Communications Act of 1934. 47 USCA §§ 151 et seq. — Abbr. FCC. [Cases: Telecommunications 5. C.J.S. Telegraphs, Telephones, Radio, and Television §§ 5, 7.]

FEDERAL COMPUTER FRAUD AND ABUSE ACT

Federal Computer Fraud and Abuse Act. A law establishing civil liability for gaining unauthorized access to a computer and causing damage to that computer. • Damage is statutorily defined to include harm to the computer's data, programs, systems, and information either by compromising integrity or by impairing availability. — Abbr. FCFAA.

FEDERAL COURT

federal court. See COURT.

FEDERAL CRIME

federal crime. A criminal offense under a federal statute. • Most federal crimes are codified in Title 18 of the U.S. Code.

FEDERAL CROP INSURANCE CORPORATION

Federal Crop Insurance Corporation. A federally chartered corporation that protects farmers against financial losses from crop failure due to adverse weather conditions, insect infestation, plant disease, floods, fires, and earthquakes by encouraging the sale of insurance through licensed agents and brokers and by reinsuring private companies that issue insurance under brand names. • Created by the Agricultural Adjustment Act of 1938, the Corporation operates under the general supervision of the Secretary of Agriculture. — Abbr. FCIC.

FEDERAL DEPOSIT INSURANCE CORPORATION

Federal Deposit Insurance Corporation. A federal corporation that protects bank and thrift deposits by insuring accounts up to \$100,000, examining banks that are not members of the Federal Reserve System, and liquidating failed institutions. • It was established in 1933 and began insuring banks in 1934. — Abbr. FDIC. [Cases: Banks and Banking 501–508. C.J.S. Banks and Banking §§ 671–679, 682–696, 698–717.]

FEDERAL ELECTION COMMISSION

Federal Election Commission. A six-member independent federal commission that certifies payments to qualifying presidential campaigns in primary and general elections and to national-nominating conventions, audits campaign expenditures, and enforces laws requiring public disclosure of financial activities of presidential campaigns and political parties. • It was established by the Federal Election Campaign Act of 1971. 2 USCA § 437c. — Abbr. FEC.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Emergency Management Agency. A unit in the Department of Homeland Security responsible for coordinating all emergency-preparedness activities of the federal government through its ten regional offices. • FEMA also operates the National Flood Insurance Program and is responsible for fire protection and arson control. It was established as an independent agency by Executive Order 12127 of March 31, 1979 and became a unit in the Department of Homeland Security in 2003. — Abbr. FEMA.

FEDERAL EMPLOYEES' COMPENSATION ACT

Federal Employees' Compensation Act. A workers'-compensation law for federal employees. 5 USCA §§ 8101–8152. — Abbr. FECA. See WORKERS' COMPENSATION . [Cases: Workers' Compensation 262, 374. C.J.S. Workmen's Compensation §§ 170, 172, 230.]

FEDERAL EMPLOYERS' LIABILITY ACT

Federal Employers' Liability Act. A workers'-compensation law that provides death and disability benefits for employees of railroads engaged in interstate and foreign commerce. 45 USCA §§ 51–60. — Abbr. FELA. [Cases: Employers' Liability 1; Workers' Compensation 97. C.J.S. Employers' Liability for Injuries to Employees § 2.]

FEDERAL ENCLAVE

federal enclave. See ENCLAVE.

FEDERAL ENERGY REGULATORY COMMISSION

Federal Energy Regulatory Commission. An independent five-member commission in the U.S. Department of Energy responsible for licensing hydroelectric-power projects and for setting interstate rates on (1) transporting and selling natural gas for resale, (2) transporting and selling electricity at wholesale, and (3) transporting oil by pipeline. • It was created by the Department of Energy Organization Act of 1977. As enforcer of the Natural Gas Act, it succeeded the Federal Power Commission. — Abbr. FERC. [Cases: Gas 1.]

FEDERAL FARM CREDIT BANK

federal farm credit bank. One of a system of federally chartered institutions created to provide credit to farm-related enterprises. • The banks resulted from a merger of federal land banks and federal intermediate credit banks. They are supervised by the Farm Credit Administration. [Cases: United States 53(7). C.J.S. United States §§ 90, 92–93.]

FEDERAL FARM CREDIT BANKS FUNDING CORPORATION

Federal Farm Credit Banks Funding Corporation. A federal corporation that manages the sale of federal farm-credit-system securities in the money and capital markets and also provides advisory services to banks in the federal farm credit system.

FEDERAL FARM CREDIT SYSTEM

federal farm credit system. The national cooperative system of banks and associations providing credit to farmers, agricultural concerns, and related businesses. • The system consists of the banks for cooperatives, the farm credit banks, and the Federal Farm Credit Banks Funding Corporation. It is supervised by the Farm Credit Administration and was originally capitalized by the federal government. The system is now self-funding and owned by its member-borrowers. [Cases: United States 53(7). C.J.S. United States §§ 90, 92–93.]

FEDERAL FOOD STAMP ACT

Federal Food Stamp Act. A federally funded program that provides needy families with financial assistance in obtaining a nutritionally adequate diet. • The Secretary of Agriculture administers the Act.

FEDERAL-FUNDS RATE

federal-funds rate. The interest rate at which banks lend to each other overnight. • The loans are usu. made by banks with excess reserves to those with temporarily insufficient reserves. — Also termed fed-funds rate. — Often shortened to fed funds.

FEDERAL GOVERNMENT

federal government. See GOVERNMENT.

FEDERAL HIGHWAY ADMINISTRATION

Federal Highway Administration. A unit in the U.S. Department of Transportation responsible for granting aid to states for highway construction and improvement; providing matching grants to states for highway-safety programs; seeking uniformity among the states in commercial motor-carrier registration and taxation; regulating the safety of motor carriers operating in interstate commerce; and training employees of state and local agencies engaged in highway work backed by federal aid. — Abbr. FHWA.

FEDERAL HOME LOAN BANK

Federal Home Loan Bank. One of 12 federally chartered banks created in 1932 to extend secured loans (advances) to savings institutions that are members of the system and to community financial institutions that finance small businesses, small farms, and small agribusinesses. • The banks are supervised by the Federal Housing Finance Board. — Abbr. FHLB. — Sometimes shortened to home loan bank. [Cases: Banks and Banking 451. C.J.S. Banks and Banking §§ 669–670.]

FEDERAL HOME LOAN BANK BOARD

Federal Home Loan Bank Board. See FEDERAL HOUSING FINANCE BOARD.

FEDERAL HOME LOAN MORTGAGE CORPORATION

Federal Home Loan Mortgage Corporation. A corporation that purchases both conventional and federally insured first mortgages from members of the Federal Reserve System and other approved banks. — Abbr. FHLMC. — Also termed Freddie Mac.

FEDERAL HOUSING ADMINISTRATION

Federal Housing Administration. The HUD division that encourages mortgage lending by insuring mortgage loans on homes meeting the agency's standards. — Abbr. FHA. See DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. [Cases: United States 82(3.3).]

FEDERAL HOUSING FINANCE BOARD

Federal Housing Finance Board. A five-member independent federal board that supervises the 12 Federal Home Loan Banks. • Formerly known as the Federal Home Loan Bank Board, it was established by the Federal Home Loan Bank Act of 1932. That Act was amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. 12 USCA §§ 1421 et seq.

FEDERAL INSTRUMENTALITY

federal instrumentality, n. 1. A means or agency used by the national government. [Cases: United States 53. C.J.S. United States §§ 83, 88–95.] 2. A national agency or other entity immune from state control.

FEDERAL INSURANCE CONTRIBUTIONS ACT

Federal Insurance Contributions Act. The federal act imposing the social-security tax on employers and employees. IRC (26 USCA) §§ 3101–3127. — Abbr. FICA. [Cases: Internal Revenue 4376, 4377.]

FEDERAL INTERMEDIATE CREDIT BANK

federal intermediate credit bank. See BANK.

FEDERALISM

federalism. The legal relationship and distribution of power between the national and regional governments within a federal system of government.

cooperative federalism. Distribution of power between the federal government and the states in which each recognizes the powers of the other while jointly engaging in certain governmental functions. [Cases: States 4.19. C.J.S. States § 28.]

our federalism. See OUR FEDERALISM.

FEDERALIST PAPERS

Federalist Papers. A series of 85 essays written by Alexander Hamilton, John Jay, and James

Madison (under the pseudonym Publius) expounding on and advocating the adoption of the U.S. Constitution. • Most of the essays were published in 1787 and 1788. — Also termed The Federalist.

FEDERALIST SOCIETY

Federalist Society.A national association of lawyers, law students, and others committed to conservative and libertarian viewpoints on political and social matters. • The group is based in Washington, D.C. Cf. NATIONAL LAWYERS GUILD.

FEDERAL JUDICIAL CENTER

Federal Judicial Center.An agency in the judicial branch of the federal government responsible for researching judicial administration and for training judges and employees of the federal judiciary. • Its director is appointed by a seven-member board presided over by the Chief Justice of the United States. 28 USCA § 620. — Abbr. FJC.

FEDERAL JUDICIAL CODE

Federal Judicial Code.The portion (Title 28) of the U.S. Code dealing with the organization, jurisdiction, venue, and procedures of the federal court system, as well as court officers, personnel, and the Department of Justice.

FEDERAL JURISDICTION

federal jurisdiction.See JURISDICTION.

FEDERAL-JUVENILE-DELINQUENCY JURISDICTION

federal-juvenile-delinquency jurisdiction.See JURISDICTION.

FEDERAL KIDNAPPING ACT

Federal Kidnapping Act.A federal law punishing kidnapping for ransom or reward when the victim is transported interstate or internationally. • The law presumes that a victim has been transported in violation of the law if the victim is not released within 24 hours. The Federal Kidnapping Act, by express provision, does not apply to the kidnapping of a minor by either parent. 18 USCA § 1201. — Also termed Lindbergh Act. Cf. PARENTAL KIDNAPPING PREVENTION ACT . [Cases: Kidnapping 1. C.J.S. Kidnapping §§ 1–2.]

“The Federal Kidnapping Act was passed in 1932 to close a dangerous loophole between state and federal law. At that time, marauding bands of kidnapers were preying upon the wealthy with ruthless abandon, seizing their victims for ransom while operating outside the reach of existing state laws. Knowing that authorities in the victim's home state were powerless once a hostage was transported across state lines, the criminals would kidnap their target in one state, then move quickly to the next. In response, Congress made kidnapping a federal crime when the victim was moved from one state to another, and comprehensive language was used to cover every possible variety of kidnapping followed by interstate transportation.” 1 Am. Jur. 2d Abduction and Kidnapping § 14, at 185 (1994).

FEDERAL LABOR RELATIONS AUTHORITY

Federal Labor Relations Authority. An agency that protects the right of federal employees to organize, engage in collective bargaining, and select their own union representatives. • It was established under Reorganization Plan No. 2 of 1978 and began operating in 1979. 5 USCA §§ 7101–7135. — Abbr. FLRA.

FEDERAL LABOR UNION

federal labor union. See UNION.

FEDERAL LAND

federal land. See LAND.

FEDERAL LAND BANK

federal land bank. One of a system of 12 regional banks created in 1916 to provide mortgage loans to farmers. • The system is now merged with federal intermediate credit banks to create the federal farm-credit system. [Cases: Banks and Banking 401; United States 53(7). C.J.S. Banks and Banking § 665; United States §§ 90, 92–93.]

FEDERAL LAW

federal law. The body of law consisting of the U.S. Constitution, federal statutes and regulations, U.S. treaties, and federal common law. Cf. STATE LAW .

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Federal Law Enforcement Training Center. An interagency law-enforcement training facility responsible for serving over 70 law-enforcement organizations in the federal government. • The Center was transferred from the Department of the Treasury to the Department of Homeland Security in 2003. — Abbr. FLETC.

FEDERAL MAGISTRATE

federal magistrate. UNITED STATES MAGISTRATE JUDGE.

FEDERAL MARITIME COMMISSION

Federal Maritime Commission. An independent federal agency that regulates the waterborne foreign and domestic commerce of the United States by (1) ensuring that U.S. international trade is open to all countries on fair and equitable terms, (2) guarding against unauthorized monopolies in U.S. waterborne commerce, and (3) ensuring that financial responsibility is maintained to clean up oil spills and indemnify injured passengers. • The Agency was established in 1961. Its five commissioners are appointed by the President with the advice and consent of the Senate. — Abbr. FMC. [Cases: Shipping 3, 14. C.J.S. Shipping §§ 2–4, 9–10, 13.]

FEDERAL MARITIME LIEN ACT

Federal Maritime Lien Act. A statute that confers an automatic lien on anyone who provides a

vessel with any of a wide range of goods and services. 46 USCA §§ 31341–31343. — Abbr. FMLA.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Federal Mediation and Conciliation Service. An independent federal agency that tries to prevent the interruption of commerce resulting from labor–management disputes by helping the parties settle the disputes through mediation and conciliation. • The Service can intervene on its own authority or at the request of a party to the dispute. It also helps employers and unions select qualified arbitrators. The Service was established by the Labor–Management Relations Act of 1947. 29 USCA § 172. — Abbr. FMCS. Cf. NATIONAL MEDIATION BOARD .

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Federal Mine Safety and Health Review Commission. An independent five-member commission that (1) monitors compliance with occupational safety and health standards in the nation's surface and underground coal, metal, and nonmetal mines, and (2) adjudicates disputes that arise under the Federal Mine Safety and Health Amendments Act of 1977. • It was established in 1977. 30 USCA §§ 801 et seq. — Abbr. FMSHRC.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Federal Motor Carrier Safety Administration. A unit in the U.S. Department of Transportation responsible for regulating the operation of large trucks and buses. — Abbr. FMCSA.

FEDERAL NATIONAL MORTGAGE ASSOCIATION

Federal National Mortgage Association. A privately owned and managed corporation chartered by the U.S. government that provides a secondary mortgage market for the purchase and sale of mortgages guaranteed by the Veterans Administration and those insured under the Federal Housing Administration. — Abbr. FNMA. — Also termed Fannie Mae. [Cases: United States 53(9).]

FEDERAL PARENT LOCATOR SERVICE

Federal Parent Locator Service. A federal program created to help enforce child-support obligations. • In an effort to increase the collection of child support, Congress authorized the use of all information contained in the various federal databases to help locate absent, delinquent child-support obligors. Although initially information could be released only if the family was receiving public assistance, any judgment obligee can now apply to receive the last known address of a delinquent child-support obligor. 42 USCA § 653. — Abbr. FPLS.

FEDERAL POWER COMMISSION

Federal Power Commission. See FEDERAL ENERGY REGULATORY COMMISSION.

FEDERAL PREEMPTION

federal preemption. See PREEMPTION(5).

FEDERAL PRISON CAMP

federal prison camp. A federal minimum-security detention facility. • Federal prison camps, which often do not have walls or fences, usually house nonviolent inmates who are serving sentences shorter than a year plus one day and who are not considered escape risks.

FEDERAL PROCUREMENT REGULATION

Federal Procurement Regulation. See **FEDERAL ACQUISITION REGULATION**.

FEDERAL PROTECTIVE SERVICE

Federal Protective Service. A law-enforcement agency in the U.S. Department of Homeland Security responsible for protecting ambassadors, diplomatic staffs, and embassy property. • It was transferred from the General Services Administration in 2003.

FEDERAL QUESTION

federal question. In litigation, a legal issue involving the interpretation and application of the U.S. Constitution, an act of Congress, or a treaty. • Jurisdiction over federal questions rests with the federal courts. 28 USCA § 1331. [Cases: Federal Courts 161–247.]

FEDERAL-QUESTION JURISDICTION

federal-question jurisdiction. See **JURISDICTION**.

FEDERAL RAILROAD ADMINISTRATION

Federal Railroad Administration. A unit in the U.S. Department of Transportation responsible for promulgating and enforcing rail-safety regulations; administering rail-related financial-aid programs; conducting research on rail safety; and rehabilitating rail passenger service for the Northeast corridor. — Abbr. FRA.

FEDERAL REGISTER

Federal Register. A daily publication containing presidential proclamations and executive orders, federal-agency regulations of general applicability and legal effect, proposed agency rules, and documents required by law to be published. • The Federal Register is published by the National Archives and Records Administration. — Abbr. Fed. Reg. [Cases: Administrative Law and Procedure 407. C.J.S. Public Administrative Law and Procedure § 113.]

FEDERAL REGULATIONS

federal regulations. See **CODE OF FEDERAL REGULATIONS**.

FEDERAL REPORTER

Federal Reporter. See **F(1)**.

FEDERAL REPORTER SECOND SERIES

Federal Reporter Second Series. See **f.2d**.

FEDERAL REPORTER THIRD SERIES

Federal Reporter Third Series. See f.3d.

FEDERAL RESERVE BOARD OF GOVERNORS

Federal Reserve Board of Governors. The board that supervises the Federal Reserve System and sets national monetary and credit policy. • The board consists of seven members nominated by the President and confirmed by the Senate for 14-year terms. — Abbr. FRB. — Often shortened to Federal Reserve Board.

FEDERAL RESERVE NOTE

federal reserve note. The paper currency in circulation in the United States. • The notes are issued by the Federal Reserve Banks, are effectively non-interest-bearing promissory notes payable to bearer on demand, and are issued in denominations of \$1, \$2, \$5, \$10, \$20, \$50, \$100, \$500, \$1,000, \$5,000, and \$10,000.

FEDERAL RESERVE SYSTEM

Federal Reserve System. The central bank that sets credit and monetary policy by fixing the reserves to be maintained by depository institutions, determining the discount rate charged by Federal Reserve Banks, and regulating the amount of credit that may be extended on any security. • The Federal Reserve System was established by the Federal Reserve Act of 1913. 12 USCA § 221. It comprises 12 central banks supervised by a Board of Governors whose members are appointed by the President and confirmed by the Senate. — Abbr. FRS; Fed. [Cases: Banks and Banking 351–359. C.J.S. Banks and Banking §§ 650–662, 676–678, 682–687, 746.]

“The Federal Reserve System of 1913 evolved out of a search for consensus among bankers, politicians, and some academic experts. It was a move toward ‘central bank’ regulation in the European sense [The System] seemed to resolve the outstanding problems in money and banking. Federal Reserve banknotes could grow with expanding commercial paper and economic prosperity, and assure a more adequate, reliable monetary growth.” William A. Lovett, *Banking and Financial Institutions Law in a Nutshell* 14–15 (1997).

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Federal Retirement Thrift Investment Board. A board responsible for administering the Thrift Savings Plan that allows federal employees to save additional funds for retirement. • It was established in 1986. 5 USCA § 8472. — Abbr. FRTIB.

FEDERAL RULES DECISIONS

Federal Rules Decisions. See F.R.D.

FEDERAL RULES ENABLING ACT

Federal Rules Enabling Act. A 1934 statute granting the U.S. Supreme Court the authority to adopt rules of civil procedure for federal courts. • For the rulemaking power of federal courts today, see 28 USCA §§ 2071, 2072. See also Fed. R. Civ. P. 83; Fed. R. Crim. P. 57. [Cases:

Federal Civil Procedure 31.]

FEDERAL RULES OF APPELLATE PROCEDURE

Federal Rules of Appellate Procedure. The rules governing appeals to the U.S. courts of appeals from lower courts, some federal-agency proceedings, and applications for writs. — Abbr. Fed. R. App. P.; FRAP. [Cases: Federal Courts 522.]

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Federal Rules of Bankruptcy Procedure. The rules governing proceedings instituted under the Bankruptcy Code. — Abbr. Fed. R. Bankr. P. [Cases: Bankruptcy 2129. C.J.S. Bankruptcy § 6.]

FEDERAL RULES OF CIVIL PROCEDURE

Federal Rules of Civil Procedure. The rules governing civil actions in the U.S. district courts. — Abbr. Fed. R. Civ. P.; FRCP. [Cases: Federal Civil Procedure 31–44. C.J.S. Evidence § 7.]

“Chief Justice Hughes in 1935 appointed fourteen lawyers and law teachers as the Advisory Committee for the Federal Rules of Civil Procedure, with William D. Mitchell, former Attorney General, as chairman, and Charles E. Clark, then dean of the Yale Law School, as reporter, to recommend a draft of rules uniting law and equity. The committee proposed a system of rules that was approved by the Court with certain changes. In accordance with the Enabling Act, the rules were submitted to Congress for its acquiescence and, Congress having taken no exception to them, they became effective September 16, 1938.

“The rules thus produced bear the unmistakable imprint of the reporter, Charles E. Clark, and represent the largest single accomplishment in American civil procedure since the Field Code of 1848. Although they were not perfect and have been amended many times, experience with them has on the whole been satisfactory, and more than half of the states have adopted them in their entirety or in large part.” Fleming James, Geoffrey C. Hazard Jr. & John Leubsdorf, *Civil Procedure* § 1.8, at 24–25 (5th ed. 2001).

FEDERAL RULES OF CRIMINAL PROCEDURE

Federal Rules of Criminal Procedure. The rules governing criminal proceedings in the U.S. district courts. — Abbr. Fed. R. Crim. P. [Cases: Federal Civil Procedure 23.]

FEDERAL RULES OF EVIDENCE

Federal Rules of Evidence. The rules governing the admissibility of evidence at trials in federal courts. — Abbr. Fed. R. Evid.; FRE. [Cases: Federal Civil Procedure 21–44. C.J.S. Evidence § 7.]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Federal Savings and Loan Insurance Corporation. A federal agency created in 1934 to insure deposits in savings-and-loan associations and savings banks. • When this agency became insolvent in 1989, its assets and liabilities were transferred to an insurance fund managed by the FDIC. — Abbr. FSLIC. See RESOLUTION TRUST CORPORATION. [Cases: Building and Loan

Associations 48. C.J.S. Building and Loan Associations, Savings and Loan Associations, and Credit Unions § 8.]

FEDERAL SENTENCING GUIDELINES

federal sentencing guidelines.See UNITED STATES SENTENCING GUIDELINES.

FEDERAL STATE

federal state.See STATE.

FEDERAL STATUTE

federal statute.See FEDERAL ACT.

FEDERAL SUPPLEMENT

Federal Supplement.See F.SUPP.

FEDERAL SUPPLEMENT 2D

Federal Supplement 2d.See f.sup.2d.

FEDERAL SUPPLY SERVICE

Federal Supply Service.A unit in the General Services Administration responsible for providing supplies to federal agencies worldwide. • In procuring supplies the agency takes advantage of the government's aggregate buying power. — Abbr. FSS.

FEDERAL TECHNOLOGY SERVICE

Federal Technology Service.A unit in the General Services Administration responsible for providing communications services worldwide to other federal departments and agencies. — Abbr. FTS.

FEDERAL TORT CLAIMS ACT

Federal Tort Claims Act.A statute that limits federal sovereign immunity and allows recovery in federal court for tort damages caused by federal employees, but only if the law of the state where the injury occurred would hold a private person liable for the injury. 28 USCA §§ 2671–2680. — Abbr. FTCA. See sovereign immunity under IMMUNITY(1). [Cases: United States 78. C.J.S. United States §§ 149–151, 179.]

“Although it has been suggested that the maxim, ‘the King can do no wrong’ never had an existence in the United States, it has also been declared that in enacting the Federal Tort Claims Act, Congress recognized the manifold injustice that springs from the delimiting effect of the rule represented by that maxim. And it is said that in passing the Act, Congress intended to compensate the victims of negligence in the conduct of governmental activities in circumstances in which a private person would be liable, rather than leave just treatment to the caprice and legislative burden of individual private laws, and to eliminate the burden on Congress of investigating and passing on private bills seeking individual relief.” 35 Am. Jur. 2d Federal Tort Claims Act § 1, at

296 (1967).

FEDERAL TRADE COMMISSION

Federal Trade Commission. An independent five-member federal commission that administers various laws against business monopolies, restraint of trade, and deceptive trade practices. • It was established by the Federal Trade Commission Act of 1914. 15 USCA §§ 41–58. The Commission's body of rulings often reaches into state-law actions because many so-called Little FTC Acts of the states specify that FTC interpretations should provide a model for state-court decisions. — Abbr. FTC. [Cases: Trade Regulation 741. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 342–344.]

FEDERAL TRADEMARK ACT

Federal Trademark Act. See LANHAM ACT.

FEDERAL TRADEMARK DILUTION ACT

Federal Trademark Dilution Act. A 1995 amendment to the Lanham Act (Trademark Act of 1946) that provides additional remedies against the dilution of famous trademarks. 15 USCA § 1125(c). — Abbr. FTDA. — Sometimes shortened to Dilution Act.

FEDERAL TRANSFER

federal transfer. The federal district court's right to move a civil action filed there to any other district or division where the plaintiff could have brought the action originally. 28 USCA § 1404(a). See CHANGE OF VENUE. [Cases: Federal Courts 101–146, 1152.]

FEDERAL TRANSIT ADMINISTRATION

Federal Transit Administration. A unit in the U.S. Department of Transportation responsible for increasing public-transit ridership through demonstration projects and financial assistance. — Abbr. FTA.

FEDERATION

federation. A league or union of states, groups, or peoples united under a strong central authority but retaining limited regional sovereignty, esp. over local affairs. Cf. CONFEDERATION.

FED FUNDS

fed funds. See FEDERAL FUNDS RATE.

FED-FUNDS RATE

fed-funds rate. See FEDERAL FUNDS RATE.

FED. R. APP. P.

Fed. R. App. P. abbr. FEDERAL RULES OF APPELLATE PROCEDURE.

FED. R. BANKR. P.

Fed. R. Bankr. P.abbr.FEDERAL RULES OF BANKRUPTCY PROCEDURE.

FED. R. CIV. P.

Fed. R. Civ. P.abbr.FEDERAL RULES OF CIVIL PROCEDURE.

FED. R. CRIM. P.

Fed. R. Crim. P.abbr.FEDERAL RULES OF CRIMINAL PROCEDURE.

FED. REG.

Fed. Reg.abbr.FEDERAL REGISTER.

FED. R. EVID.

Fed. R. Evid.abbr.FEDERAL RULES OF EVIDENCE.

FED WIRE

Fed Wire.The Federal Reserve's computer network that allows nearly instantaneous domestic money and securities transfers among the Federal Reserve's offices, depository institutions, the U.S. Treasury, and other government agencies.

FEE

fee. 1. A charge for labor or services, esp. professional services.

attorney's fees.See ATTORNEY'S FEES.

contingent fee.See CONTINGENT FEE.

docket fee.A fee charged by a court for filing a claim.

expert-witness fee.A fee paid for the professional services of an expert witness. [Cases: Costs 187. C.J.S. Costs § 116.]

fixed fee. 1. A flat charge for a service; a charge that does not vary with the amount of time or effort required to complete the service. 2. In a construction contract, a predetermined amount that is added to costs for calculating payments due under the contract. [Cases: Contracts 231(1).]

franchise fee. 1. A fee paid by a franchisee to a franchisor for franchise rights. • Franchise fees are regulated by state laws. 2. A fee paid to the government for a government grant of a franchise, such as the one required for operating a radio or television station. [Cases: Telecommunications 86, 401. C.J.S. Telegraphs, Telephones, Radio, and Television §§ 30, 153.]

jury fee.A fee, usu. a minimal one, that a party to a civil suit must pay the court clerk to be entitled to a jury trial. [Cases: Jury 26. C.J.S. Juries §§ 180–181.]

maintenance fee.See MAINTENANCE FEE.

management fee.A fee charged by an investment manager for supervisory services.

origination fee. A fee charged by a lender for preparing and processing a loan. [Cases: Usury 53. C.J.S. Interest and Usury; Consumer Credit §§ 162, 165–168.]

probate fee. Compensation paid with a probate court's approval to an attorney who performs probate-related services to the estate.

witness fee. 1. A statutory fee that must be tendered with a subpoena for the subpoena to be binding. [Cases: Witnesses 23. C.J.S. Witnesses §§ 70–71.] 2. A fee paid by a party to a witness as reimbursement for reasonable expenses (such as travel, meals, lodging, and loss of time) incurred as a result of the witness's having to attend and testify at a deposition or trial. • Any other payment to a nonexpert witness is considered unethical. — Also termed (in English law) conduct money. Cf. expert-witness fee.

2. A heritable interest in land; esp., a fee simple absolute. — Also termed fee estate; feod; feodum; feud; feodum; fief. See FEE SIMPLE. Cf. FEU. [Cases: Estates in Property 5–7. C.J.S. Estates §§ 11–14, 20–21.] “To enfeoff someone was to transfer to him an interest in land called a fief — or, if you prefer, a feoff, feod, or feud. Our modern word fee, a direct lineal descendant of fief, implies the characteristic of potentially infinite duration when used to describe an interest in land today; but in the earliest part of the feudal period, a fief might have been as small as a life interest. We shall see later that feoffment was not used to transfer interests ‘smaller’ than life interests — e.g., so-called terms for years — but for our purposes now we may simply note that transfers of interests for life or ‘larger’ were accomplished by livery of seisin.” Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 11 (2d ed. 1984).

arriere fee (ar-ee-air or ar-ee-*<<schwa>>*r). Hist. A fee dependent on a superior one; a subfief. — Also termed arriere fief.

base fee. A fee that has some qualification connected to it and that terminates whenever the qualification terminates. • An example of the words creating a base fee are “to A and his heirs, tenants of the manor of Tinsleydale,” which would terminate when A or his heirs are no longer tenants of the manor of Tinsleydale. Among the base fees at common law are the fee simple subject to a condition subsequent and the conditional fee. — Also termed determinable fee; qualified fee; limited fee. See fee simple determinable under FEE SIMPLE.

“A base fee is a particular kind of determinable fee. The two essentials of a base fee are (a) it continues only so long as the original grantor or any heirs of his body are alive; and (b) there is a remainder or reversion after it.... In effect a base fee was a fee simple which endured for as long as the entail would have continued if it had not been barred, and determined when the entail would have ended.” Robert E. Megarry & M.P. Thompson, *A Manual of the Law of Real Property* 38–40 (6th ed. 1993).

determinable fee. See base fee.

fee expectant. Rare. A fee tail created when land is given to a man and wife and the heirs of their bodies. See FRANKMARRIAGE.

fee simple. See FEE SIMPLE.

fee tail. See FEE TAIL.

great fee. Hist. In feudal law, a fee received directly from the Crown.

knight's fee. See KNIGHT'S FEE.

lay fee. Hist. A fee interest in land held by ordinary feudal tenure, such as socage, rather than by ecclesiastical tenure through frankalmoin. See FRANKALMOIN; SOCAGE.

limited fee. See base fee.

plowman's fee. Hist. A species of tenure for peasants or small farmers by which the land descended in equal shares to all the tenant's sons.

qualified fee. See base fee.

quasi-fee. Hist. An estate in fee acquired wrongfully.

FEE DAMAGES

fee damages. See DAMAGES.

FEEDER ORGANIZATION

feeder organization. Tax. An entity that conducts a business or trade for the benefit of a tax-exempt organization. • The feeder organization is not tax-exempt. IRC (26 USCA) § 502. [Cases: Internal Revenue 4067. C.J.S. Internal Revenue § 466.]

FEE ESTATE

fee estate. See FEE(2).

FEE FARM

fee farm. Hist. A species of tenure in which land is held in perpetuity at a yearly rent (fee-farm rent), without fealty, homage, or other services than those in the feoffment. — Also termed feodi firma; firma feodi. See EMPHYTEUSIS.

“Now to all appearance the term socage, a term not found in Normandy, has been extending itself upwards; a name appropriate to a class of cultivating peasants has begun to include the baron or prelate who holds land at a rent but is not burdened with military service.... He is sometimes said to have feodum censuale; far more commonly he is said to hold ‘in fee farm.’ This term has difficulties of its own, for it appears in many different guises; a feoffee is to hold in feofirma, in feufirmam, in fedfirmam, in feudo firmam, in feudo firma, ad firmam feodalem, but most commonly, in feodi firma. The Old English language had both of the words of which this term is compounded, both feoh (property) and feorm (rent); but so had the language of France, and in Norman documents the term may be found in various shapes, firmam fedium, feudifirmam. But, whatever may be the precise history of the phrase, to hold in fee farm means to hold heritably, perpetually, at a rent; the fee, the inheritance, is let to farm.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 293 (2d ed. 1899).

FEE-FARM RENT

fee-farm rent. 1. The rent reserved, usu. one-fourth or one-third of the land's value, on granting a fee farm. 2. A rent charge issuing out of a fee estate. 3. A perpetual rent on a conveyance in fee simple.

FEE INTEREST

fee interest. 1.FEE(2).2.FEE SIMPLE. 3.FEE TAIL. 4.Oil & gas. Ownership of both the surface interest and the mineral interest.

FEEMAIL

feemail (fee-mayl).Slang. 1. An attorney's fee extorted by intimidation, threats, or pressure. 2. The act or process of extorting such a fee. Cf. BLACKMAIL(1); GRAYMAIL; GREENMAIL(1), (2).

FEE-SHARING

fee-sharing. See FEE-SPLITTING.

FEE SIMPLE

fee simple.An interest in land that, being the broadest property interest allowed by law, endures until the current holder dies without heirs; esp., a fee simple absolute. — Often shortened to fee. — Also termed estate in fee simple; tenancy in fee; exclusive ownership; fee-simple title; feudum simplex. [Cases: Estates in Property 5–7. C.J.S. Estates §§ 11–14, 20–21.]

“[Fee simple] is a term not likely to be found in modern conversation between laymen, who would in all probability find it quite unintelligible. Yet to a layman of the 14th century the term would have been perfectly intelligible, for it refers to the elementary social relationship of feudalism with which he was fully familiar: the words ‘fee’ and ‘feudal’ are closely related.... The estate in fee simple is the largest estate known to the law, ownership of such an estate being the nearest approach to ownership of the land itself which is consonant with the feudal principle of tenure. It is ‘the most comprehensive estate in land which the law recognises’; it is the ‘most extensive in quantum, and the most absolute in respect to the rights which it confers, of all estates known to the law’. Traditionally, the fee simple has two distinguishing features: first, the owner (‘tenant’ in fee simple) has the power to dispose of the fee simple, either inter vivos or by will; second, on intestacy the fee simple descends, in the absence of lineal heirs, to collateral heirs — to a brother, for example, if there is no issue.” Peter Butt, *Land Law* 35 (2d ed. 1988).

“Fee simple.Originally this was an estate which endured for as long as the original tenant or any of his heirs survived. ‘Heirs’ comprised any blood relations, although originally ancestors were excluded; not until the Inheritance Act 1833 could a person be the heir of one of his descendants. Thus at first a fee simple would terminate if the original tenant died without leaving any descendants or collateral blood relations (e.g., brothers or cousins), even if before his death the land had been conveyed to another tenant who was still alive. But by 1306 it was settled that where a tenant in fee simple alienated the land, the fee simple would continue as long as there

were heirs of the new tenant and so on, irrespective of any failure of the original tenant's heirs. Thenceforward a fee simple was virtually eternal.” Robert E. Megarry & M.P. Thompson, *A Manual of the Law of Real Property* 24–25 (6th ed. 1993).

fee simple absolute. An estate of indefinite or potentially infinite duration (e.g., “to Albert and his heirs”). — Often shortened to fee simple or fee. — Also termed fee simple absolute in possession. [Cases: Estates in Property 5. C.J.S. Estates §§ 11–12.]

“Although it is probably good practice to use the word ‘absolute’ whenever one is referring to an estate in fee simple that is free of special limitation, condition subsequent, or executory limitation, lawyers frequently refer to such an estate as a ‘fee simple’ or even as a ‘fee.’ ” Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 24 (2d ed. 1984).

fee simple conditional. An estate restricted to some specified heirs, exclusive of others (e.g., “to Albert and his female heirs”). • The fee simple conditional is obsolete except in Iowa, Oregon, and South Carolina. — Also termed general fee conditional; conditional fee. [Cases: Estates in Property 7. C.J.S. Estates §§ 13–14, 20–21.]

“The reader should be careful not to confuse this estate with estates having similar labels, such as the ‘estate in fee simple subject to a condition subsequent’” Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 29 n.19 (2d ed. 1984).

fee simple defeasible (di-fee-z<<schwa>>-b<<schwa>>l). An estate that ends either because there are no more heirs of the person to whom it is granted or because a special limitation, condition subsequent, or executory limitation takes effect before the line of heirs runs out. — Also termed qualified fee. [Cases: Estates in Property 6. C.J.S. Estates §§ 13–14.]

fee simple determinable. An estate that will automatically end and revert to the grantor if some specified event occurs (e.g., “to Albert and his heirs while the property is used for charitable purposes”); an estate in fee simple subject to a special limitation. • The future interest retained by the grantor is called a possibility of reverter. — Also termed determinable fee; qualified fee; fee simple subject to common-law limitation; fee simple subject to special limitation; fee simple subject to special interest; base fee; estate on limitation. [Cases: Estates in Property 6. C.J.S. Estates §§ 13–14.]

“In theory, it should be easy to determine whether an instrument creates a fee simple determinable or a fee simple subject to a condition subsequent. If the instrument includes a special limitation (introduced by words such as ‘so long as’ or ‘until’) it creates a fee simple determinable, whether or not it also includes an express reverter clause. If the instrument includes an express condition or proviso (‘on condition that’ or ‘provided that’) and an express right to re-enter for breach of the stated condition, it creates a fee simple subject to a condition subsequent. But deeds and wills often fail to employ the appropriate words to create one of the two types of defeasible estate or the others. Instead deeds and wills often contain a confusing mixture of words appropriate for creation of both types of defeasible estate.” William B. Stoebuck & Dale A. Whitman, *The Law of Property* 43 (3d ed. 2000).

fee simple subject to a condition subsequent. An estate subject to the grantor's power to end

the estate if some specified event happens (e.g., “to Albert and his heirs, upon condition that no alcohol is sold on the premises”). • The future interest retained by the grantor is called a power of termination (or a right of entry). — Also termed fee simple on a condition subsequent; fee simple subject to a power of termination; fee simple upon condition. [Cases: Estates in Property 7. C.J.S. Estates §§ 13–14, 20–21.]

fee simple subject to an executory limitation. A fee simple defeasible that is subject to divestment in favor of someone other than the grantor if a specified event happens (e.g., “to Albert and his heirs, but if the property is ever used as a parking lot, then to Bob”). — Also termed fee simple subject to an executory interest. [Cases: Estates in Property 6. C.J.S. Estates §§ 13–14.]

fee simple subject to a power of termination. See fee simple subject to a condition subsequent.

fee simple subject to common-law limitation. See fee simple determinable.

fee simple subject to special interest. See fee simple determinable.

fee simple subject to special limitation. See fee simple determinable.

fee simple upon condition. See fee simple subject to a condition subsequent.

FEE-SIMPLE TITLE

fee-simple title. See FEE SIMPLE.

FEE-SPLITTING

fee-splitting. 1. The division of attorney's fees between two or more lawyers, esp. between the lawyer who handled a matter and the lawyer who referred the matter. • Some states consider this practice unethical. 2. The division of attorney's fees between two or more lawyers who represent a client jointly but are not in the same firm. • Under most states' ethics rules, an attorney is prohibited from splitting a fee with a nonlawyer. — Also termed fee-sharing. [Cases: Attorney and Client 151. C.J.S. Attorney and Client §§ 294, 309–310.]

FEE STATEMENT

fee statement. A lawyer's bill for services either already rendered or to be rendered, usu. including itemized expenses.

FEE TAIL

fee tail. An estate that is heritable only by specified descendants of the original grantee, and that endures until its current holder dies without issue (e.g., “to Albert and the heirs of his body”). • Most jurisdictions — except Delaware, Maine, Massachusetts, and Rhode Island — have abolished the fee tail. — Also termed entailed estate; estate tail; estate in tail; estate in fee tail; tenancy in tail; entail; feodum talliatum. See ENTAIL; TAIL. [Cases: Estates in Property 12. C.J.S. Estates §§ 22–27.]

“The old legal estate tail was throughout its history invariably associated with family settlements, and in particular with marriage settlements.... Medieval landowners sought to achieve

[familial continuity and status] by perfecting a single estate which in itself would conform to three requirements: (1) While it should be an estate of inheritance it should devolve on lineal heirs only, and not on collaterals — in other words that it should descend only to the heirs of the body of the first grantee. (2) As a corollary, the estate should be such that if at any time the first grantee's issue should fail the estate itself should come to an end and the land revert to the original settlor or his heirs. (3) No owner of the estate for the time being should have power to dispose of the land in such a way as to prevent it descending on his death to the next heir of the body of the original grantee. All this was attempted by limiting land, not to 'A and his heirs,' which would give A a fee simple, but to 'A and the heirs of his body.' ” 1 Stephen's Commentaries on the Laws of England 150 (L. Crispin Warmington ed., 21st ed. 1950).

“If we cannot resist the temptation to say that De Donis permitted the creation of tailor-made estates, we can at least argue that it is not a pun. Our word ‘tailor’ and the word ‘tail,’ as used in ‘fee tail,’ come from the same source — the French *tailler*, to cut. The word ‘tail’ in ‘fee tail’ has nothing to do with that which wags the dog. The estate in fee tail was a cut estate — either cut in the sense that the collateral heirs were cut out, or cut in the sense that the estate was carved into a series of discrete life-possession periods to be enjoyed successively by A and his lineal heirs.... We know of no state in the United States that recognizes the estate in fee tail in its strict 1285–1472 form. Wherever it is recognized, the tenant in tail in possession may disentail it by simple deed.” Thomas F. Bergin & Paul G. Haskell, Preface to *Estates in Land and Future Interests* 30, 32 (2d ed. 1984).

fee tail general.A fee tail that is heritable by all of the property owner's issue by any spouse. • Formerly, a grant “to A and the heirs of his body” created a fee tail general.

fee tail special.A fee tail that restricts the eligibility of claimants by requiring a claimant to prove direct descent from the grantee and meet the special condition in the grant. • For example, the words “to A and the heirs of his body begotten on his wife Mary” meant that only descendants of A and Mary could inherit; A's children by any other wife were excluded. An estate tail special could also be restricted to only male or only female descendants, as in “to A and the heirs male of his body.”

FEIGN

feign (fayn), vb. To make up or fabricate; to make a false show of <he feigned an illness>.

FEIGNED

feigned,adj. Pretended; simulated; fictitious.

FEIGNED ACCOMPLICE

feigned accomplice.See **INFORMANT**.

FEIGNED ACTION

feigned action.Hist. An action brought for an illegal purpose on a pretended right. — Also termed faint action; false action.

FEIGNED ISSUE

feigned issue.Hist. A proceeding in which the parties, by consent, have an issue tried by a jury without actually bringing a formal action. • The proceeding was done when a court either lacked jurisdiction or was unwilling to decide the issue. — Also termed fictitious issue.

“The chancellor's decree is either interlocutory or final. It very seldom happens that the first decree can be final, or conclude the cause; for, if any matter of fact is strongly controverted, this court is so sensible of the deficiency of trial by written depositions, that it will not bind the parties thereby, but usually directs the matter to be tried by jury But, as no jury can be summoned to attend this court, the fact is usually directed to be tried at the bar of the court of king's bench or at the assises, upon a feigned issue. For, (in order to bring it there, and have the point in dispute, and that only, put in issue) an action is feigned to be brought, wherein the pretended plaintiff declares that he laid a wager of 5l. with the defendant that A was heir at law to B; and then avers that he is so; and therefore demands the 5l. The defendant allows the wager, but avers that A is not the heir to B; and thereupon the issue is joined These feigned issues seem borrowed from the sponsio judicialis of the Romans: and are also frequently used in the courts of law, by consent of the parties, to determine some disputed rights without the formality of pleading” 3 William Blackstone, Commentaries on the Laws of England 452 (1768).

FEIGNED RECOVERY

feigned recovery.See COMMON RECOVERY.

FEIST<TT> DOCTRINE

Feist doctrine.Copyright. The rule that “sweat of the brow” will not support U.S. copyright protection in an unoriginal collection of facts.Feist Pubs. v. Rural Tel. Serv. Co., 499 U.S. 340, 111 S.Ct. 1282 (1991). Cf. SWEAT-OF-THE-BROW DOCTRINE. [Cases: Copyrights and Intellectual Property 12(2).]

FELA

FELA (fee-l<<schwa>>).abbr.FEDERAL EMPLOYERS' LIABILITY ACT.

FELE

fele (feel). [Law French] See FEAL.

FELLOW

fellow,n.1. One joined with another in some legal status or relation. 2. A member of a college, board, corporate body, or other organization.

FELLOW-OFFICER RULE

fellow-officer rule.Criminal procedure. The principle that an investigative stop or an arrest is valid even if the law-enforcement officer lacks personal knowledge to establish reasonable suspicion or probable cause as long as the officer is acting on the knowledge of another officer and the collective knowledge of the law-enforcement office. — Also termed Whiteley rule. [Cases:

Arrest 63.4(11). C.J.S. Arrest § 32.]

FELLOW SERVANT

fellow servant. A coworker having the same employer; esp., an employee who is so closely related to another employee's work that there is a special risk of harm if either one is negligent. See FELLOW-SERVANT RULE; DIFFERENT-DEPARTMENT RULE E.

superior fellow servant. A worker that has the power of control or direction over a coworker. — Also termed superior servant.

FELLOW-SERVANT RULE

fellow-servant rule. A common-law doctrine holding that an employer is not liable for an employee's injuries caused by a negligent coworker. • This doctrine has generally been abrogated by workers'-compensation statutes. In some jurisdictions, employees were considered fellow servants when they were working with one aim or result in view. In others, the relation of fellow servant was tested by the “superior servant rule” or the “doctrine of vice principal,” meaning that an employer is liable for injuries to an employee if they result from the negligence of another employee who is given power of control or direction over the injured employee. — Also termed common-employment doctrine. Cf. DIFFERENT-DEPARTMENT RULE. [Cases: Employers' Liability 100. C.J.S. Employers' Liability for Injuries to Employees §§ 167–169, 172.]

FELO-DE-SE

felo-de-se (fee-loh orfel-oh dee see), n. See SUICIDE(2).

“ ‘Felo de se,’ or felon of himself is freely spoken of by the early writers as self-murder. Hence one who killed himself before he arrived at the age of discretion or while he was non compos mentis, was not a felo de se, or suicide... [B]y the early common law suicide was a felony and was punished by ignominious burial and forfeiture of goods and chattels to the king.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 120 (3d ed. 1982).

FELON

felon, n. A person who has been convicted of a felony. — Also termed (redundantly) convicted felon.

FELON-DE-SE

felon-de-se. See SUICIDE(2).

FELONIA

felonia (f<<schwa>>-loh-nee-<<schwa>>). [Latin “felony”] Hist. An offense that results in a vassal's forfeiting his fee.

“The attempt to derive felonia from fel ‘poison’ is merely a folk etymology which came into vogue when ‘felony’ meant a serious crime, and differed from treason. The word was well established in Feudal Law as the characteristic offense against the Feudal relationship. It will

hardly do, therefore, to try to determine its meaning merely by reference to English usage”
Max Radin, *Handbook of Anglo-American Legal History* 148 n.7 (1936).

FELONIOUS

felonious (f<<schwa>>-loh-nee-<<schwa>>s), adj.1. Of, relating to, or involving a felony. 2. Constituting or having the character of a felony. 3. Proceeding from an evil heart or purpose; malicious; villainous. 4. Wrongful; (of an act) done without excuse or color of right.

FELONIOUS ASSAULT

felonious assault. See ASSAULT.

FELONIOUS HOMICIDE

felonious homicide. See HOMICIDE.

FELONIOUS INTENT

felonious intent. See criminal intent under INTENT(1).

FELONIOUS RESTRAINT

felonious restraint. 1. The offense of knowingly and unlawfully restraining a person under circumstances that expose the person to serious bodily harm. Model Penal Code § 212.2(a). 2. The offense of holding a person in involuntary servitude. Model Penal Code § 212.2(b).

FELON OF ONESELF

felon of oneself. See SUICIDE(2).

FELONY

felony, n. 1. A serious crime usu. punishable by imprisonment for more than one year or by death. • Examples include burglary, arson, rape, and murder. — Also termed major crime; serious crime. Cf. MISDEMEANOR. [Cases: Criminal Law 27. C.J.S. Criminal Law §§ 9–12.]

“Felony, in the general acceptance of our English law, comprizes every species of crime, which occasioned at common law the forfeiture of lands or goods.” 4 William Blackstone, *Commentaries on the Laws of England* 94 (1769).

“Amongst indictable crimes, the common law singled out some as being so conspicuously heinous that a man adjudged guilty of any of them incurred — not as any express part of his sentence but as a consequence that necessarily ensued upon it — a forfeiture of property, whether of his lands or of his goods or of both (in the case of treason). Such crimes came to be called ‘felonies.’ The other, and lesser, crimes were known as ‘transgressions’ or ‘trespasses,’ and did not obtain their present name of misdemeanours until a much later date. A felony is, therefore, a crime which either involved by common law such a forfeiture, or else has been placed by statute on the footing of those crimes which did involve it.” J.W. Cecil Turner, *Kenny's Outlines of Criminal Law* 93 (16th ed. 1952).

atrocious felony. A serious, usu. cruel felony involving personal violence. • This term is now used less frequently than the specific type of crime alleged (e.g., first-degree murder or aggravated sexual assault).

serious felony. A major felony, such as burglary of a residence or an assault that causes great bodily injury. • In many jurisdictions, a defendant's prior serious-felony convictions can be used to enhance another criminal charge.

substantive felony. See substantive offense under OFFENSE(1).

treason felony. See TREASON FELONY.

violent felony. See violent offense under OFFENSE(1).

2.Hist. At common law, an offense for which conviction results in forfeiture of the defendant's lands or goods (or both) to the Crown, regardless of whether any capital or other punishment is mandated. • At early common law, the term felony included any offense for which a defendant who fled before trial could be summarily convicted, attainted, and outlawed, or that carried a right of appeal after conviction. Although treason carried the same penalties as a common-law felony, it was usu. defined as a separate class of crime. 3.Hist. Feudal law. A grave act that resulted in the forfeiture of land granted by a superior.

FELONY-DE-SE

felony-de-se. See SUICIDE(1).

FELONY INJURY TO A CHILD

felony injury to a child. The act of causing or allowing a child to suffer in circumstances likely to produce great bodily harm or death, or inflicting unjustifiable pain or mental suffering in those circumstances.

FELONY MURDER

felony murder. See MURDER.

FELONY-MURDER RULE

felony-murder rule. The doctrine holding that any death resulting from the commission or attempted commission of a felony is murder. • Most states restrict this rule to inherently dangerous felonies such as rape, arson, robbery, and burglary. Cf. MISDEMEANOR-MANSLAUGHTER RULE. [Cases: Homicide 575.]

“[I]t seems fair to suggest that the future of felony murder is uncertain. England, where the doctrine originated, has abolished it. The Model Penal Code recommends its abolition except for the purpose of creating a rebuttable presumption of malice for killings perpetrated during the course of a felony. Although most states have not yet adopted this position, many of the judicial limitations on felony murder discussed above seem to insure that in many states it will be an unusual case in which one is convicted of felony murder, who absent this doctrine, would not have been convicted of murder.” Arnold H. Loewy, *Criminal Law in a Nutshell* 46 (2d ed. 1987).

FEMA

FEMA.abbr. FEDERAL EMERGENCY MANAGEMENT AGENCY.

FEMALE GENITAL MUTILATION

female genital mutilation. 1. Female circumcision. 2. The act of cutting, or cutting off, one or more female sexual organs. • Female genital mutilation is practiced primarily among certain tribes in Africa, but it also occurs among some immigrant populations in the United States and in other Western nations. There are three commonly identified types: sunna, in which the hood of the clitoris is cut off; excision, in which the entire clitoris is cut off; and infibulation, in which the clitoris, the labia minora, and much of the labia majora are cut off. In the United States, Congress has outlawed female genital mutilation, specifically prohibiting the use of a cultural defense for persons accused of performing the act. 18 USCA § 16. — Abbr. FGM. See CULTURAL DEFENSE.

FEM-CRIT

fem-crit. See CRIT.

FEME

feme (fem), n.[Law French] Archaic. 1. A woman. 2. A wife. — Also spelled femme.

feme covert (fem k<<schwa>>v-<<schwa>>rt). [Law French “covered woman”] Archaic. A married woman. • The notion, as Blackstone put it, was that the husband was the one “under whose wing, protection, and cover, she performs every thing.” 1 William Blackstone, Commentaries on the Law of England 430 (1766). See COVERTURE.

feme sole (fem sohl). [Law French] Archaic. 1. An unmarried woman. 2. A married woman handling the affairs of her separate estate. — Also termed (in sense 2) feme sole trader; feme sole merchant.

FEMICIDE

femicide (fem-<<schwa>>-sId).1. The killing of a woman. 2. One who kills a woman.

FEMINIST JURISPRUDENCE

feminist jurisprudence.See JURISPRUDENCE.

FENCE

fence,n.1. A person who receives stolen goods. — Also termed (historically) intaker. [Cases: Receiving Stolen Goods 4. C.J.S. Receiving or Transferring Stolen Goods and Related Offenses §§ 4, 6–7, 12.]

“The receivers of stolen goods almost never ‘know’ that they have been stolen, in the sense that they could testify to it in a courtroom. The business could not be so conducted, for those who sell the goods — the ‘fences’ — must keep up a more respectable front than is generally possible for the thieves.” United States v. Werner, 160 F.2d 438, 441–42 (2d Cir. 1947).

“The typical ‘fence’ takes over the stolen property and pays the thief a price. He purports to ‘buy’ the goods from the thief.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 395 (3d ed. 1982).

2. A place where stolen goods are sold. See RECEIVING STOLEN PROPERTY. 3.LAWFUL FENCE. 4.Scots law. The formal warning to not interrupt or obstruct judicial or legislative proceedings. 5.Scots law. A penalty of forfeiture prescribed in a statute or a contract.

fence,vb. 1. To sell (stolen property) to a fence. 2.Scots law. To open (a legislative or judicial sitting) by warning persons against obstructing or interrupting the legislature or court. 3.Scots law. To threaten with forfeiture as a consequence of violating a law or breaching a contractual promise.

FENCE-MONTH

fence-month.Hist. The summer fawning season when it was unlawful to hunt deer. — Also termed defense-month.

FENCING PATENT

fencing patent.See PATENT(3).

FENERATION

feneration (fen-<<schwa>>-ray-sh<<schwa>>n).Hist. 1. The act or practice of lending money with interest. 2.USURY.

FENUS

fenus (fen-<<schwa>>s), n. [Latin] Roman law. Simple interest.

FENUS NAUTICUM

fenus nauticum.See NAUTICUM FENUS.

FEOD

feod (fyood).1.FEE(2).2.FEUD.

FEODAL

feodal (fyoo-d<<schwa>>l), adj. See FEUDAL.

FEODAL ACTION

feodal action.See FEUDAL ACTION.

FEODALITY

feodality (fyoo-dal-<<schwa>>-tee). See FEALTY.

FEODAL SYSTEM

feodal system.See FEUDALISM.

FEODARUM CONSUETUDINES

feodarum consuetudines (fee-*<<schwa>>*-dair-*<<schwa>>*m [or fyoo-dair-*<<schwa>>*m] kon-sw*<<schwa>>*-t[y]oo-d*<<schwa>>*-neez). See FEUDARUM CONSUETUDINES.

FEODARY

feodary (fyoo-d*<<schwa>>*-ree).Hist. An officer of the Court of Wards who traveled with the escheator from county to county in order to receive royal rents and estimate the value of land tenures for the Crown. See COURT OF WARDS AND LIVERIES .

FEODATORY

feodatory (fyoo-d*<<schwa>>*-tor-ee). See FEUDATORY.

FEODI FIRMA

feodi firma (fee-*<<schwa>>*-dIorfyoo-dIf*<<schwa>>*r-m*<<schwa>>*). See FEE FARM.

FEODI FIRMARIUS

feodi firmarius (fee-*<<schwa>>*-dIorfyoo-dI f*<<schwa>>*r-mair-ee-*<<schwa>>*s).Hist. The tenant of a fee farm.

FEODUM

feodum (fee-*<<schwa>>*-d*<<schwa>>*m orfyoo-d*<<schwa>>*m). [Law Latin] Hist. 1.A fee; a heritable estate.

“Feodum ... A fee; the same as feudum. This is the word uniformly employed by Glanville and Bracton to denote an estate of inheritance, and an estate held of another by service, instead of feudum, which is invariably used by the continental feudists.” 1 Alexander M. Burrill, A Law Dictionary and Glossary 615 (2d ed. 1867).

2. Part of a lord's estate held by a tenant (i.e., a seignior). See SEIGNIORY(2).3. A payment for services rendered.

FEODUM ANTIQUUM

feodum antiquum.See feudum antiquum under FEUDUM.

FEODUM APERTUM

feodum apertum.See feudum apertum under FEUDUM.

FEODUM LAICUM

feodum laicum.See feudum laicum under FEUDUM.

FEODUM MILITIS

feodum militis (fee-*<<schwa>>*-d*<<schwa>>*m orfyoo-d*<<schwa>>*m mil-*<<schwa>>*-tis).Hist. A knight's fee. — Also termed feudum militare.

FEODUM NOBILE

feodum nobile (fee-<<schwa>>-d<<schwa>>m orfyoo-d<<schwa>>m noh-b<<schwa>>-lee).
See feudum nobile under FEUDUM.

FEODUM NOVUM

feodum novum (fee-<<schwa>>-d<<schwa>>m orfyoo-d<<schwa>>m noh-v<<schwa>>m).
See feudum novum under FEUDUM.

FEODUM SIMPLEX

feodum simplex (fee-<<schwa>>-d<<schwa>>m orfyoo-d<<schwa>>m sim-pleks). A fee
simple.

FEODUM TALLIATUM

feodum talliatum (fee-<<schwa>>-d<<schwa>>m orfyoo-d<<schwa>>m tal-ee-ay-t<<
schwa>>m). A fee tail. — Also spelled feudum talliatum.

FEOFF

feoff (fedorfeef), vb. See ENFEOFF.

FEOFFAMENTUM

feoffamentum (fee-[<<schwa>>]-f<<schwa>>-men-t<<schwa>>m). [Law Latin] Hist. See
FEOFFMENT.

FEOFFARE

feoffare (fee-[<<schwa>>]-fair-ee), vb. [Law Latin] Hist. See ENFEOFF.

FEOFFATOR

feoffator (fee-[<<schwa>>]-fay-t<<schwa>>r). [Law Latin] Hist. See FEOFFOR.

FEOFFATUS

feoffatus (fee-[<<schwa>>]-fay-t<<schwa>>s). [Law Latin] Hist. See FEOFFEE.

FEOFFEE

feoffee (fef-eor feef-ee). The transferee of an estate in fee simple; the recipient of a fief.

feoffee to uses.Hist. A person to whom land is conveyed for the use of a third party (called a
cestui que use); one who holds legal title to land for the benefit of another. See CESTUI QUE
USE; GRANT TO USES. Cf. TRUSTEE(1).

FEOFFMENT

feoffment (fef-m<<schwa>>nt orfeef-m<<schwa>>nt).Hist. 1. The act of conveying a
freehold estate; a grant of land in fee simple. — Also termed feoffment with livery of seisin. 2.
The land so granted. 3. The charter that transfers the land. — Also written enfeoffment. — Also

termed deed of feoffment. [Cases: Deeds 21. C.J.S. Deeds §§ 12–13.]

feoffment to uses. An enfeoffment of land to one person for the use of a third party. • The feoffee was bound in conscience to hold the land according to the prescribed use and could derive no benefit from the holding.

“Conveyances of freehold land could originally be made only by a feoffment with livery of seisin. This was a solemn ceremony carried out by the parties entering on the land, and the feoffor, in the presence of witnesses, delivering the seisin to the feoffee either by some symbolic act, such as handing him a twig or sod of earth, or by uttering some words such as ‘Enter into this land and God give you joy’ and leaving him in possession of the land.” Robert E. Megarry & H.W.R. Wade, *The Law of Real Property* 47 (5th ed. 1984).

FEOFFMENT WITH LIVERY OF SEISIN

feoffment with livery of seisin. See FEOFFMENT(1).

FEOFFOR

feoffor (fef- orfeef-<<schwa>>r or -or). The transferor of an estate in fee simple. — Also spelled feoffer.

FEORME

feorme (f<<schwa>>rm). Hist. A portion of the land's produce owed by the grantee to the lord according to the terms of a charter.

FERAE BESTIAE

ferae bestiae (feer-ee bes-tee-ee). [Latin] Roman law. Wild beasts. • Since a wild animal belonged to no one (*res nullius*), its captor acquired ownership by *occupatio*. See OCCUPATIO.

FERAE NATURAE

ferae naturae (feer-ee n<<schwa>>-tyoor-ee), adj. [Latin “of a wild nature”] (Of animals) wild; untamed; undomesticated.

ferae naturae, n. Wild animal. See wild animal under ANIMAL; RULE OF CAPTURE.

FERAL ANIMAL

feral animal. See ANIMAL.

FERC

FERC (f<<schwa>>rk). abbr. FEDERAL ENERGY REGULATORY COMMISSION.

FERC-OUT CLAUSE

FERC-out clause. Oil & gas. A provision in a contract to sell natural gas specifying that if a regulatory agency does not allow the price paid to the producer to be passed on to consumers, either the contract price will be reduced accordingly or the contract will be terminated. — Also

termed regulatory-out clause.

FERDELLA TERRAE

ferdella terrae (f<<schwa>>r-del-<<schwa>> ter-ee). [Latin] Hist. 1. Ten acres of land. 2. A yard-land (20 acres).

FERDFARE

ferdfare (f<<schwa>>rd-fair), n.[fr. Saxon fird “military service” + fare “a going”] Hist. 1.A summons to military service. 2. An exemption from military service. — Also spelled firdfare; fyrdfare.

FERDINGUS

ferdingus (f<<schwa>>r-ding-g<<schwa>>s).Hist. A freeman of the lowest class.

FERES<TT> DOCTRINE

Feres doctrine (feer-is orfeer-eez or fer-ez).Torts. The rule that a member of the military is barred from recovering damages from the United States on a claim brought under the Federal Tort Claims Act for injuries sustained in military service. *Feres v. United States*, 340 U.S. 135, 71 S.Ct. 153 (1950). — Also termed Feres rule. See **ACTIVITY INCIDENT TO SERVICE** . [Cases: United States 78(16).]

FERIA

feria (feer-ee-<<schwa>>), n.[Law Latin] Hist. 1.A weekday. 2. A holiday. 3. See ferial day under DAY. 4. A fair. 5. A ferry.

FERIAE

feriae (feer-ee-I), n. pl.[Latin] Roman law. Religious and public holidays on which Romans suspended politics and lawsuits, and on which slaves enjoyed a partial break from labor.

FERIAL DAY

ferial day.See DAY.

FERLINGUM

ferlingum. See FURLONG.

FERLINGUS

ferlingus. See FURLONG.

FERM

ferm. See FARM.

FERMER

fermer. [Law French] Hist. 1.A lessee, esp. one who holds lands for agricultural purposes. 2.

One who holds something (such as land or an incorporeal right) by the term.

FERPA

FERPA.abbr.FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT.

FERRIAGE

ferrriage (fer-ee-ij).Hist. The toll or fare paid for the transportation of persons or property on a ferry. [Cases: Ferries 31.]

FERRY

ferry,n.1. A boat or vessel used to carry persons or property across water, usu. with fixed terminals and short distances. [Cases: Ferries 2.] 2. The commercial transportation of persons or property across water. [Cases: Ferries 2.] 3. The place where a ferry passes across water, including the continuation of the highway on both sides of the water. [Cases: Ferries 3.] 4. The right, usu. exclusive, given by government franchise, to carry persons or property across water for a fee. — Also termed ferry franchise. [Cases: Ferries 9.]

ferry,vb. To carry persons or property, usu. across water, for a fee.

FERRY FRANCHISE

ferry franchise.See FERRY(4).

FERTILE-OCTOGENARIAN RULE

fertile-octogenarian rule.The legal fiction, assumed under the rule against perpetuities, that a woman can become pregnant as long as she is alive. • The case that gave rise to this fiction was *Jee v. Audley*, 1 Cox 324, 29 Eng. Rep. 1186 (ch. 1787). See W. Barton Leach, *Perpetuities: New Hampshire Defertilizes Octogenarians*, 77 Harv. L. Rev. 729 (1963). — Also termed presumption-of-fertility rule.

“Suppose testator bequeaths in trust to pay the income to A for her life, then to pay the income to the children of A for their lives, and upon the death of the survivor of such children, to pay the principal to the grandchildren of A. At the time of the testator's death A is 79 years old, and she has two children. Believe it or not, it has been held that the remainder to the grandchildren of A is violative of the rule against perpetuities and invalid. The law adopted the conclusive presumption that every person is capable of having children until the day he or she dies, as far as the rule against perpetuities is concerned. Consequently, A could have an additional child who would not be a life in being at the testator's death, and that child could have a child who would be born beyond the permissible period. The result of this hypothesis is to invalidate the remainder to the grandchildren. This situation is sometimes referred to as the case of the ‘fertile octogenarian.’ Remember that the class gift is invalid if it is possible that the interest of any one member of the class can violate the rule.” Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 188 (2d ed. 1984).

FESTING-MAN

festing-man.Hist. A bondsman; a surety. See FRANKPLEDGE.

FESTING-PENNY

festing-penny.Hist. Earnest, or payment, given to a servant when hired.

FESTINUM REMEDIUM

festinum remedium (fes-tĭ-n<<schwa>>m ri-mee-dee-<<schwa>>m). [Latin] Hist. A speedy remedy. • It was used in cases, such as actions for dower or assize, where the redress of injury was given without unnecessary delay.

FESTO<TT> DOCTRINE

Festo doctrine.Patents. The rule that the voluntary narrowing of a patent claim may give rise to prosecution-history estoppel. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 304 F.3d 1289 (Fed. Cir. 2003). [Cases: Patents 168(2.2). C.J.S. Patents § 297.]

FESTUCA

festuca (fes-tyoo-k<<schwa>>).Hist. A rod, staff, or stick used as a pledge (or gage) of good faith by a party to a contract or as a token of conveyance of land. • In Roman law, a festuca was a symbol of ownership. — Also termed fistuca; vindicta. See LIVERY OF SEISIN.

“The wed or gage, however, was capable of becoming a symbol; an object which intrinsically was of trifling value might be given and might serve to bind a contract. Among the Franks, whom we must regard as being for many purposes our ancestors in law, it took the shape of the festuca. Whether this transition from the ‘real’ to the ‘formal’ can be accomplished without the intervention of sacral ceremonies seems doubtful. There are some who regard the festuca as a stout staff which has taken the place of a spear and is a symbol of physical power. Others see in it a little bit of stick on which imprecatory runes have been cut. It is hard to decide such questions, for, especially under the influence of a new religion, symbols lose their old meanings and are mixed up. Popular etymology confounds confusion.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 186 (2d ed. 1899).

FESTUM

festum (fes-t<<schwa>>m). [Latin] A feast-day, holiday, or festival.

FETAL ALCOHOL SYNDROME

fetal alcohol syndrome.A variety of birth defects caused by the mother's alcohol consumption during pregnancy. • The birth defects include facial abnormalities, mental retardation, and growth deficiencies. — Abbr. FAS.

FETIALES

fetiales (fee-shee-ay-leez), n. pl. Roman law. The order of priests whose duties concerned international relations and treaties, including the declaration of war and peace. — Also spelled feciales.

“Feciales [were] ... priests among the Romans, Etruscans, and other ancient nations of Italy, who acted as heralds of peace and war. Their persons were sacred from injury when engaged on any mission to a hostile state, as the persons of ambassadors, and messengers, under a flag of truce, are inviolate in the present time. Their duties in some few particulars resembled those of the heralds of the Middle Ages. The Roman feciales ... formed a kind of college of heralds, instituted by Numa Pompilius, the second king of Rome, about 710 B.C.” Beeton's Illustrated Dictionary of Religion, Philosophy, Politics, and Law 240 (ca. 1880).

FETIAL LAW

fetial law (fee-sh<<schwa>>l). Roman law. A branch of law concerned with matters (such as treaties, embassies, and war declarations) affecting relations between peoples or nations. — Also spelled feacial law. — Also termed jus fetiale.

FETICIDE

feticide (fee-t<<schwa>>-sId). 1. The act or an instance of killing a fetus, usu. by assaulting and battering the mother; esp., the act of unlawfully causing the death of a fetus. 2. An intentionally induced miscarriage. — Also spelled foeticide. — Also termed child destruction. Cf. INFANTICIDE (1). — feticial,adj.

FETTER

fetter,n. (usu. pl.) A chain or shackle for the feet. — fetter,vb.

FETTERING OF PROPERTY

fettering of property.The act of making the disposition or ownership of property more complex so that those with separate interests must cooperate if they are to handle their interests reasonably. • Fettering of property occurs whenever ownership is split into two or more interests, as when present and future interests are divided or when a tenancy in common is created.

FETUS

fetus. A developing but unborn mammal, esp. in the latter stages of development. — Also spelled foetus. Cf. EMBRYO; ZYGOTE.

FEU

feu (fyoo), n.[fr. Law Latin feudum “a fee”] 1. A right to land given to a person in exchange for service to be performed. 2.Scots law. Land held by a vassal in return for an annual payment in money, crops, or services (called feu duty). • This type of tenure was abolished in Scotland in 2000. 3.Scots law. A perpetual grant of land to be held in exchange for grain or money. 4. A perpetual lease for a fixed rent. 5. A piece of land held under a perpetual lease for a fixed rent. — Also spelled few. See FEE(2). — feu,vb. — feu,adj.

“Feu; in Latin feudum, was used to denote the feudal-holding, where the service was purely military; but the term has been used in Scotland in contradistinction to ward-holding, the military tenure of this country ... for, even in the purest ages of the military system, innumerable instances

are to be found of grants of land in the feudal form, where the vassal annually delivered victual, or performed agricultural services to his superior.” William Bell, *Bell's Dictionary and Digest of the Law of Scotland* 456 (George Watson ed., 7th ed. 1890).

feu,vb. Scots law. To grant (land) by feu.

FEU ANNUAL

feu annual.Scots law. The yearly return generated by a feu.

FEUAR

feuar (fyoo-<<schwa>>r), n. Scots law. One who holds a feu. Cf. FEU; VASSAL.

FEU CHARTER

feu charter.Scots law. The charter creating a feu tenure.

FEUD

feud,n. Hist. 1.A heritable estate in land conveyed from a feudal superior to a grantee or tenant, held on the condition of rendering services to the superior.

“It is believed that the forms feud and fief appear in England but late in the day under the influence of foreign books; they never became terms of our law. It is noticeable also that feodum was constantly used in the sense that our fee has when we speak of a lawyer's or doctor's fee; payments due for services rendered, at least if they are permanent periodic payments, are feoda; the judges, for example, receive feoda, not salaries. The etymological problem presented by the English fee seems no easy one, because at the Conquest the would-be Latin feodum or feudum (the d in which has puzzled philologists and does not always appear in Domesday Book) is introduced among a people which already has feoh as a word for property in general and cattle in particular.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 236 n.2 (2d ed. 1899).

impartible feud.An indivisible feud; a feud not subject to partition. See feudum individuum under FEUD.

improper feud.A nonmilitary feud; a feud that is base or servile in nature.

“These were the principal, and very simple, qualities of the genuine or original feuds; being then all of a military nature, and in the hands of military persons: though the feudatories, being under frequent incapacities of cultivating and manuring their own lands, soon found it necessary to commit part of them to inferior tenants But this at the same time demolished the ancient simplicity of feuds; and an inroad being once made upon their constitution, it subjected them, in a course of time, to great varieties and innovations. Feuds came to be bought and sold, and deviations were made from the old fundamental rules of tenure and succession; which were held no longer sacred, when the feuds themselves no longer continued to be purely military. Hence these tenures began now to be divided into feoda propria et impropria, proper and improper feuds” 2 William Blackstone, *Commentaries on the Laws of England* 57–58 (1766).

proper feud. A feud based on military service.

2. The interest of the tenant in the land conveyed. 3. The land itself conveyed. — Also termed (in senses 1, 2 & 3) fee; fief; feod; feude; feudum. 4. An enmity or private war existing between families or clans, esp. as a result of a murder. “Where wrong done to an individual is not regarded as an injury to the entire tribe, the wrongdoer is out of the peace only as regards the wronged party and his kin. The situation created by such wrongful deed is feud (Anglo Saxon foeht, Latin faida). The root meaning of the word is ‘hatred.’ Feud is legally sanctioned hostility. The recognition of feud by the law is found in the fact that revenge taken in lawful feud is not a breach of the peace. It is not a wrongful deed. It furnishes no basis for any claim for fine or punishment. The man slain in lawful feud is not to be avenged nor has compensation to be paid for his slaying.” Munroe Smith, *The Development of European Law* 29 (1928).

blood feud. A state of hostility between families in which one family seeks to avenge the killing of one of its members by killing a member of the other family. See VENDETTA.

“Anglo-Saxon polity preserved, even down to the Norman Conquest, many traces of a time when kinship was the strongest of all bonds. Such a stage of society, we hardly need add, is not confined to any one region of the world or any one race of men... When it puts on the face of strife between hostile kindreds, it is shown in the war of tribal factions, and more specifically in the blood-feud. A man's kindred are his avengers; and, as it is their right and honour to avenge him, so it is their duty to make amends for his misdeeds, or else maintain his cause in fight. Step by step, as the power of the State waxes, the self-centred and self-helping autonomy of the kindred wanes. Private feud is controlled, regulated, put, one may say, into legal harness; the avenging and the protecting clan on the slain and the slayer are made pledges and auxiliaries of public justice.” 1 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 31 (2d ed. 1898).

FEUDAL

feudal, adj. 1. Of, relating to, or growing out of feudalism <feudal law>. 2. Of or relating to a feud <feudal tenure>. — Also spelled (archaically) feodal. Cf. ALLODIAL.

FEUDAL ACTION

feudal action. Hist. A real action; an action that concerned only real property.

FEUDALISM

feudalism (fyood-*l-iz-m*). 1. A landholding system, particularly applying to medieval Europe, in which all are bound by their status in a hierarchy of reciprocal obligations of service and defense. • The lord was obligated to give the vassal (1) some land, (2) protection, and (3) justice. The lord guaranteed the quiet occupation of the land by the vassal and guaranteed to do right if the vassal became involved in a dispute. In return, the vassal owed the lord some type of service, called “tenure” (literally “means of holding”), because the different types of service were the methods by which the vassals held the property. 2. The social, political, and economic system of medieval Europe. — Also termed feudal system; feodal system. —

Blackstone, Commentaries on the Laws of England 46 (1766).

FEUDE

feude. See FEUD.

FEUDEE

feudee (fyoo-dee), n. Hist. The grantee of a feud; a feudal tenant.

FEUDIST

feudist. A writer on feuds (for example, Cujacius, Spelman, Craig).

FEUDORUM LIBRI

Feudorum Libri (fyoo-dor-<<schwa>>m li-brī). [Latin “the books of the feuds”] Hist. The Books of Feuds, a five-book compilation of Lombardic feudal law published in Milan around 1152, during the reign of Henry III. • This unofficial compilation was the main source of tenure law among the nations in Europe. It was widely used in medieval law schools and courts in Italy, France, and Germany. The Feudorum Libri were probably known in England but had little effect other than influencing English lawyers to study their own tenure system more critically. — Also termed *Consuetudines Feudorum*; *Usus Feudorum*.

FEUDUM

feudum (fyoo-d<<schwa>>m). [Law Latin] A fief or feud; a feudum. — Also termed *feodum*; *feum*. Pl. *feuda* (fyoo-d<<schwa>>). See FEUD(1); FIEF; FEE(2).

“The Latin equivalent of *feodum* or *feudum* is the root of the words ‘feudal’ and ‘subinfeudation’. The French form *fief* is favoured by some English historians, but it was not used in law-French.” J.H. Baker, *An Introduction to English Legal History* 256 n.4 (3d ed. 1990).

feudum antiquum (fyoo-d<<schwa>>m an-tī-kw<<schwa>>m), n. [Law Latin “ancient feud”] Hist. 1. A feud that passed to a vassal from an intestate ancestor. 2. A feud that ancestors had possessed for more than four generations. 3. An ancient feud. — Also termed *feodum antiquum* (fee-<<schwa>>-d<<schwa>>m or fyoo-d<<schwa>>m). See FEUD(1). Pl. *feuda antiqua* (fyoo-d<<schwa>> an-tī-kw<<schwa>>).

feudum apertum (fyoo-d<<schwa>>m <<schwa>>-p<<schwa>>r-t<<schwa>>m). Hist. A feud that reverted to the lord because of a tenant's failure of issue, a crime by the tenant, or some other legal cause. — Also termed *feodum apertum*.

feudum burgale (fyoo-d<<schwa>>m b<<schwa>>r-gay-lee). [Law Latin] Hist. Land held feudally by *burgage* tenure — that is, tenure given in exchange for a tenant's watching and warding in a burgh. See WATCH AND WARD.

feudum ex camera aut caverna (fyoo-d<<schwa>>m eks kam-<<schwa>>r-<<schwa>>awt k<<schwa>>-v<<schwa>>r-n<<schwa>>). [Law Latin “feu from a room or hole”] Hist. An annual gift of money, grain, or other items to a deserving person, esp. a soldier.

feodum francum (fyoo-d<<schwa>>m frangk-<<schwa>>m).Hist. A free feud; a feud or fee that was noble and free from talliage and subsidies that vulgar feuds (plebeia feuda) were subject to.

feodum hauberticum (fyoo-d<<schwa>>m haw-b<<schwa>>r-t<<schwa>>-k<<schwa>>m).Hist. A feud that was held on the military service of appearing fully armed when summoned by the lord. See ARRIÈRE-BAN.

feodum improprium (fyoo-d<<schwa>>m im-proh-pree-<<schwa>>m).Hist. A feud that was improper.

feodum individuum (fyoo-d<<schwa>>m in-d<<schwa>>-vij-oo-<<schwa>>m).Hist. A feud that was indivisible and descendible only to the eldest son.

feodum laicum (fyoo-d<<schwa>>m lay-<<schwa>>-k<<schwa>>m).Hist. A lay feud. — Also termed feodum laicum.

feodum ligium (fyoo-d<<schwa>>m lij-ee-<<schwa>>m).Hist. 1. A liege feud; a feud held immediately of the sovereign. 2. A feud for which the vassal owed fealty to his lord against all other persons.

feodum maternum (fyoo-d<<schwa>>m m<<schwa>>-t<<schwa>>r-n<<schwa>>m).Hist. A feud that descended to the feudatory from the maternal side.

feodum militare (fyoo-d<<schwa>>m mil-<<schwa>>-tair-ee).Hist. A knight's feud. • It was held by knight-service and esteemed the most honorable species of tenure. — Also termed feodum militis; (in Norman law) fief d'haubert or fief d'hauberk.

feodum nobile (fyoo-d<<schwa>>m noh-b<<schwa>>-lee).Hist. A feud for which the tenant did guard and owed fealty and homage. — Also termed feodum nobile.

feodum novum (fyoo-d<<schwa>>m noh-v<<schwa>>m). [Law Latin] Hist. A new fee; a fee that began with the person of the feudatory, and that was not acquired by succession. — Also spelled feodum novum.

“For if the feud, of which the son died seised, was really feodum antiquum, or one descended to him from his ancestors, the father could not possibly succeed to it, because it must have passed him in the course of descent, before it could come to the son And if it were feodum novum, or one newly acquired by the son, then only the descendants from the body of the feudatory himself could succeed, by the known maxim of the early feudal constitutions ... which was founded as well upon the personal merit of the vassal, which might be transmitted to his children but could not ascend to his progenitors” 2 William Blackstone, Commentaries on the Laws of England 211–12 (1766).

feodum novum ut antiquum (fyoo-d<<schwa>>m noh-v<<schwa>>m <<schwa>>t an-tI-kw<<schwa>>m).Hist. A new feud held with the qualities of an ancient feud.

feodum paternum (fyoo-d<<schwa>>m p<<schwa>>-t<<schwa>>r-n<<schwa>>m).Hist. 1. A feud that the tenant's paternal ancestors had held for four generations. 2. A feud descendible

only to the heirs on the paternal side. 3. A feud that could be held only by males.

feudum proprium (fyoo-d<<schwa>>m proh-pree-<<schwa>>m).Hist. An original feud that is military in nature and held by military service.

feudum rectum (fyoo-d<<schwa>>m rek-t<<schwa>>m). [Law Latin] Hist. Lands held by military tenure.

feudum simplex (fyoo-d<<schwa>>m sim-pleks). [Law Latin] Hist. FEE SIMPLE.

feudum talliatum (fyoo-d<<schwa>>m tal-ee-ay-t<<schwa>>m). See FEE TAIL.

FEU DUTY

feu duty.Scots law. The annual rent paid by the tenant of a feu. — Also termed ground annual.

FEU FARM

feu farm.Scots law. A tenure of land held in exchange for a specified annual payment (called feu duty). • This type of tenure was converted to a freehold in 2000. — Also termed feu tenure. See FEU DUTY.

FEUHOLDING

feuholding (fyoo-hohl-ding).Hist. A tenancy held by rendering produce or money instead of military service. — Also spelled feu holding.

FEUM

feum. See FEUDUM.

FEU TENURE

feu tenure.See FEU FARM.

FEW

few. See FEU.

FF

ff.abbr.1. And the pages following. 2. (often cap.) FRAGMENTA.

FGA

FGA.abbr.1. Free from general average. 2. Foreign general average.

“F.G.A. means Foreign General Average, and implies that, if goods become liable to general average, the rules to be applied will be those of the port of destination or refuge, i.e., the law of the place where the adjustment is made.” 2 E.W. Chance, *Principles of Mercantile Law* 128 (P.W. French ed., 10th ed. 1951).

FGM

FGM.abbr.FEMALE GENITAL MUTILATION.

FHA

FHA.abbr.1.FARMERS' HOME ADMINISTRATION. 2.FEDERAL HOUSING ADMINISTRATION.

FHA MORTGAGE

FHA mortgage.See MORTGAGE.

FHEO

FHEO.abbr.OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.

FHLB

FHLB.abbr.FEDERAL HOME LOAN BANK.

FHLBB

FHLBB.abbr.Federal Home Loan Bank Board. See FEDERAL HOUSING FINANCE BOARD.

FHLMC

FHLMC.abbr.FEDERAL HOME LOAN MORTGAGE CORPORATION.

FHWA

FHWA.abbr.FEDERAL HIGHWAY ADMINISTRATION.

FIANCER

fiancer (fyahn-say), vb. [Law French] To pledge one's faith.

FIANT

fiant,n. Hist. 1.A decree; commission. 2. A warrant to the Chancery of Ireland for a grant under the great seal.

FIAR

fiar,n. Scots law. One who holds an estate in fee, in contrast to a liferenter.

FIAT

fiat (fee-aht orfee-at orfI-at orfI-<<schwa>>t), n.[Latin "let it be done"] 1. An order or decree, esp. an arbitrary one <judicial fiat>.2. A court decree, esp. one relating to a routine matter such as scheduling <the court requires all motions to contain a fiat — to be filled in by the court — setting the hearing date>. — Also termed fiaunt.

FIAT JUSTITIA

fiat justitia (fI-at j<<schwa>>s-tish-ee-<<schwa>>). [Latin] Hist. Let justice be done. • This

phrase signaled the Crown's commission to the House of Lords to hear an appeal.

“Fiat Justitia, ruat coelum, says another maxim, as full of extravagance as it is of harmony: Go heaven to wreck — so justice be but done: — and what is the ruin of kingdoms, in comparison of the wreck of heaven?” Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* 13–14 n.1 (1823).

FIAT MONEY

fiat money. See MONEY.

FIAT UT PETITUR

fiat ut petitur (fī-at <<schwa>>t pet-<<schwa>>-t<<schwa>>r). [Latin] Let it be done as it is asked. • An order granting a petition.

FIAUNT

fiaunt. See FIAT.

FICA

FICA (fī-k<<schwa>>).abbr.FEDERAL INSURANCE CONTRIBUTIONS ACT.

FICKLE-FIDUCIARY RULE

fickle-fiduciary rule. A rule that requires a partner or employee to forfeit all compensation, bonuses, and other benefits received after breaching a fiduciary duty to the employer or partnership, for as long as the breach continues. • The rule usu. applies to people who are preparing to resign or have resigned to set up a competing business or work for a competitor. Mitigating factors, including an absence of harm to the employer or partnership, are usu. not considered. But a few courts have found that if a strict application of the rule would produce unjustly harsh results, mitigating factors must be taken into account.

FICTA TRADITIO

ficta traditio (fik-t<<schwa>> tr<<schwa>>-dish-ee-oh). [Latin] Scots law. A fictitious delivery. • The phrase invoked the rule that if the parties so intended, an item could be treated as having been delivered to a buyer in possession of it without the need for physical transfer. — Also termed *fictio brevis manus*.

FICTIO

fictio (fik-shee-oh), n. [Latin fr. *ingere* “to feign”] Roman law. A legal fiction; a legal assumption or supposition (such as that the plaintiff was a citizen) necessary to achieve certain legal results that otherwise would not be obtained. • Legal fictions allowed Roman magistrates (*praetors*) to expand the law beyond what was strictly allowed by the *jus civile*. This practice also occurred in English law — for example, the action of common recovery, which allowed a landowner to convey land that by law could not be alienated (such as land held in fee tail). Pl. *fictiones* (fik-shee-oh-nee-z).

FICTIO BREVIS MANUS

fictio brevis manus (fik-shee-oh bree-vis may-n<<schwa>>s). [Law Latin] FICTA TRADITIO .

FICTIO JURIS

fictio juris. See LEGAL FICTION.

FICTION

fiction. See LEGAL FICTION.

FICTIONAL ACTION

fictional action. See collusive action under ACTION(4).

FICTION OF LAW

fiction of law. See LEGAL FICTION.

FICTITIOUS

fictitious, adj. Of or relating to a fiction, esp. a legal fiction.

FICTITIOUS ACTION

fictitious action. See ACTION(4).

FICTITIOUS ISSUE

fictitious issue. See FEIGNED ISSUE.

FICTITIOUS NAME

fictitious name. 1. ASSUMED NAME. 2. ALIAS.

FICTITIOUS PARTY

fictitious party. See PARTY(2).

FICTITIOUS-PAYEE RULE

fictitious-payee rule. Commercial law. The principle that if a drawer or maker issues commercial paper to a payee whom the drawer or maker does not actually intend to have any interest in the instrument, an ensuing forgery of the payee's name will be effective to pass good title to later transferees. — Also termed padded-payroll rule. [Cases: Banks and Banking 148, 174. C.J.S. Banks and Banking §§ 416–417, 419, 421–428, 430–432, 434–438.]

FICTITIOUS PERSON

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

FICTITIOUS PROMISE

fictitious promise. See implied promise under PROMISE.

FICTITIOUS SEISIN

fictitious seisin. See seisin in law under SEISIN.

FIDE-COMMITTEE

fide-committee. A beneficiary; CESTUI QUE TRUST. — Also termed fidei-commissarius.

“In a particular case, a cestuy que trust is called by the Roman law, fideicommissarius. In imitation of this, I have seen him somewhere or other called in English a fide-committee. This term, however, seems not very expressive. A fide-committee, or, as it should have been, a fidei-committee, seems, literally speaking, to mean one who is committed to the good faith of another.” Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* 226 n.1 (1823).

FIDEICOMISO

fideicomiso (fee-day-koh-mee-soh). Mexican law. A trust; esp., a trust that is established for the purpose of acquiring property in Mexico with a Mexican bank as trustee and a non-Mexican (who may be the settlor) as beneficiary. • The property is held in the name of the trust, but the beneficiary has all the rights and obligations of direct ownership, including the power to lease, sell, or devise the property. A Mexican fideicomiso usu. lasts 50 years and can be renewed for 50 more. Cf. FIDEICOMMISSUM.

FIDEI-COMMISSARIUS

fidei-commissarius. See CESTUI QUE TRUST.

FIDEI-COMMISSARY

fidei-commissary (fI-dee-I-kom-<<schwa>>-ser-ee). See CESTUI QUE TRUST.

FIDEICOMMISSARY HEIR

fideicommissary heir. See HEIR.

FIDEICOMMISSARY SUBSTITUTION

fideicommissary substitution. 1. SUBSTITUTION(6). 2. SUBSTITUTION(7).

FIDEICOMMISSUM

fideicommissum (fI-dee-I-k<<schwa>>-mis-<<schwa>>m). [Latin]. 1. Roman law. A direction to an heir asking the heir as a matter of good faith to give some part of the inheritance, such as a particular object, or all the inheritance, to a third party. • A fideicommissum was a device to overcome some of the technicalities of the Roman will. Originally it created a mere moral obligation, but Augustus made it enforceable by legal process. 2. Roman & civil law. An arrangement similar to a trust by which a testator gave property to a person for the benefit of another who could not, by law, inherit property. • Over time, this device was used to tie up

property for generations, and most civil jurisdictions now prohibit or limit it. For example, in Louisiana, an arrangement in which one person bequeaths property to a second with a charge to preserve it and, at death, to restore it to a third person is a prohibited fideicommissum. — Sometimes spelled fidei-commissum. Pl. fideicommissa.

“The many formalities with regard to the institution of heirs and the bequest of legacies, coupled with the fact that many persons, e.g. peregrini, were incapable of being instituted heirs, or of being given a legacy, led, in the late Republic, to testators leaving directions to their heirs in favour of given individuals, which, though not binding at law, they hoped their heirs would, in honour, feel bound to carry out. The beginning of fideicommissa, therefore, was very like the early practice with regard to trusts in English law, and, as in the case of trusts, a time came when trusts were made binding legally as well as morally.... For brevity, the fideicommissum will here be called ‘the trust’, the person upon whom it was imposed (fiduciarius) ‘the trustee’, and the person in whose favour it was imposed (fideicommissarius) ‘the beneficiary’.” R.W. Leage, *Roman Private Law* 252 (C.H. Ziegler ed., 2d ed. 1930).

FIDEJUBERE

fidejubere (fI-dee-y<<schwa>>-beer-ee), vb. [Latin] Roman law. To become a surety. • Forms of this word were spoken by the parties to a stipulatio that bound one party to become a surety for the other; the first party asked, “Do you pledge yourself?” (“fidejubesne?”), and the second responded, “I do pledge myself” (“fidejubeo”). See STIPULATIO.

FIDEJUSSION

fidejussion (fI-di-j<<schwa>>sh-<<schwa>>n). [fr. Latin fidejussio] Roman law. An act by which a person becomes an additional security for another. • The act does not remove the principal's liability but only adds to the surety's security. Fidejussion was one of the three types of adpromission, and the only type remaining in Justinian's law. — Also spelled fidejussio; fideiussio. See ADPROMISSION(1). — fidejussionary,adj.

FIDEJUSSOR

fidejussor (fI-dee-j<<schwa>>s-or or -j<<schwa>>s-<<schwa>>r).1.Roman law. (ital.) A guarantor; a person who binds himself to pay another's debt. 2.Hist. Maritime law. A person who acts as bail for a defendant in the Court of Admiralty. — Also spelled fideiussor. Cf. ADPROMISSOR. — fidejussory,adj.

“The proceedings of the court of admiralty bear much resemblance to those of the civil law, but are not entirely founded thereon; and they likewise adopt and make use of other laws, as occasion requires; such as the Rhodian law, and the laws of Oleron. For the law of England, as has frequently been observed, doth not acknowledge or pay any deference to the civil law considered as such; but merely permits its use in such cases where it judged its determinations equitable, and therefore blends it, in the present instance, with other marine laws The first process in these courts is frequently by arrest of the defendant's person; and they also take recognizances or stipulation of certain fidejussors in the nature of bail, and in case of default may imprison both them and their principal.” 3 William Blackstone, *Commentaries on the Laws of England* 108–09

(1768).

FIDELITAS

fidelitas (fi-del-*<<schwa>>*-tas). [Latin “fidelity”] See FEALTY.

FIDELITATIS SACRAMENTUM

fidelitatis sacramentum (fi-del-i-tay-tis sak-r*<<schwa>>*-men-t*<<schwa>>*m). [Law Latin] Hist. The oath of fealty that a vassal owed to a lord.

FIDELITY AND GUARANTY INSURANCE

fidelity and guaranty insurance. See fidelity insurance under INSURANCE.

FIDELITY BOND

fidelity bond. See BOND(2).

FIDELITY GUARANTY INSURANCE

fidelity guaranty insurance. See fidelity insurance under INSURANCE.

FIDELITY INSURANCE

fidelity insurance. See INSURANCE.

FIDEM FACERE JUDICI

fidem facere judici (fi-d*<<schwa>>*m fay-s*<<schwa>>*-ree joo-di-sI). [Latin] Hist. To convince the judge. • The phrase appeared in reference to the introduction of evidence to prove a case.

FIDEM MENTIRI

fidem mentiri (fi-d*<<schwa>>*m men-tI-rI). [Latin] Hist. To betray faith or fealty. • The term refers to a feudal tenant who did not keep the fealty sworn to the lord.

FIDEPROMISSION

fidepromission (fi-dee-proh-mish-*<<schwa>>*n), n. [Latin “faith-promise”] Roman law. A contract of guaranty by stipulation. • Fidepromission was one of the three types of adpromission. See ADPROMISSION (1); STIPULATION(3). — fidepromissor, n.

FIDES

fides (fi-deez). [Latin] Faith.

FIDES FACTA

fides facta (fi-deez fak-t*<<schwa>>*). [Latin] Hist. Faith-making; faith-pledging. • Among the Franks and Lombards, certain transactions were guaranteed by symbolic, formal acts — making one's faith — such as the giving of a rod when property was transferred. See FESTUCA.

FIDUCIA

fiducia (fi-d[y]oo-shee-*<<schwa>>*), n. [Latin “an entrusting”] Roman law. An early form of transfer of title by way of mortgage, deposit, etc., with a provision for reconveyance upon payment of the debt, termination of the deposit, etc.

“The Roman mortgage (fiducia) fell wholly out of use before the time of Justinian, having been displaced by the superior simplicity and convenience of the hypotheca; and in this respect modern Continental law has followed the Roman.” John Salmond, *Jurisprudence* 443 (Glanville L. Williams ed., 10th ed. 1947).

FIDUCIAL

fiducial,adj. Of, relating to, or characterized by confidence in and reliance on another person or thing *<there must be a fiducial bond between a patient and a doctor>*.

FIDUCIAL RELATIONSHIP

fiducial relationship. See trust relationship under RELATIONSHIP.

FIDUCIARIUS HERES

fiduciarius heres (fi-d[y]oo-shee-air-ee-*<<schwa>>*s heer-eez). [Latin “fiduciary heir”] Roman law. A person formally named an heir in a testament, but in a fiduciary capacity, and charged to deliver the succession to the person designated by the testament.

FIDUCIARIUS TUTOR

fiduciarius tutor (fi-d[y]oo-shee-air-ee-*<<schwa>>*s t[y]oo-t*<<schwa>>*r). Roman law. A fiduciary guardian; a person who by fulfilling a trust to free someone in power became his or her guardian.

FIDUCIARY

fiduciary (fi-d[y]oo-shee-er-ee), n.1. A person who is required to act for the benefit of another person on all matters within the scope of their relationship; one who owes to another the duties of good faith, trust, confidence, and candor *<the corporate officer is a fiduciary to the corporation>*.2. One who must exercise a high standard of care in managing another's money or property *<the beneficiary sued the fiduciary for investing in speculative securities>*. — fiduciary,adj.

“ ‘Fiduciary’ is a vague term, and it has been pressed into service for a number of ends.... My view is that the term ‘fiduciary’ is so vague that plaintiffs have been able to claim that fiduciary obligations have been breached when in fact the particular defendant was not a fiduciary *stricto sensu* but simply had withheld property from the plaintiff in an unconscionable manner.” D.W.M. Waters, *The Constructive Trust* 4 (1964).

dilatory fiduciary (dil-*<<schwa>>*-tor-ee). A trustee or other fiduciary who is unreasonably slow in administering an estate.

successor fiduciary. A fiduciary who is appointed to succeed or replace a prior one.

temporary fiduciary. An interim fiduciary appointed by the court until a regular fiduciary can be appointed.

FIDUCIARY BOND

fiduciary bond. See BOND(2).

FIDUCIARY CONTRACT

fiduciary contract. Hist. An agreement by which one party delivers something to another on condition that the second party will return the thing to the first.

FIDUCIARY DEBT

fiduciary debt. A debt founded on or arising from a fiduciary relationship, rather than from a solely contractual relationship.

FIDUCIARY DUTY

fiduciary duty. See DUTY(2).

FIDUCIARY HEIR

fiduciary heir. See HEIR.

FIDUCIARY RELATIONSHIP

fiduciary relationship. See RELATIONSHIP.

FIDUCIARY-SHIELD DOCTRINE

fiduciary-shield doctrine. Corporations. The principle that a corporate officer's act cannot be the basis for jurisdiction over the officer in an individual capacity. [Cases: Courts 12(2.20). C.J.S. Courts § 47.]

FIEF

fief (feef), n. 1. FEE(2). 2. FEUD. • Metaphorically, the term refers to an area of dominion, esp. in a corporate or governmental bureaucracy.

FIEF D'HAUBERK

fief d'hauberk (feef doh-bairk). See feudum militare under FEUDUM.

FIEF D'HAUBERT

fief d'haubert. See feudum militare under FEUDUM.

FIEF-TENANT

fief-tenant. Hist. The holder of a fief or fee; a feeholder or freeholder.

FIELD AUDIT

field audit. See AUDIT.

FIELD BOOK

field book. A log or book containing a surveyor's notes that are made on-site and that describe by course and distance the running of the property lines and the establishment of the corners of a parcel of land.

FIELD CODE

Field Code. The New York Code of Procedure of 1848, which was the first comprehensive Anglo-American code of civil procedure and served as a model for the Federal Rules of Civil Procedure. • It was drafted by David Dudley Field (1805–1894), a major law-reformer. See code pleading under PLEADING (2).

FIELD NOTES

field notes. The notes in a surveyor's field book.

FIELD OF INVENTION

field of invention. See CLASSIFICATION OF PATENTS(2).

FIELD OF SEARCH

field of search. See CLASSIFICATION OF PATENTS(2).

FIELD-OF-USE RESTRICTION

field-of-use restriction. Intellectual property. A license provision restricting the licensee's use of the licensed property to a defined product or service market or to a designated geographical area.

FIELD SOBRIETY TEST

field sobriety test. See SOBRIETY TEST.

FIELD STOP

field stop. See STOP AND FRISK.

FIELD-WAREHOUSE FINANCING AGREEMENT

field-warehouse financing agreement. The loan agreement in a field-warehousing arrangement.

FIELD WAREHOUSING

field warehousing. An inventory-financing method by which a merchant pledges its inventory, which is in the possession of a third person (a warehouse). • This is a method of financing an inventory that cannot economically be delivered to the creditor or third party. The borrower segregates part of the inventory and places it under the nominal control of a lender or third party, so that the lender has a possessory interest. Cf. floor-plan financing under FINANCING; PLEDGE.

“Field warehousing is a way of bringing about the security relationship of a pledge. It is an arrangement for allowing the pledgor a more convenient access to the pledged goods, while the goods are actually in the custody and control of a third person on the pledgor's premises.” *Business Factors, Inc. v. Taylor-Edwards Warehouse & Transfer Co.*, 585 P.2d 825, 828 (Wash. Ct. App. 1978).

“Field warehousing is ... an arrangement whereby a wholesaler, manufacturer, or merchant finances his business through the pledge of goods remaining on his premises. The arrangement is valid and effective where there is an actual delivery to the warehouseman by the bailor who has hired the warehouseman and given him exclusive possession of the warehouse goods.” *In re Covington Grain Co.*, 638 F.2d 1362, 1365 (5th Cir. 1981).

FIERDING COURT

fierding court (fy<<schwa>>r-ding orfeer-ding).Hist. An ancient court of inferior jurisdiction.
• Four courts were in each district or hundred.

FIERI

fieri (fI-<<schwa>>-rI). [Latin] To be made; to be done. • Fieri usu. appears as part of the phrase in fieri. See IN FIERI.

FIERI FACIAS

fieri facias (fI-<<schwa>>-rIfay-shee-<<schwa>>s). [Latin “that you cause to be done”] A writ of execution that directs a marshal or sheriff to seize and sell a defendant's property to satisfy a money judgment. — Abbr. fi. fa.; Fi. Fa. Cf. LEVARI FACIAS. [Cases: Execution 1, 15. C.J.S. Executions §§ 2, 15, 18.]

“It receives its name from the Latin words in the writ (quod fieri facias de bonis et catallis, that you cause to be made of the goods and chattels). It is the form of execution in common use in levying upon the judgment-debtor's personal property.” John Bouvier, *Bouvier's Law Dictionary* (8th ed. 1914).

“The writ of ‘fieri facias’ (commonly called a writ of ‘fi fa’), which commanded literally ‘that you cause to be made,’ was an early common-law means of enforcing payment on a judgment; it was, in effect, an order to the sheriff of the court to enforce a judgment against the debtor by levy, seizure, and sale of his personalty to the extent needed to satisfy a judgment.” 30 *Am. Jur. 2d Executions and Enforcement of Judgments* § 14, at 50–51 (1994).

fieri facias de bonis ecclesiasticis (fI-<<schwa>>-rIfay-shee-<<schwa>>s dee boh-nis e-klee-z[h]ee-as-t<<schwa>>-sis). [Latin “that you cause to be made of the ecclesiastical goods”] Hist. A writ of execution — used when the defendant was a beneficed clerk who had no lay fee — that commanded the bishop to satisfy the judgment from the ecclesiastical goods and chattels of the defendant within the diocese. • This was accomplished by issuing a sequestration to levy the debt out of the defendant's benefice. This writ was issued after a fieri facias had been returned nulla bona.

fieri facias de bonis propriis (fī-⟨schwa⟩-rIfay-shee-⟨schwa⟩s dee boh-nis proh-pree-is). [Latin “that you cause to be made of his own goods”] Hist. A writ that executes on an executor's property when a writ fieri facias de bonis testatoris is returned by the sheriff nulla bona or devastavit (a wasting of the testator's goods by the executor).

fieri facias de bonis testatoris (fī-⟨schwa⟩-rIfay-shee-⟨schwa⟩s dee boh-nis tes-t⟨schwa⟩-tor-is). [Latin “that you cause to be made of the testator's goods”] Hist. A writ of execution served on an executor for a debt incurred by the testator.

FIERI FECI

fieri feci (fī-⟨schwa⟩-rIfee-sI). [Latin “I have caused to be made”] Hist. A sheriff's return on a fieri facias where the sheriff has collected, in whole or in part, the sum to be levied on. • The return is usu. expressed by the word “satisfied.”

FI. FA.

fi. fa.(sometimes cap.) abbr.FIERI FACIAS.

FIFO

FIFO (fī-foh).abbr.FIRST-IN, FIRST-OUT.

FIFRA

FIFRA.abbr.Federal Insecticide, Fungicide, and Rodenticide Act. 7 USCA §§ 136–136y.

FIFTEENTH

fifteenth.Hist. A tax of one-fifteenth of all the personal property of every subject. • The tax was levied at intervals by act of Parliament. Under Edward III, the value of the fifteenth was assessed and fixed at a specific sum and did not increase as the wealth of the kingdom increased — thus the tax ceased to actually be one-fifteenth.

FIFTEENTH AMENDMENT

Fifteenth Amendment.The constitutional amendment, ratified in 1870, guaranteeing all citizens the right to vote regardless of race, color, or prior condition of servitude. [Cases: Constitutional Law 82(8).C.J.S. Constitutional Law §§ 461–462, 612, 614–619, 624–626.]

FIFTH AMENDMENT

Fifth Amendment.The constitutional amendment, ratified with the Bill of Rights in 1791, providing that a person cannot be (1) required to answer for a capital or otherwise infamous offense unless a grand jury issues an indictment or presentment, (2) subjected to double jeopardy, (3) compelled to engage in self-incrimination on a criminal matter, (4) deprived of life, liberty, or property without due process of law, or (5) deprived of private property for public use without just compensation. [Cases: Witnesses 297. C.J.S. Witnesses § 522.]

FIFTH AMENDMENT, PLEAD THE

Fifth Amendment, plead the. See TAKE THE FIFTH.

FIFTH AMENDMENT, TAKE THE

Fifth Amendment, take the. See TAKE THE FIFTH.

FIFTY DECISIONS

Fifty Decisions. Justinian's rulings that settled controversies and eliminated obsolete rules in the law. • The decisions were made in preparation for Justinian's Digest. — Also termed (in Latin) Quinquaginta Decisiones.

50 PERCENT PLUS ONE

50 percent plus one. See HALF PLUS ONE.

50-PERCENT RULE

50-percent rule. The principle that liability for negligence is apportioned in accordance with the percentage of fault that the fact-finder assigns to each party, that the plaintiff's recovery will be reduced by the percentage of negligence assigned to the plaintiff, and that the plaintiff's recovery is barred if the plaintiff's percentage of fault is 50% or more. — Also termed modified-comparative-negligence doctrine. Cf. PURE-COMPARATIVE-NEGLIGENCE DOCTRINE. See comparative negligence under NEGLIGENCE; APPORTIONMENT OF LIABILITY. [Cases: Negligence 549(10).]

FIGHTING AGE

fighting age. See AGE.

FIGHTING WORDS

fighting words. 1. Inflammatory speech that might not be protected by the First Amendment's free-speech guarantee because it might incite a violent response. [Cases: Constitutional Law 90.1(1); Disorderly Conduct 1. C.J.S. Constitutional Law §§ 461, 501–503, 539–543, 548–554, 561, 565, 572, 582–584, 603–605, 608, 610; Disorderly Conduct §§ 2–5.] 2. Inflammatory speech that is pleadable in mitigation — but not in defense — of a suit for assault. [Cases: Assault and Battery 66. C.J.S. Assault and Battery § 86.] — Also termed fighting talk.

FIGHTWITE

fightwite (fIt-wIt). Hist. A fine imposed against one who participated in a breach of the peace.

FILACER

filacer (fil-*<<schwa>>-s<<schwa>>r*). Hist. An officer of the Westminster superior courts who filed the writs on which process was made. • The office was abolished in 1837. — Also spelled filazer.

FILACIUM

filacium. See FILUM.

FILARE

filare (fi-lair-ee), vb. [Law Latin] Hist. To file.

FILAZER

filazer. See FILACER.

FILE

file,n.1. A court's complete and official record of a case <the associate went to the courthouse to verify that the motion is in the file>.2. A lawyer's complete record of a case <the paralegal stored the file in three drawers in her office>.3. A portion or section of a lawyer's case record < the janitor found the correspondence file behind the copy machine>.4. A case <Jonah was assigned the Watson file after Amy left the firm>.

file,vb. 1. To deliver a legal document to the court clerk or record custodian for placement into the official record <Tuesday is the deadline for filing a reply brief>. — Also termed (in BrE) lodge. 2. To commence a lawsuit <the seller threatened to file against the buyer>.3. To record or deposit something in an organized retention system or container for preservation and future reference <please file my notes under the heading “research”>.4.Parliamentary law. To acknowledge and deposit (a report, communication, or other document) for information and reference only without necessarily taking any substantive action.

FILE HISTORY

file history.See FILE WRAPPER.

FILED-RATE DOCTRINE

filed-rate doctrine.A common-law rule forbidding a regulated entity, usu. a common carrier, to charge a rate other than the one on file with the appropriate federal regulatory authority, such as (formerly) the Interstate Commerce Commission. — Also termed filed-tariff doctrine. See TARIFF (3). [Cases: Carriers 189; Public Utilities 119.1. C.J.S. Aeronautics and Aerospace § 231; Carriers §§ 470–472, 474.]

FILE-TRANSFER PROTOCOL

file-transfer protocol.A set of programmed rules enabling computers to exchange files over the Internet. — Abbr. FTP.— Also termed file-transport protocol.

FILE WRAPPER

file wrapper.Patents & trademarks. The complete record of proceedings in the Patent and Trademark Office from the initial application to the issued patent or registered trademark; specif., a patent or trademark application together with all documentation, correspondence, and any other record of proceedings before the PTO concerning that application. — Also termed file history; prosecution history. Cf. CERTIFIED FILE HISTORY. [Cases: Patents 168(1), 168(2). C.J.S. Patents §§ 283, 294–295, 299.]

FILE-WRAPPER CONTINUATION

file-wrapper continuation.1.CONTINUATION. 2.CONTINUATION-IN-PART. — Abbr. FWC.

FILE-WRAPPER CONTINUATION APPLICATION

file-wrapper continuation application.1.CONTINUATION. 2.CONTINUATION-IN-PART T.

FILE-WRAPPER ESTOPPEL

file-wrapper estoppel.See prosecution-history estoppel under ESTOPPEL.

FILIA

filia (fil-ee-<<schwa>>), n.[Latin] A daughter. Pl. filiae.

FILIAL CONSORTIUM

filial consortium.See CONSORTIUM.

FILIALITY

filiality. See FILIATION(1).

FILIATED FATHER

filiated father.See FATHER.

FILIATION

filiation (fil-ee-ay-sh<<schwa>>n).1. The fact or condition of being a son or daughter; relationship of a child to a parent. • Despite Bentham's protest (see below), filiation is usual in this sense. — Also termed filiality.

“In English we have no word that will serve to express with propriety the person who bears the relation opposed to that of parent. The word child is ambiguous, being employed in another sense, perhaps more frequently than in this: more frequently in opposition to a person of full age, an adult, than in correlation to a parent. For the condition itself we have no other word than filiation: an ill-contrived term, not analogous to paternity and maternity: the proper term would have been filiality: the word filiation is as frequently, perhaps, and more consistently, put for the act of establishing a person in the possession of the condition of filiality.” Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* 276 n.2 (1823).

2. Judicial determination of paternity. See PATERNITY; filiated father under FATHER. [Cases: Children Out-of-Wedlock 30–75. C.J.S. Children Out-of-Wedlock §§ 41, 46–52, 67, 70–141.]

FILIATION ORDER

filiation order.See ORDER(2).

FILIBUSTER

filibuster (fil-*schwa*-b*schwa*-s-t*schwa*-r), n.1. A dilatory tactic, esp. prolonged and often irrelevant speechmaking, employed in an attempt to obstruct legislative action. • The filibuster is common in the U.S. Senate, where the right to debate is usu. unlimited and where a filibuster can be terminated only by a cloture vote of two-thirds of all members. 2. In a deliberative body, a member in the minority who resorts to obstructive tactics to prevent the adoption of a measure or procedure that is favored by the majority. — Also termed filibusterer. 3.Hist. A person who, together with others, works to invade and revolutionize a foreign state in disregard of international law. See CLOTURE. — filibuster,vb.

FILICIDE

filicide (fil-i-sId).1. A person who kills his or her own child. 2. The act of killing one's own child. Cf. INFANTICIDE(1).

FILING

filing,n. A particular document (such as a pleading) in the file of a court clerk or record custodian <the lawyer argued that the plaintiff's most recent filing was not germane to the issue before the court>. [Cases: Federal Civil Procedure 664; Pleading 331. C.J.S. Pleading §§ 570, 572, 574–576, 578.]

FILING DATE

filing date.See DATE.

FILING FEE

filing fee.A sum of money required to be paid to the court clerk before a proceeding can start. [Cases: Clerks of Courts 17, 47.]

FILING STATUS

filing status.Tax. One of the four categories under which a person files an income tax return. • Under federal law, the four categories are: (1) single; (2) head of household; (3) married filing a joint return; and (4) married filing separate returns. [Cases: Internal Revenue 3549, 4481.C.J.S. Internal Revenue §§ 335, 637.]

FILIOLUS

filiolus (fil-ee-oh-l*schwa*-s). [Latin] Hist. A godson. — Also spelled (in old records) filious.

FILIUS

filius (fil-ee-*schwa*-s), n.[Latin] 1. A son. 2. (pl.) Descendants. Pl. filii.Cf. HERES.

FILIUSFAMILIAS

filiusfamilias (fil-ee-*schwa*-s-f*schwa*-mil-ee-as), n. [Latin “the son of a family”] Roman law. An unemancipated son or daughter, grandson or granddaughter. — Also termed homo alieni juris.

“Every Roman citizen is either a paterfamilias or a filiusfamilias, according as he is free from paternal power (homo sui juris) or not (homo alieni juris). Paterfamilias is the generic name for a homo sui juris, whether child or adult, married or unmarried. Filiusfamilias is the generic name for a homo alieni juris, whether son or daughter, grandson or granddaughter, and so on.” Rudolph Sohm, *The Institutes: A Textbook of the History and System of Roman Private Law* 177 (James Crawford Ledlie trans., 3d ed. 1907).

FILIUS MULIERATUS

filius mulieratus (fil-ee-<<schwa>>s myoo-lee-<<schwa>>-ray-t<<schwa>>s). [Law Latin] Hist. The eldest legitimate son of a woman who previously had an illegitimate son by the same father; a legitimate son whose older brother is illegitimate; MULIER PUISNE. Cf. bastard eisme under EISNE.

FILIUS NULLIUS

filius nullius (fil-ee-<<schwa>>s n<<schwa>>-ll-<<schwa>>s). [Latin “son of nobody”] Hist. An illegitimate child. — Also termed filius populi.

“I proceed next to the rights and incapacities which appertain to a bastard. The rights are very few, being only such as he can acquire; for he can inherit nothing, being looked upon as the son of nobody; and sometimes called filius nullius, sometimes filius populi.” 1 William Blackstone, *Commentaries on the Laws of England* 447 (1765).

FILIUS POPULI

filius populi. See FILIUS NULLIUS.

FILLA

filla (fil-<<schwa>>). Hist. The ribbon from which a seal hangs at the bottom of deeds and other legal documents.

FILL A BLANK

fill a blank. Parliamentary law. To replace a blank in a motion with one or more proposals from the floor. See BLANK.

FILL-OR-KILL ORDER

fill-or-kill order. See ORDER(8).

FILUM

filum (fī-l<<schwa>>m). [Latin “thread”] Hist. 1. A thread or wire that holds (esp. legal) papers together to form a file. • This was the ancient method of filing legal papers. 2. An imaginary thread or line passing through the middle of a stream or road. — Also termed (in sense 1) filacium.

filum aquae (fī-l<<schwa>>m ay-kwee). [Latin “thread of water”] A line of water; the middle line of a stream of water, supposedly dividing it into two equal parts and usu. constituting the

boundary between the riparian owners on each side. — Also termed medium filum. [Cases: Boundaries 12. C.J.S. Boundaries § 25.]

filum forestae (fĭ-l<<schwa>>m for-<<schwa>>-stee). [Latin] The border of a forest.

filum viae (fĭ-l<<schwa>>m vĭ-ee). [Latin] 1. The middle line of a road. 2. The boundary between landowners on each side of a road. [Cases: Boundaries 19. C.J.S. Boundaries § 33.]

medium filum. See filum aquae.

FINABLE

finable (fĭ-n<<schwa>>-b<<schwa>>l), adj. Liable to a fine; subject to having to pay a fine. — Also spelled fineable.

FINAL

final, adj. 1. (Of a judgment at law) not requiring any further judicial action by the court that rendered judgment to determine the matter litigated; concluded. 2. (Of an equitable decree) not requiring any further judicial action beyond supervising how the decree is carried out. • Once an order, judgment, or decree is final, it may be appealed on the merits. Cf. INTERLOCUTORY.

final and conclusive. Terminal and unappealable, except on grounds of procedural error, fraud, or mistake.

FINAL AGENDA

final agenda. See AGENDA.

FINAL ALIMONY

final alimony. See permanent alimony under ALIMONY.

FINAL AND CONCLUSIVE

final and conclusive. See FINAL.

FINAL APPEALABLE JUDGMENT

final appealable judgment. See final judgment under JUDGMENT.

FINAL APPEALABLE ORDER

final appealable order. See final judgment under JUDGMENT.

FINAL ARGUMENT

final argument. See CLOSING ARGUMENT.

FINAL CONCORD

final concord. See CONCORD.

FINAL DECISION

final decision. See final judgment under JUDGMENT.

FINAL-DECISION RULE

final-decision rule. See FINAL-JUDGMENT RULE.

FINAL DECREE

final decree. See final judgment under JUDGMENT.

FINAL INJUNCTION

final injunction. See permanent injunction under INJUNCTION.

FINALIS CONCORDIA

finalis concordia (fi-nay-lis k<<schwa>>n-kor-dee-<<schwa>>). [Latin] A final or conclusive agreement. See final concord under CONCORD; FINE(1).

FINALITY DOCTRINE

finality doctrine. The rule that a court will not judicially review an administrative agency's action until it is final. — Also termed final-order doctrine; doctrine of finality; principle of finality. Cf. FINAL-JUDGMENT RULE ; INTERLOCUTORY APPEALS ACT. [Cases: Administrative Law and Procedure 704. C.J.S. Public Administrative Law and Procedure §§ 204–205.]

FINALITY RULE

finality rule. See FINAL-JUDGMENT RULE.

FINAL JUDGMENT

final judgment. See JUDGMENT.

FINAL-JUDGMENT RULE

final-judgment rule. The principle that a party may appeal only from a district court's final decision that ends the litigation on the merits. • Under this rule, a party must raise all claims of error in a single appeal. 28 USCA § 1291. — Also termed final-decision rule; finality rule. Cf. FINALITY DOCTRINE ; INTERLOCUTORY APPEALS ACT. [Cases: Appeal and Error 66; Federal Courts 571. C.J.S. Appeal and Error § 81.]

FINAL-OFFER ARBITRATION

final-offer arbitration. See ARBITRATION.

FINAL OFFICE ACTION

final office action. See OFFICE ACTION.

FINAL ORDER

final order. See ORDER(2).

FINAL-ORDER DOCTRINE

final-order doctrine. See FINALITY DOCTRINE.

FINAL PEACE

final peace. See final concord under CONCORD.

FINAL PROCESS

final process. See PROCESS.

FINAL RECEIVER'S RECEIPT

final receiver's receipt. The government's acknowledgment that it has received full payment from a person for public land, that it holds the legal title in trust for the person, and that it will in due course issue the person a land patent. [Cases: Public Lands 110. C.J.S. Public Lands §§ 134–136.]

FINAL REJECTION

final rejection. See REJECTION.

FINAL SETTLEMENT

final settlement. See SETTLEMENT(2).

FINANCE

finance, n.1. That aspect of business concerned with the management of money, credit, banking, and investments <after a brief career in finance, Andrea decided to go to law school>.2. The science or study of the management of money, etc. <Bill sought a degree in finance because he wanted to be an investment banker>.

finance, vb. To raise or provide funds.

FINANCE BILL

finance bill. See BILL(6).

FINANCE CHARGE

finance charge. An additional payment, usu. in the form of interest, paid by a retail buyer for the privilege of purchasing goods or services in installments. • This phrase is increasingly used as a euphemism for interest. See INTEREST(3). [Cases: Consumer Credit 52; Usury 53. C.J.S. Interest and Usury; Consumer Credit §§ 162, 165–168, 328.]

FINANCE COMPANY

finance company. A nonbank company that deals in loans either by making them or by purchasing notes from another company that makes the loans directly to borrowers.

commercial finance company. A finance company that makes loans to manufacturers and

wholesalers. — Also termed commercial credit company.

consumer finance company.A finance company that deals directly with consumers in extending credit. — Also termed small-loan company. [Cases: Consumer Credit 3. C.J.S. Interest and Usury; Consumer Credit §§ 280–293, 306.]

sales finance company.A finance company that does not deal directly with consumers but instead purchases consumer installment paper arising from the sale of consumer durables “on time.” — Also termed acceptance company.

FINANCE LEASE

finance lease.See LEASE.

FINANCE OFFICER

finance officer.See TREASURER.

FINANCIAL ACCOUNTING

financial accounting.See ACCOUNTING(1).

FINANCIAL ACCOUNTING STANDARDS BOARD

Financial Accounting Standards Board.The independent body of accountants responsible for establishing, interpreting, and improving standards for financial accounting and reporting. — Abbr. FASB. [Cases: Accountants 5. C.J.S. Accountants §§ 6–10.]

FINANCIAL ASSET

financial asset.See current asset under ASSET.

FINANCIAL CONTRACT

financial contract.See CONTRACT.

FINANCIAL-CORE MEMBERSHIP

financial-core membership.Union membership in which a private-company employee pays the union's initiation fees and periodic dues but is not a full union member. • Financial-core membership is allowed only in states without a right-to-work law, where a union-security contract clause can require employees to pay financial-core membership dues but cannot require full union membership. The dues are limited to the amount required to support the union's representational activities, such as collective bargaining. See *Communications Workers of Am. v. Beck*, 487 U.S. 735, 744, 108 S.Ct. 2641, 2648 (1988). — Also termed (in public-employment sector) fair-share membership; agency-shop membership. See UNION-SECURITY CLAUSE.

FINANCIAL CRIMES ENFORCEMENT NETWORK

Financial Crimes Enforcement Network.A unit in the U.S. Department of the Treasury responsible for supporting law-enforcement efforts against domestic and international financial crimes. — Abbr. FinCEN.

FINANCIAL DEREGULATION

financial deregulation. See DEREGULATION.

FINANCIAL FUTURES

financial futures. See FUTURES(1).

FINANCIAL INSTITUTION

financial institution. A business, organization, or other entity that manages money, credit, or capital, such as a bank, credit union, savings-and-loan association, securities broker or dealer, pawnbroker, or investment company.

FINANCIAL INTEREST

financial interest. See INTEREST(2).

FINANCIAL INTERMEDIARY

financial intermediary. A financial entity — usu. a commercial bank — that advances the transfer of funds between borrowers and lenders, buyers and sellers, and investors and savers.

FINANCIAL MANAGEMENT SERVICE

Financial Management Service. A unit in the U.S. Department of the Treasury responsible for developing and managing systems for moving the U.S. government's cash by assisting other agencies in collecting and disbursing funds; collecting and publishing financial information; and collecting delinquent debts. — Abbr. FMS.

FINANCIAL MARKET

financial market. See MARKET.

FINANCIAL PLANNER

financial planner. A person whose business is advising clients about personal finances and investments. • Upon completing a certification program, such a person is called a certified financial planner. — Abbr. CFP.

FINANCIAL REPORT

financial report. See FINANCIAL STATEMENT.

FINANCIAL-RESPONSIBILITY ACT

financial-responsibility act. A state statute conditioning license and registration of motor vehicles on proof of insurance or other financial accountability. [Cases: Automobiles 43; Insurance 2737. C.J.S. Insurance §§ 1027, 1031; Motor Vehicles §§ 223–224.]

FINANCIAL-RESPONSIBILITY CLAUSE

financial-responsibility clause. Insurance. A provision in an automobile insurance policy

stating that the insured has at least the minimum amount of liability insurance coverage required by a state's financial-responsibility law. [Cases: Insurance 2737, 2756. C.J.S. Insurance §§ 422, 1027, 1031.]

FINANCIAL RESTATEMENT

financial restatement. A report correcting material errors in a financial statement, esp. to adjust profits and losses after an accounting procedure has been disallowed.

FINANCIALS

financials. Slang. Financial statements.

FINANCIAL SECRETARY

financial secretary. 1. SECRETARY. 2. TREASURER.

FINANCIAL SERVICES AGENCY

Financial Services Agency. The regulatory body that oversees the United Kingdom's financial-services industry, including exchanges and related entities. — Formerly termed Securities and Investment Board.

FINANCIAL STATEMENT

financial statement. 1. A balance sheet, income statement, or annual report that summarizes an individual's or organization's financial condition on a specified date or for a specified period by reporting assets and liabilities. — Also termed financial report. Cf. FINANCING STATEMENT.

certified financial statement. A financial statement examined and reported by an independent public or certified public accountant. SEC Rule 12b-2 (17 CFR § 240.12b-2).

consolidated financial statement. The financial report of a company and all its subsidiaries combined as if they were a single entity.

2. INCOME-AND-EXPENSE DECLARATION.

FINANCING

financing, n. 1. The act or process of raising or providing funds. 2. Funds that are raised or provided. — finance, vb.

asset-based financing. A method of lending in which lenders and investors look primarily to the cash flow from a particular asset for repayment.

construction financing. See interim financing.

debt financing. The raising of funds by issuing bonds or notes or by borrowing from a financial institution.

equity financing. 1. The raising of funds by issuing capital securities (shares in the business) rather than making loans or selling bonds. 2. The capital so raised.

floor-plan financing. A loan that is secured by merchandise and paid off as the goods are sold. • Usu. such a loan is given by a manufacturer to a retailer or other dealer (as a car dealer). — Also termed floor planning. Cf. FIELD WAREHOUSING.

gap financing. Interim financing used to fund the difference between a current loan and a loan to be received in the future, esp. between two long-term loans. See bridge loan under LOAN.

interim financing. A short-term loan secured to cover certain major expenditures, such as construction costs, until permanent financing is obtained. — Also termed construction financing.

internal financing. A funding method using funds generated through the company's operations rather than from stock issues or bank loans.

link financing. The obtaining of credit by depositing funds in another's bank account to aid the other in obtaining a loan.

outside financing. The raising of funds by selling stocks (equity financing) or bonds (debt financing).

permanent financing. A long-term loan obtained to repay an interim loan, such as a mortgage loan that is used to repay a construction loan.

project financing. A method of funding in which the lender looks primarily to the money generated by a single project as security for the loan. • This type of financing is usu. used for large, complex, and expensive single-purpose projects such as power plants, chemical-processing plants, mines, and toll roads. The lender is usu. paid solely or primarily from the money generated by the contracts for the facility's output (sometimes paid by customers directly into an account maintained by the lender), such as the electricity sold by a power plant. The lender usu. requires the facility to be developed and owned by a special-purpose entity (sometimes called a bankruptcy-remote entity), which can be a corporation, limited partnership, or other legal entity, that is permitted to perform no function other than developing, owning, and operating the facility. See SINGLE-PURPOSE PROJECT; SPECIAL-PURPOSE ENTITY; BANKRUPTCY-REMOTE ENTITY.

FINANCING AGENCY

financing agency. See AGENCY(1).

FINANCING STATEMENT

financing statement. A document filed in the public records to notify third parties, usu. prospective buyers and lenders, of a secured party's security interest in goods or real property. See UCC § 9-102(a)(39). Cf. FINANCIAL STATEMENT . [Cases: Secured Transactions 92. C.J.S. Secured Transactions §§ 65–66.]

FINCEN

FinCEN. abbr. FINANCIAL CRIMES ENFORCEMENT NETWORK.

FIND

find,vb. To determine a fact in dispute by verdict or decision <find guilty> < found that no duty existed>. Cf. HOLD(2).

FINDER

finder. 1. An intermediary who brings together parties for a business opportunity, such as two companies for a merger, a borrower and a financial institution, an issuer and an underwriter of securities, or a seller and a buyer of real estate. • A finder differs from a broker-dealer because the finder merely brings two parties together to make their own contract, while a broker-dealer usually participates in the negotiations. See INTERMEDIARY. 2. A person who discovers an object, often a lost or mislaid chattel.

FINDER OF FACT

finder of fact.See FACT-FINDER.

FINDER'S FEE

finder's fee. 1. The amount charged by one who brings together parties for a business opportunity. 2. The amount charged by a person who locates a lost or missing item and returns it to its owner.

FINDER'S-FEE CONTRACT

finder's-fee contract.An agreement between a finder and one of the parties to a business opportunity.

FINDING

finding. See FINDING OF FACT.

FINDING OF FACT

finding of fact.A determination by a judge, jury, or administrative agency of a fact supported by the evidence in the record, usually presented at the trial or hearing <he agreed with the jury's finding of fact that the driver did not stop before proceeding into the intersection>. — Often shortened to finding. See FACT-FINDER. Cf. CONCLUSION OF FACT; CONCLUSION OF LAW.

concurrent finding.(usu. pl.) Identical factual findings by two different tribunals on a specific issue of fact.

essential finding.Military law. A military tribunal's determination of a collateral pretrial motion.

general finding.An undifferentiated finding in favor of one party.

special finding. 1. (usu. pl.) A finding of the necessary and ultimate facts to support a judgment in favor of one party. 2.Military law. A military tribunal's finding that directly relates to the determination of guilt or innocence.

FINE

fine,n.1. An amicable final agreement or compromise of a fictitious or actual suit to determine the true possessor of land. • The fine was formerly used as a form of conveyance to disentail an estate. — Also termed final concord; finalis concordia. See FOOT OF THE FINE.

“A peculiar and persistent use of the writ [of covenant] was in levying a fine. A fine — finalis concordia — was the compromise of a suit, settled upon terms approved by the court. The dispute, while it might be a reality, was more often fictitious, and was chiefly used as a means of conveying land... Soon after [Glanvill's] book was written, an innovation was made in the procedure which endured until 1833. The terms of the compromise, agreed by the parties and approved by the judges, were entered upon a threefold indenture, one of the parts being given to each of the litigants and the third — the ‘foot’ or bottom of the document — being kept among the records of the court. The parties thus obtained incontestable evidence and abundant security, and either could sue the other if the agreement were not implemented.” C.H.S. Fifoot, *History and Sources of the Common Law: Tort and Contract* 256 (1949).

“Unlike the recovery, which was a real action, the fine was a compromised fictitious personal action, originally designed as a method of ensuring security in conveyancing and only later being employed for the purpose of barring estates tail. In outline, it operated in the following manner. The intending purchaser brought an action, begun by writ of covenant, against the intending vendor. The parties then applied to the court to compromise the action; by the terms of the compromise (finis) the intending vendor admitted that the land belonged to the intending purchaser because he had given it to him, and the terms of the compromise were recorded in the court records. The fine owed its popularity as a means of conveyancing to two factors, neither of which was present in the standard method of conveyance by means of feoffment. First, the enrolling in the court records provided evidence of the transaction which was both permanent and free from the danger of forgery. Secondly, the effect of the fine was to set running a short period of limitation at the expiration of which all claims to the land were barred. It was this second aspect which made the device attractive as a means of ‘barring’ fees tail.” Peter Butt, *Land Law* 102–03 (2d ed. 1988).

executed fine.Hist. A fine made on acknowledgment of the right of the grantee to land given to him as a gift from the grantor. • This was abolished in England in 1833. 3 & 4 Will. 4, ch. 74.

2.FINE FOR ALIENATION. 3. A fee paid by a tenant to the landlord at the commencement of the tenancy to reduce the rent payments. 4.Hist. A money payment from a tenant to the tenant's lord.

common fine.A sum of money due from a tenant to a lord to defray the cost of a court leet or to allow the litigants to try the action closer to home. — Also termed head-silver.

5. A pecuniary criminal punishment or civil penalty payable to the public treasury. [Cases: Fines 1.5.] — fine,vb.

day fine.A fine payable over time, usu. as a percentage of the defendant's earnings on a weekly or monthly basis.

excessive fine. 1. Criminal law. A fine that is unreasonably high and disproportionate to the offense committed. • The Eighth Amendment proscribes excessive fines. An example of an excessive fine is a civil forfeiture in which the property was not an instrumentality of the crime and the worth of the property was not proportional to the owner's culpability. [Cases: Fines 1.3.]
2. A fine or penalty that seriously impairs one's earning capacity, esp. from a business.

fresh fine. Hist. A fine levied within the past year.

FINEABLE

fineable. See FINABLE.

FINE AND RECOVERY ACT

Fine and Recovery Act. Hist. An English statute, enacted in 1833, that abolished the use of fines as a method of conveying title to land. 3 & 4 Will. 4, ch. 74. See FINE (1).

FINEANNULLANDO

fine annullando levato de tenemento quod fuit de antiquo dominico (a-n<<schwa>>-lan-doh l<<schwa>>-vay-to dee ten-<<schwa>>-men-toh kwod fyoo-it dee an-tl-kwoh d<<schwa>>-min-<<schwa>>-koh). [Latin “a fine to be annulled levied from a tenement which was of ancient demesne”] Hist. A writ for disannulling a conveyance of land in ancient demesne to the lord's prejudice.

FINECAPIENDO PRO TERRIS

fine capiendo pro terris (kap-ee-en-doh proh ter-is). [Latin “a fine to be taken for lands”] Hist. A writ that an imprisoned felon could use in some circumstances to obtain release from jail and to recover lands and goods taken during imprisonment.

FINE FOR ALIENATION

fine for alienation. Hist. A fee paid by a tenant to the lord upon the alienation of a feudal estate and substitution of a new tenant. • It was payable by all tenants holding by knight's service or tenants in capite by socage tenure. — Often shortened to fine.

FINE FOR ENDOWMENT

fine for endowment. Hist. A fee paid by a widow of a tenant to the tenant's lord. • If it was not paid, the widow could not be endowed of her husband's land.

FINEM FACERE

finem facere (fl-n<<schwa>>m fay-s<<schwa>>-ree). [Latin] Hist. 1. To make a composition or compromise; to relinquish a claim in exchange for consideration.

“In the thirteenth century the king's justices wield a wide and a ‘common law’ power of ordering that an offender be kept in custody. They have an equally wide power of discharging him upon his ‘making fine with the king.’ We must observe the language of the time. In strictness they have no power to ‘impose a fine.’ No tribunal of this period, unless we are mistaken, is ever said

to impose a fine. To order the offender to pay so much money to the king — this the judge may not do. If he did it, he would be breaking or evading the Great Charter, for an amercement should be affeered, not by royal justices, but by neighbours of the wrong-doer. What the judges can do is this: — they can pronounce a sentence of imprisonment and then allow the culprit to ‘make fine,’ that is to make an end (*finem facere*) of the matter by paying or finding security for a certain sum of money. In theory the fine is a bilateral transaction, a bargain; it is not ‘imposed,’ it is ‘made.’” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 517 (2d ed. 1899).

2. To make a settlement of a penalty. • Magna Carta (ch. 55) specifically limited “[a]ll fines which were made with us unjustly and contrary to the law of the land ...” (*Omnes fines qui injuste et contra legem terrae facti sunt nobiscum*).

FINENON CAPIENDO PRO PULCHRE PLACITANDO

fine non capiendo pro pulchre placitando (non kap-ee-en-doh proh p<<schwa>>l-kree plas-<<schwa>>-tan-doh). [Latin “a fine not to be taken for pleading fairly”] Hist. A writ prohibiting court officers from taking fines for fair pleading (i.e., beaupleader).

FINE PRINT

fine print. The part of an agreement or document — usu. in small, light print that is not easily noticeable — referring to disclaimers, restrictions, or limitations.

FINEPRO REDISSEISINA CAPIENDO

fine pro redisseisina capiendo (proh re-dis-see-zin-<<schwa>> kap-ee-en-doh). [Law Latin “a fine to be taken for again disseising”] Hist. A writ that entitled a person imprisoned for twice dispossessing someone (*redisseisin*) to release upon payment of a reasonable fine.

FINESLE ROY

fines le roy (fInz l<<schwa>> roy). [Law French] Hist. The king's fines. • A fine or fee that was paid to the monarch for an offense or contempt.

FINESUR COGNIZANCE DE DROIT COME CEO QUE IL AD DE SON DONE

fine sur cognizance de droit, come ceo que il ad de son done (fIn s<<schwa>>r kon-<<schwa>>-z<<schwa>>nts d<<schwa>> droyt, kom say-oh kweel ad d<<schwa>>sawni dawin). [Law French “a fine upon acknowledgment of the right, as that which he has of his gift”] Hist. The most common fine of conveyance, by which the defendant (also called the deforciant) acknowledged in court that he had already conveyed the property to the cognizee. • This form of conveyance took the place of an actual livery of seisin. See FINE(1).

“But, in general, the first species of fine, ‘sur cognizance de droit come ceo, etc.,’ is the most used, as it conveys a clean and absolute freehold, and gives the cognizee a seisin in law, without an actual livery; and is therefore called a fine executed, whereas the others are but executory.” 2 William Blackstone, *Commentaries on the Laws of England* 353 (1766).

FINESUR COGNIZANCE DE DROIT TANTUM

fine sur cognizance de droit tantum (fIn s<<schwa>>r kon-<<schwa>>-z<<schwa>>nts d<<schwa>> droyt tan-t<<schwa>>m). [Law French “fine upon acknowledgment of the right merely”] Hist. A fine of conveyance that does not acknowledge a prior conveyance of land. • This type of fine was used to convey reversionary interests — that is, interests that did not require acknowledgment of an earlier livery of seisin. See FINE(1).

FINESUR CONCESSIT

fine sur concessit (fIn s<<schwa>>r k<<schwa>>n-ses-it). [Law French] Hist. A species of conveyance in which the cognizor does not acknowledge the cognizee's preceding right in land but grants the cognizee an estate de novo, usu. for life or a term of years, by way of supposed composition. See FINE (1).

FINESUR DONE GRANT ET RENDER

fine sur done, grant et render (fIn s<<schwa>>r dawn, grant ay ren-d<<schwa>>r). [Law French “fine upon gift, grant and render”] Hist. A double conveyance, consisting of a fine sur cognizance de droit, come ceo que il ad de son done and a fine sur concessit, used to convey particular limitations of estates. • For example, after acknowledgment of the cognizee's right in the land, the cognizee would grant back to the cognizor or a third party some other estate in the land. See FINE(1).

FINGER

finger,vb. Slang. To identify (a person) as a perpetrator, usu. of a crime <in his grand-jury testimony, Vinson fingered Bauer as the gunman>.

FINGER PILLORY

finger pillory.See PILLORY.

FINGERPRINT

fingerprint,n.1. The distinctive pattern of lines on a human fingertip <no two fingerprints are identical>. [Cases: Criminal Law 475.5.] 2. The impression of a fingertip made on any surface <the detective found several fingerprints on the knife>.3. An ink impression of the pattern of lines on a fingertip, usu. taken during the booking procedure after an arrest <after Dick had his fingerprints taken, he was put in the drunk tank>. — Also termed print; thumbprint. Cf. DNA IDENTIFICATION. — fingerprint,vb. — fingerprinting,n.

FINGERPRINT CLAIM

fingerprint claim.See PATENT CLAIM.

FINIRE

finire (fi-nI-ree), vb. [Law Latin] Hist. 1.To fine; to pay a fine. 2. To end or finish a matter.

FINIS

finis (fī-nis orfin-is). [Latin] Hist. 1. Boundary or limit. 2. The compromise of a fine of conveyance. See FINE (1).

“The parties then applied to the court to compromise the action; by the terms of the compromise (finis) the intending vendor admitted that the land belonged to the intending purchaser because he had given it to him, and the terms of the compromise were recorded in the court records.” Peter Butt, *Land Law* 102 (2d ed. 1988).

3. A fine, or payment of money made to satisfy a claim of criminal penalty.

FINITIO

finitio (fī-nish-ee-oh). [Law Latin] Hist. An ending; death.

FINIUM REGUNDORUM ACTIO

finium regundorum actio (fī-nee-<<schwa>>m ri-g<<schwa>>n-dor-<<schwa>>m ak-shee-oh). [Latin “action for regulating boundaries”] Roman law. An action for settling a boundary dispute.

FIO

FIO.abbr.Free in and out. • This bill-of-lading term means that the shipper supervises and pays for loading and unloading of cargo. [Cases: Shipping 110. C.J.S. Shipping §§ 326, 328.]

FIOS

FIOS.abbr.Free in and out stowed. • This bill-of-lading term means that the shipper supervises and pays for loading, unloading, and stowing. [Cases: Shipping 110. C.J.S. Shipping §§ 326, 328.]

FIRDFARE

firdfare. See FERDFARE.

FIRE

fire,vb. To discharge or dismiss a person from employment; to terminate as an employee. [Cases: Master and Servant 31. C.J.S. Employer–Employee Relationship § 52.]

FIREARM

firearm. A weapon that expels a projectile (such as a bullet or pellets) by the combustion of gunpowder or other explosive. [Cases: Weapons 8.C.J.S. Weapons §§ 13–15.]

FIREBOTE

firebote. See housebote under BOTE(1).

FIREBUG

firebug. See INCENDIARY(1).

FIREFIGHTER'S RULE

firefighter's rule. A doctrine holding that a firefighter, police officer, or other emergency professional may not hold a person, usu. a property owner, liable for unintentional injuries suffered by the professional in responding to the situation created or caused by the person. — Also termed fireman's rule. [Cases: Negligence 570, 1315. C.J.S. Negligence §§ 368, 529–531, 654.]

FIRE INSURANCE

fire insurance. See INSURANCE.

FIREMAN'S RULE

fireman's rule. See FIREFIGHTER'S RULE.

FIRE ORDEAL

fire ordeal. See ordeal by fire under ORDEAL.

FIRE SALE

fire sale. See SALE.

FIRING SQUAD

firing squad. 1. A group of persons assembled to carry out a capital-punishment sentence by shooting the prisoner with high-powered rifles at the same time from a short distance. 2. A military detachment that fires a salute, usu. during the burial ceremony for the person being honored.

FIRM

firm, n. 1. The title under which one or more persons conduct business jointly. 2. The association by which persons are united for business purposes. • Traditionally, this term has referred to a partnership, as opposed to a company. But today it frequently refers to a company. See LAW FIRM.

FIRMA

firma. [Latin] 1. A lease. 2. A corporation or partnership.

FIRMA BURGI

firma burgi (f<<schwa>>r-m<<schwa>> b<<schwa>>r-j). [Law Latin “the farm of the borough”] Hist. A person's right to take the profits of a borough. • The monarch or the borough's lord granted this right to a person upon payment of a fixed sum.

FIRMA FEODI

firma feodi. See FEE FARM.

FIRMA NOCTIS

firma noctis. See NOCTEM DE FIRMA.

FIRMARATIO

firmaratio (f<<schwa>>r-m<<schwa>>-ray-shee-oh). [Law Latin] Hist. A tenant's right to the lands and tenements leased to him.

FIRMARIUS

firmarius (f<<schwa>>r-mair-ee-<<schwa>>s). [Law Latin] A person entitled to take rent or profits. Cf. FERMER(2).

FIRMA SOCIAL

firma social (feer-mah soh-syahl). [Spanish] Spanish law. An officially registered name of a corporation or partnership.

FIRM BID

firm bid. See BID(2).

FIRM-COMMITMENT UNDERWRITING

firm-commitment underwriting. See UNDERWRITING.

FIRME

firme. See FARM.

FIRMITAS

firmitas (f<<schwa>>r-m<<schwa>>-tas). [Law Latin] Hist. An assurance of some privilege by deed or charter.

FIRM OFFER

firm offer. See irrevocable offer under OFFER.

FIRM-OPPORTUNITY DOCTRINE

firm-opportunity doctrine. See CORPORATE-OPPORTUNITY DOCTRINE.

FIRST AMENDMENT

First Amendment. The constitutional amendment, ratified with the Bill of Rights in 1791, guaranteeing the freedoms of speech, religion, press, assembly, and petition. [Cases: Constitutional Law 82(3). C.J.S. Constitutional Law §§ 455, 457–459, 503, 619–632, 635–648.]

FIRST-BLUSH RULE

first-blush rule. The common-law principle that allows a court to set aside a verdict as excessive because the verdict causes the mind to immediately conclude that it resulted from passion or prejudice on the part of the jury. [Cases: Federal Civil Procedure 2345; New Trial 77(2). C.J.S. New Trial §§ 101, 103.]

FIRST CAUSE

first cause. See proximate cause under CAUSE(1).

FIRST CHAIR

first chair, n. Slang. The lead attorney in court for a given case <despite having worked at the firm for six years, the associate had yet to be first chair in a jury trial>. — first-chair, vb.

FIRST COUSIN

first cousin. see COUSIN(1).

FIRST-DEGREE

first-degree, adj. See DEGREE(2).

FIRST-DEGREE AMENDMENT

first-degree amendment. See primary amendment under AMENDMENT(3).

FIRST-DEGREE MANSLAUGHTER

first-degree manslaughter. See MANSLAUGHTER.

FIRST-DEGREE MURDER

first-degree murder. See MURDER.

FIRST-DEGREE PRINCIPAL

first-degree principal. See principal in the first degree under PRINCIPAL(2).

FIRST-DEGREE SEXUAL CONDUCT

first-degree sexual conduct. Sexual battery that involves an aggravating factor, as when the perpetrator commits the offense against a minor or when the perpetrator commits the offense in the course of committing another crime, such as a burglary. — Also termed criminal sexual conduct in the first degree.

FIRST DEVISEE

first devisee. See DEVISEE.

FIRST-FILED RULE

first-filed rule. See FIRST-TO-FILE RULE.

FIRST-FILING RULE

first-filing rule. See FIRST-TO-FILE RULE.

FIRST FRUITS

first fruits. 1. Hist. One year's profits from the land of a tenant in capite, payable to the Crown after the tenant's death. — Also termed primer seisin. 2. Hist. Eccles. law. The first year's whole profits of a clergyman's benefice, paid by the incumbent to the Pope, or (after the break with

Rome) to the Crown. • This revenue was later termed “Queen Anne's Bounty” when it was converted to a fund to benefit the poor. — Sometimes spelled firstfruits. — Also termed primitiae; annates; annats; Queen Anne's Bounty.

FIRSTHAND KNOWLEDGE

firsthand knowledge. See personal knowledge under KNOWLEDGE.

FIRST IMPRESSION, CASE OF

first impression, case of. See CASE.

FIRST-IN, FIRST-OUT

first-in, first-out. An accounting method that assumes that goods are sold in the order in which they were purchased — that is, the oldest items are sold first. — Abbr. FIFO. Cf. LAST-IN, FIRST-OUT; NEXT-IN, FIRST-OUT.

FIRST INSTANCE, COURT OF

first instance, court of. See trial court under COURT.

FIRST-INVENTOR DEFENSE

first-inventor defense. Patents. In a suit alleging infringement of a business-method patent, a statutory affirmative defense made out by showing that the defendant was using the business method commercially for at least a year before the plaintiff filed the patent application. • The First Inventor Defense Act of 1999 is codified at 35 USCA § 273(a)(3). [Cases: Patents 283(1). C.J.S. Patents §§ 436–439.]

FIRST LIEN

first lien. See LIEN.

FIRST LORD OF THE ADMIRALTY

First Lord of the Admiralty. Hist. In Britain, a minister and one of the lord commissioners who presided over the navy. • The First Lord was assisted by other lords, called Sea Lords, and various secretaries.

FIRST LORD OF THE TREASURY

First Lord of the Treasury. English law. The chief officer in charge of the treasury. • Today, this position is held by the Prime Minister.

FIRST MAGISTRATE

first magistrate. See MAGISTRATE(1).

FIRST MEETING

first meeting. Archaic. Criminal law. The first contact between a killer and a victim after the killer has been informed of the victim's insulting words or conduct that provoked the killing. • If

the killing occurred during the first meeting, a murder charge could be reduced to manslaughter. See HEAT OF PASSION .

FIRST MORTGAGE

first mortgage. See MORTGAGE.

FIRST-MORTGAGE BOND

first-mortgage bond. See BOND(3).

FIRST NAME

first name. See personal name under NAME.

FIRST-NAMED INSURED

first-named insured. See primary insured under INSURED.

FIRST OF EXCHANGE

first of exchange. Archaic. The first in a series of drafts (bills of exchange) drawn in duplicate or triplicate for safety in their delivery, the intention being that the acceptance and payment of any one of them, usu. the first to arrive, cancels the others in the set.

FIRST OFFENDER

first offender. See OFFENDER.

FIRST OFFICE ACTION

first office action. See OFFICE ACTION.

FIRST OPTION TO BUY

first option to buy. See RIGHT OF PREEMPTION.

FIRST-PARTY INSURANCE

first-party insurance. See INSURANCE.

FIRST-PAST-THE-POST VOTING

first-past-the-post voting. See plurality voting under VOTING.

FIRST POLICY YEAR

first policy year. Insurance. The first year of a life-insurance policy that is to be automatically renewed annually. • This statutory phrase prohibits an insurer from using the policy's suicide exclusion as a defense — and refusing payment on the policy — when an insured commits suicide after the first year of the policy. The insurer can invoke the suicide exclusion as a defense to payment only if the insured commits suicide in the first policy year. [Cases: Insurance 2434(1), 2594(5), 3125. C.J.S. Insurance §§ 850–858.]

FIRST PURCHASER

first purchaser. See PURCHASER(2).

FIRST REFUSAL, RIGHT OF

first refusal, right of. See RIGHT OF FIRST REFUSAL.

FIRST-SALE DOCTRINE

first-sale doctrine. 1. Copyright. The rule that the purchaser of a physical copy of a copyrighted work, such as a book or CD, may give or sell that copy to someone else without infringing the copyright owner's exclusive distribution rights. • With regard to that physical copy, the copyright owner's distribution right is said to be exhausted. 17 USCA § 109(a). [Cases: Copyrights and Intellectual Property 38.5. C.J.S. Copyrights and Intellectual Property §§ 47, 97.] 2. Patents. The principle that the buyer of a patented article has the right to use, repair, and resell the article without interference from the patentee. • The patentee may still retain control of the article through terms in the license or sale contract. See PATENT-EXHAUSTION DOCTRINE.

FIRST TAKER

first taker. See TAKER.

FIRST-TO-FILE RULE

first-to-file rule. Civil procedure. 1. The principle that, when two suits are brought by the same parties, regarding the same issues, in two courts of proper jurisdiction, the court that first acquires jurisdiction usu. retains the suit, to the exclusion of the other court. • The court with the second-filed suit ordinarily stays proceedings or abstains. But an exception exists if the first-filed suit is brought merely in anticipation of the true plaintiff's suit and amounts to an improper attempt at forum-shopping. See ANTICIPATORY FILING. [Cases: Courts 475, 493, 514; Federal Courts 1145. C.J.S. Courts §§ 188, 211, 224.] 2. The doctrine allowing a party to a previously filed lawsuit to enjoin another from pursuing a later-filed action. — Also termed first-filing rule; first-filed rule; priority-jurisdiction rule. [Cases: Injunction 26(3). C.J.S. Injunctions §§ 43–44, 47–48, 54.]

FIRST-TO-FILE SYSTEM

first-to-file system. Patents. The practice of granting priority to the first person to file a patent application. • Most of the world uses a first-to-file patent system; the only major exception is the United States, which grants priority to the first inventor. Cf. FIRST-TO-INVENT SYSTEM. [Cases: Patents 90(1). C.J.S. Patents §§ 120–122.]

FIRST-TO-INVENT SYSTEM

first-to-invent system. Patents. The practice of awarding a patent to the first person to create an invention, rather than the first to file a patent application. • Because the first inventor is not necessarily the first person to file for a patent, an interference hearing is held to decide who is entitled to the patent. This system is used only in the United States. See CONCEPTION OF

INVENTION; priority of invention under PRIORITY. Cf. FIRST-TO-FILE SYSTEM M. [Cases: Patents 90(1). C.J.S. Patents §§ 120–122.]

FIRST USER

first user. See SENIOR USER.

FISA

FISA. abbr. FOREIGN INTELLIGENCE SURVEILLANCE ACT.

FISC

FISC. abbr. UNITED STATES FOREIGN INTELLIGENCE SURVEILLANCE COURT.

fisc (fisk), n. [Latin *fiscus*] The public treasury. — Also spelled fisk.

FISCAL

fiscal (fis-k<<schwa>>l), adj. 1. Of or relating to financial matters <fiscal year>. 2. Of or relating to public finances or taxation <the city's sound fiscal policy>.

FISCAL AGENT

fiscal agent. See AGENT(2).

FISCAL OFFICER

fiscal officer. See OFFICER(1).

FISCAL PERIOD

fiscal period. See fiscal year under YEAR.

FISCAL YEAR

fiscal year. See YEAR.

FISCUS

fiscus (fis-k<<schwa>>s), n. [Latin “the basket” or “moneybag”] 1. Roman law. The emperor's treasury. • In later Roman times, the term also included the treasury of the state. See AERARIUM. 2. Hist. The treasury of a monarch (as the repository of forfeited property), a noble, or any private person. 3. The treasury or property of the state as distinguished from the private property of the monarch. Cf. HANAPER.

FISHERY

fishery. 1. A right or liberty of taking fish. • Fishery was an incorporeal hereditament under old English law. — Also termed piscary. [Cases: Fish 3.]

free fishery. An exclusive right of fishery, existing by grant or prescription from the monarch, to take fish in public water such as a river or an arm of the sea. — Also termed libera piscaria.

right of fishery.The right of persons to fish in public waters, subject to federal and state restrictions and regulations, such as fishing seasons, licensing, and catch limits.

several fishery.A right to fish in waters that are neither on one's own land nor on the land of a person who granted the right to fish.

2. A fishing ground.

common fishery.A fishing ground where all persons have a right to take fish. Cf. common of piscary under COMMON.

FISHING EXPEDITION

fishing expedition.An attempt, through broad discovery requests or random questions, to elicit information from another party in the hope that something relevant might be found; esp., such an attempt that exceeds the scope of discovery allowed by procedural rules. — Also termed fishing trip. [Cases: Federal Civil Procedure 1272; Pretrial Procedure 28.C.J.S. Discovery §§ 2, 6–7, 21.]

“No longer can the time-honored cry of ‘fishing expedition’ serve to preclude a party from inquiring into the facts underlying his opponent's case.” *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385, 392 (1947).

FISH ROYAL

fish royal.Hist. Whales, sturgeon, and porpoises that, when thrown ashore or caught near the English coast, become Crown property.

FISK

fisk. See FISC.

FISTUCA

fistuca. See FESTUCA.

FITHWITE

fithwite. See FUTHWITE.

FITNESS FOR A PARTICULAR PURPOSE

fitness for a particular purpose.See implied warranty of fitness for a particular purpose under WARRANTY(2).

FITNESS HEARING

fitness hearing.See transfer hearing under HEARING.

FIT OCCUPANTIS

fit occupantis (fit ahk-y<<schwa>>-pan-tis). [Latin] Hist. It becomes the property of the captor.

FIVE MILE ACT

Five Mile Act.Hist. A 1665 English act prohibiting Puritan ministers from teaching or coming within five miles of any town where they had held office if they refused to pledge that they would not seek to overturn the Church of England. • The Act was repealed in 1689.

FIX

fix,n.1. A dose of an illegal drug <the defendant testified that he robbed the store because he needed to buy a fix>.2. A navigational reading.

fix,vb. 1. To announce (an exchange price, interest rate, etc.) <interest was fixed at 6%>.2. To establish (a person's liability or responsibility) <you cannot fix liability on the defendant without evidence>.3. To agree with another to establish (a price for goods or services), often illegally <representatives of Acme and Widget secretly met to fix prices for their companies' products>. See PRICE-FIXING. 4. To influence (an action or outcome, esp. a sports event) by improper or illegal means <after losing the election, the challenger claimed that the incumbent had fixed the election>.

FIX A DAY TO WHICH TO ADJOURN

fix a day to which to adjourn.See adjourn to a day certain under ADJOURN.

FIXATION

fixation.Copyright. The process or result of recording a work of authorship in tangible form so that it can be copyrighted under federal law. • Fixation occurs, for instance, when a live television broadcast is transmitted and simultaneously recorded on videotape. [Cases: Copyrights and Intellectual Property 12(1).]

FIX BAIL

fix bail,vb. To set the amount and terms of bail <after hearing the officer's testimony, the judge fixed bail for the defendant at \$100,000>. See BAIL.

FIXED ANNUITY

fixed annuity.See ANNUITY.

FIXED ASSET

fixed asset.See capital asset (1) under ASSET.

FIXED-BENEFIT PLAN

fixed-benefit plan.See defined pension plan under PENSION PLAN.

FIXED CAPITAL

fixed capital.See CAPITAL.

FIXED CHARGE

fixed charge.See fixed cost under COST(1).

FIXED COST

fixed cost.See COST(1).

FIXED DEBT

fixed debt.See DEBT.

FIXED-DOLLAR INVESTMENT

fixed-dollar investment.See INVESTMENT.

FIXED EXPENSE

fixed expense.See fixed cost under COST(1).

FIXED FEE

fixed fee.See FEE(1).

FIXED IN A TANGIBLE MEDIUM OF EXPRESSION

fixed in a tangible medium of expression.Copyright. (Of a work) embodied in a physical form that is made by the author or under the author's authority and that is either permanent or stable enough to be perceived, reproduced, or otherwise communicated. • A work consisting of sounds, images, or both that is being transmitted is “fixed” if it is recorded at the same time that it is transmitted.

FIXED INCOME

fixed income.See INCOME.

FIXED-INCOME INVESTMENT

fixed-income investment.See INVESTMENT.

FIXED-INCOME SECURITY

fixed-income security.See SECURITY.

FIXED LIABILITY

fixed liability.See fixed debt under DEBT.

FIXED OPINION

fixed opinion.See OPINION(3).

FIXED PRICE

fixed price.See PRICE.

FIXED-PRICE CONTRACT

fixed-price contract. See CONTRACT.

FIXED-RATE MORTGAGE

fixed-rate mortgage. See MORTGAGE.

FIXED-RETURN DIVIDEND

fixed-return dividend. See DIVIDEND.

FIXED SENTENCE

fixed sentence. See SENTENCE.

FIXED-TERM LEASE

fixed-term lease. Oil & gas. An oil-and-gas lease for a fixed period of time, lacking the indefinite "so long thereafter" provision commonly found in such leases. Cf. HABENDUM CLAUSE.

FIXED TRUST

fixed trust. See TRUST.

FIXING A JURY

fixing a jury. See JURY-FIXING.

FIXTURE

fixture. Personal property that is attached to land or a building and that is regarded as an irremovable part of the real property, such as a fireplace built into a home. See UCC § 9-102(a)(41). • Historically, personal property becomes a fixture when it is physically fastened to or connected with the land or building and the fastening or connection was done to enhance the utility of the land or building. If personal property has been attached to the land or building and enhances only the chattel's utility, it is not a fixture. For example, if bricks are purposely stacked to form a wall, a fixture results. But if the bricks are merely stacked for convenience until used for some purpose, they do not form a fixture. — Also termed permanent fixture; immovable fixture. Cf. IMPROVEMENT. [Cases: Fixtures 1.]

"A fixture can best be defined as a thing which, although originally a movable chattel, is by reason of its annexation to, or association in use with land, regarded as a part of the land.... The law of fixtures concerns those situations where the chattel annexed still retains a separate identity in spite of annexation, for example a furnace or a light fixture. Where the chattel annexed loses such identity, as in the case of nails, boards, etc., the problem becomes one of accession." Ray Andrews Brown, *The Law of Personal Property* § 137, at 698 & n.1 (2d ed. 1955).

"Broadly, goods can be classified for the purposes of [UCC §] 9-313 into three categories: those that remain 'pure goods,' those so substantially integrated into real estate as to become real estate themselves, 'pure realty,' and those in the gray area that would pass in a deed to the real estate but that retain separate status as personal property. These last are fixtures." 4 James J. White

& Robert S. Summers, Uniform Commercial Code § 33-8, at 338 (4th ed. 1995).

tenant's fixture. Removable personal property that a tenant affixes to the leased property but that the tenant can detach and take away. — Also termed movable fixture. [Cases: Fixtures 13.]

trade fixture. Removable personal property that a tenant attaches to leased land for business purposes, such as a display counter. • Despite its name, a trade fixture is not usu. treated as a fixture — that is, as irremovable. [Cases: Fixtures 15.]

FIXTURE FILING

fixture filing. The act or an instance of recording, in public real-estate records, a security interest in personal property that is intended to become a fixture. See UCC § 9-102(a)(40). • The creditor files a financing statement in the real-property records of the county where a mortgage on the real estate would be filed. A fixture-filing financing statement must contain a description of the real estate. [Cases: Secured Transactions 85, 94. C.J.S. Secured Transactions §§ 54, 68–70.]

FJC

FJC.abbr. FEDERAL JUDICIAL CENTER.

FKA

FKA.abbr. Formerly known as. — Also rendered F/K/A; fka; f/k/a.

FLAG

flag, n. 1. A usu. rectangular piece of cloth, bunting, or other material decorated with a distinctive design and used as a symbol or signal. 2. Something symbolized by the display of a flag, such as a ship or nationality. See DUTY OF THE FLAG; LAW OF THE FLAG.

flag of convenience. Int'l law. A national flag flown by a ship not because the ship or its crew has an affiliation with the nation, but because the lax controls and modest fees and taxes imposed by that nation have attracted the owner to register it there. • After World War II, shipowners began registering their ships in countries such as Panama, Liberia, and Honduras to avoid expensive and restrictive national regulation of labor, safety, and other matters. Since the late 1950s, there has been increasing international pressure to require a “genuine link” between a ship and its flag state, but this reform has been slow in coming. — Abbr. FOC. [Cases: Shipping 2. C.J.S. Shipping § 1.]

flag of truce. Int'l law. A white flag used as a signal when one belligerent wishes to communicate with the other in the field. • The bearers of such a flag may not be fired on, injured, or taken prisoner, as long as they carry out their mission in good faith.

FLAG DESECRATION

flag desecration. The act of mutilating, defacing, burning, or flagrantly misusing a flag. • Flag desecration is constitutionally protected as a form of free speech. *United States v. Eichman*, 496 U.S. 310, 110 S.Ct. 2404 (1990). [Cases: United States 5.5.]

FLAGRANS BELLUM

flagrans bellum (flay-granz bel-<<schwa>>m). [Latin "raging war"] A war currently being waged.

FLAGRANS CRIMEN

flagrans crimen (flay-granz crI-m<<schwa>>n). [Latin] A crime in the very act of its commission or of recent occurrence; a fresh crime.

FLAGRANTE BELLO

flagrante bello (fl<<schwa>>-gran-tee bel-oh). [Latin] During an actual state of war.

FLAGRANTE DELICTO

flagrante delicto. See IN FLAGRANTE DELICTO.

FLAG STATE

flag state. Maritime law. The state under whose flag a ship is registered. • A ship may fly the flag of one state only. [Cases: Shipping 2. C.J.S. Shipping § 1.]

FLAG-STATE CONTROL

flag-state control. Maritime law. The exercise of authority by a state over vessels that fly under its flag to ensure compliance with domestic and international safety and environmental laws and regulations. Cf. COASTAL-STATE CONTROL L; PORT-STATE CONTROL.

FLASH OF GENIUS

flash of genius. See EUREKA MOMENT.

FLASH-OF-GENIUS RULE

flash-of-genius rule. Patents. The now-defunct principle that a device is not patentable if it was invented as the result of trial and error rather than a "flash of creative genius." • The rule, which takes its name from language in *Cuno Engineering Corp. v. Automatic Devices Corp.*, 314 U.S. 84, 91, 62 S.Ct. 37, 41 (1941), was legislatively overturned in 1952. 35 USCA § 103.

FLAT

flat, adv. Without an allowance or charge for accrued interest <the stock was sold flat>.

flat, n. A house in a larger block; an apartment.

FLAT BOND

flat bond. See BOND(3).

FLAT CANCELLATION

flat cancellation. See CANCELLATION.

FLAT MONEY

flat money. See fiat money under MONEY.

FLAT REINSURANCE

flat reinsurance. See REINSURANCE.

FLAT SENTENCE

flat sentence. See determinate sentence under SENTENCE.

FLAT TAX

flat tax. See TAX.

FLAT TIME

flat time. See TIME.

FLEDWITE

fledwite (fled-wIt). Hist. 1. A discharge from an amercement (a fine) for a fugitive who voluntarily surrenders to the monarch. 2. The fine set on a fugitive as the price for obtaining freedom. 3. The right to hold court and take an amercement for the offenses of beating and striking. — Also spelled fleduite. — Also termed flighwite.

FLEE FROM JUSTICE

flee from justice. See FLIGHT.

FLEET INSURANCE

fleet insurance. See INSURANCE.

FLEET MARRIAGE

Fleet marriage. See MARRIAGE(1).

FLEET PRISON

Fleet Prison. Hist. A large London jail best known for holding debtors and bankrupts in the 18th and 19th centuries. • Formerly standing beside the Fleet River, it was opened in 1197 and operated almost continuously until it was closed and demolished in 1846.

FLEME

fleme (fleem). Hist. An outlaw; a fugitive bondman or villein. — Also spelled flem. — Also termed flyma.

FLEMENE FRIT

flemene frit (flee-m<<schwa>>n frit). Hist. The harboring or aiding of a fleme (a fugitive). — Also termed and spelled flemenes frinthe; flemensfirth; flyman frynth; flymena frynth.

FLEMESWITE

flemeswite (fleemz-wIt).Hist. The privilege to possess, or the actual possession of, the goods and fines of a fleme (a fugitive).

FLETA SEU COMMENTARIUS JURIS ANGLICANI

Fleta seu Commentarius Juris Anglicani (flee-t<<schwa>> syoo kom-<<schwa>>n-tair-ee-<<schwa>>s joor-is ang-gl<<schwa>>-kay-nI).Hist. The title of an ancient treatise on English law, composed in the 13th century and first printed in 1647. • The work is largely derivative, being based on Bracton's De Legibus et Consuetudinibus. The unknown author may have been a judge or lawyer who wrote the treatise while in London's Fleet prison. — Often shortened to Fleta.

FLETC

FLETC.abbr.FEDERAL LAW ENFORCEMENT TRAINING CENTER.

FLEXDOLLARS

flexdollars. Money that an employer pays an employee, who can apply it to a choice of employee benefits.

FLEXIBLE CONSTITUTION

flexible constitution.See CONSTITUTION.

FLEXIBLE-RATE MORTGAGE

flexible-rate mortgage.See adjustable-rate mortgage, renegotiable-rate mortgage under MORTGAGE.

FLEXTIME

flextime. A work schedule that employees have discretion to alter as long as they work their required number of hours over a specified period (usu. a week).

FLEXWEEK

flexweek. A four-day workweek, usu. consisting of four 10-hour days.

FLIER POLICY

flier policy.See INSURANCE POLICY.

FLIGHT

flight. The act or an instance of fleeing, esp. to evade arrest or prosecution <the judge denied bail because the defendant is a flight risk>. — Also termed flight from prosecution; flee from justice.

FLIGHT EASEMENT

flight easement. See avigational easement under EASEMENT.

FLIGHT FROM PROSECUTION

flight from prosecution. See FLIGHT.

FLIGHWITE

flighwite. See FLEDWITE.

FLIM FLAM

flim flam. A scheme by which another is tricked for money; CONFIDENCE GAME. — Also termed faith and trust.

FLIP

flip, vb. Slang. 1. To buy and then immediately resell securities or real estate in an attempt to turn a profit. 2. To refinance consumer loans. 3. Slang. To turn state's evidence. See TURN STATE'S EVIDENCE.

FLIP MORTGAGE

flip mortgage. See MORTGAGE.

FLOAT

float, n. 1. The sum of money represented by outstanding or uncollected checks.

“ ‘Float’ refers to the artificial balance created due to delays in processing credits and debits to an account.” In re Cannon, 277 F.3d 838, 843 (6th Cir. 2002).

2. The delay between a transaction and the withdrawal of funds to cover the transaction. 3. The amount of a corporation's shares that are available for trading on the securities market.

float, vb. 1. (Of a currency) to attain a value in the international exchange market solely on the basis of supply and demand <the IMF allowed the peso to float>. 2. To issue (a security) for sale on the market <PDQ Corp. floated a new series of preferred shares>. 3. To arrange or negotiate (a loan) <the bank floated a car loan to Alice despite her poor credit history>.

FLOATAGE

floatage. See FLOTSAM.

FLOATER

floater. See floating-rate note under NOTE(1).

FLOATER INSURANCE

floater insurance. See INSURANCE.

FLOATING

floating,adj. Not fixed or settled; fluctuating; variable.

FLOATING CAPITAL

floating capital.See CAPITAL.

FLOATING CHARGE

floating charge.See floating lien under LIEN.

FLOATING DEBT

floating debt.See DEBT.

FLOATING EASEMENT

floating easement.See EASEMENT.

FLOATING-INTEREST BOND

floating-interest bond.See BOND(3).

FLOATING LIEN

floating lien.See LIEN.

FLOATING POLICY

floating policy.See INSURANCE POLICY.

FLOATING RATE

floating rate.See INTEREST RATE.

FLOATING-RATE NOTE

floating-rate note.See NOTE(1).

FLOATING STOCK

floating stock.See STOCK.

FLOATING ZONING

floating zoning.See ZONING.

FLOODGATE

floodgate. (usu. pl.) A restraint that prevents a release of a usu. undesirable result <the new law opened the floodgates of litigation>.

FLOOD INSURANCE

flood insurance.See INSURANCE.

FLOODPLAIN

floodplain. Land that is subject to floodwaters because of its level topography and proximity to a river or arroyo; esp., level land that, extending from a riverbank, is inundated when the flow of water exceeds the channel's capacity.

FLOODWATER

floodwater. See WATER.

FLOOR

floor. 1.Parliamentary law. The part of the hall where members of a deliberative body meet to debate issues and conduct business; esp., a legislature's central meeting area, as distinguished from the galleries, corridors, or lobbies <the Senate floor> <nominations from the floor>. See assignment of the floor under ASSIGNMENT(6); CLAIM THE FLOOR; HAVE THE FLOOR ; OBTAIN THE FLOOR; ON THE FLOOR; privilege of the floor under PRIVILEGE(6). [Cases: States 32. C.J.S. States §§ 48–50.] 2. The trading area where stocks and commodities are bought and sold on an exchange <the broker placed his buy order with the trader on the floor of the NYSE>.3. The lowest limit <the floor for that position is \$25,000 per year>.

FLOOR AMENDMENT

floor amendment. See AMENDMENT(3).

FLOOR DEBATE

floor debate. See DEBATE.

FLOOR-PLAN FINANCING

floor-plan financing. See FINANCING.

FLOOR PLANNING

floor planning. See floor-plan financing under FINANCING.

FLOOR-PLAN RULE

floor-plan rule. The principle by which a vehicle owner who has placed for sale a vehicle in a retail dealer's showroom is estopped to deny the title of an innocent purchaser from the dealer in the ordinary course of retail dealing. [Cases: Estoppel 75. C.J.S. Estoppel §§ 118–119.]

FLOOR PRICE

floor price. See PRICE.

FLOOR TAX

floor tax. See TAX.

FLOTAGE

flotage. See FLOTSAM.

FLOTATION

flotation. See OFFERING.

FLOTATION COST

flotation cost. See COST(1).

FLOTERIAL DISTRICT

floterial district. See DISTRICT.

FLOTSAM

flotsam (flot-s<<schwa>>m). Goods that float on the water's surface after being abandoned at sea. — Also termed floatage; flotage. Cf. JETSAM; LAGAN(1); WAVESON.

FLOWAGE

flowage. The natural movement of water from a dominant estate to a servient estate. • It is a privilege or easement of the owner of the upper estate and a servitude of the lower estate. [Cases: Waters and Water Courses 116–119, 161. C.J.S. Waters §§ 33–34, 255, 259–264, 277–279.]

FLOWAGE EASEMENT

flowage easement. See EASEMENT.

FLOWER BOND

flower bond. See BOND(3).

FLRA

FLRA. abbr. FEDERAL LABOR RELATIONS AUTHORITY.

FLSA

FLSA. abbr. FAIR LABOR STANDARDS ACT.

FLUCTUATING CLAUSE

fluctuating clause. See ESCALATOR CLAUSE.

FLYER POLICY

flyer policy. See flier policy under INSURANCE POLICY.

FLY FOR IT

fly for it. Hist. To flee after allegedly committing a crime. • The ancient custom in criminal trials was to ask the jury after its verdict — even a not-guilty verdict — “Did he fly for it?” The purpose was to enable the jury to find whether the defendant had fled from justice. A defendant who had fled would forfeit personal property, even if found not guilty on the underlying charge.

FLYMA

flyma. See FLEME.

FLYMAN FRYNTH

flyman frynth. See FLEMENE FRIT.

FLYMENA FRYNTHE

flymena frynth. See FLEMENE FRIT.

FLY-POWER ASSIGNMENT

fly-power assignment. See ASSIGNMENT(2).

FLYSPECK

flyspeck, n. Insurance. A potential trivial defect in title to real property, as a result of which a title-insurance company is likely to exclude any risk from that defect before issuing a policy. — flyspeck, vb.

FMC

FMC. abbr. FEDERAL MARITIME COMMISSION.

FMCS

FMCS. abbr. FEDERAL MEDIATION AND CONCILIATION SERVICE.

FMCSA

FMCSA. abbr. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.

FMHA

FmHA. abbr. FARMERS' HOME ADMINISTRATION.

FMLA

FMLA. abbr. 1. FAMILY AND MEDICAL LEAVE ACT. 2. FEDERAL MARITIME LIEN ACT.

FMS

FMS. abbr. FINANCIAL MANAGEMENT SERVICE.

FMSF

FMSF. abbr. FALSE MEMORY SYNDROME FOUNDATION.

FMSHRC

FMSHRC. abbr. FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

FMV

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

FNMA

FNMA.abbr.FEDERAL NATIONAL MORTGAGE ASSOCIATION.

FNS

FNS.abbr. FOOD, NUTRITION, AND CONSUMER SERVICE.

FOB

FOB.abbr.FREE ON BOARD.

FOB DESTINATION

FOB destination.See FREE ON BOARD.

FOB SHIPPING

FOB shipping.See FREE ON BOARD.

FOC

FOC. See flag of convenience under FLAG.

FOEDUS

foedus (fee-d<<schwa>>s). [Latin “league”] Hist. Int'l law. A treaty; league; compact.

FOENUS NAUTICUM

foenus nauticum (fee-n<<schwa>>s naw-t<<schwa>>-k<<schwa>>m). [Latin] Civil law. Nautical or maritime interest; esp., an extraordinary rate of interest charged to underwrite a hazardous voyage. — Also termed usura maritima. See NAUTICUM FENUS.

FOESTING-MEN

foesting-men. See HABENTES HOMINES.

FOETICIDE

foeticide. See FETICIDE.

FOETUS

foetus. See FETUS.

FOAI

FOIA (foy-<<schwa>>).abbr.FREEDOM OF INFORMATION ACT.

FOIABLE

foiable (foy-<<schwa>>-b<<schwa>>l), adj. Slang. (Of documents) subject to disclosure under the Freedom of Information Act (FOIA). [Cases: Records 53. C.J.S. Records §§ 99–101.]

FOLCLAND

folcland. See FOLKLAND.

FOLDAGE

foldage. See FALDAGE(1).

FOLIO

folio (foh-lee-oh). [fr. Latin folium "leaf"] 1.Hist. A leaf of a paper or parchment, numbered only on the front. • A folio includes both sides of the leaf, or two pages, with the letters "a" and "b" (or "r" and "v," signifying recto and verso) added to show which of the two pages was intended. 2.Hist. A certain number of words in a legal document, used as a method of measurement. • In England, 72 or 90 words formed a folio; in the United States, 100 words. — folio,vb.

"Folio ... [a] certain number of words; in conveyances, etc., and proceedings in the High Court amounting to seventy-two, and in parliamentary proceedings to ninety." Ivan Horniman, Wharton's Law Lexicon 368 (13th ed. 1925).

3. A page number on a printed book. 4. A large book the pages of which are formed by folding a sheet of paper only once in the binding to form two leaves, making available four pages (both sides of each leaf).

FOLKLAND

folkland.Hist. Land held by customary law, without written title. — Also spelled folcland. Cf. BOOKLAND.

"In all discussions on Anglo-Saxon law bookland is contrasted with 'folkland.' The most recent and probably the most correct view is that folkland simply means land subject to customary law, as opposed to land which was held under the terms of a charter. It would seem that the view that folkland means public land or land of the people, though till recently generally accepted, must be abandoned as resting on insufficient evidence. It appears that folkland might either be land occupied by individuals or families or communities, or it might be waste or unoccupied land. The only characteristic which can be universally ascribed to it is, that it is not bookland." Kenelm E. Digby, *An Introduction to the History of the Law of Real Property* 15 (5th ed. 1897).

FOLK LAWS

folk laws.See LEGES BARBARORUM.

FOLLOW

follow,vb. To conform to or comply with; to accept as authority <the lawyer assumed that the Supreme Court would follow its own precedent>.

FOLLOWING-FORM POLICY

following-form policy.See INSURANCE POLICY.

FOLLOW-THE-FORTUNES DOCTRINE

follow-the-fortunes doctrine. Insurance. The principle that a reinsurer must reimburse the reinsured for its payment of settled claims as long as the reinsured's payments were reasonable and in good faith. • This rule prevents a reinsurer from second-guessing a reinsured's good-faith decision to pay a claim arguably not covered under the original insurance policy. — Often shortened to follow the fortunes. [Cases: Insurance 3615.]

FOLLOW-THE-SETTLEMENTS DOCTRINE

follow-the-settlements doctrine. Insurance. The principle that an indemnitor must accede to the actions of the indemnitee in adjusting and settling claims; esp., the principle that a reinsurer must follow the actions of the reinsured. [Cases: Insurance 3615.]

FONS JURIS

fons juris. See SOURCE OF LAW.

FOOD AND DRUG ADMINISTRATION

Food and Drug Administration. A division of the U.S. Public Health Service in the Department of Health and Human Services responsible for ensuring that food is safe, pure, and wholesome; that human and animal drugs, biological products, and medical devices are safe and effective; and that certain other products, such as electronic products that emit radiation, are safe. • Created by the Pure Food and Drug Act of 1906, the agency today enforces the Food, Drug, and Cosmetic Act of 1938 and related statutes and regulations. 21USCA §§ 301 et seq. — Abbr. FDA.

FOOD-DISPARAGEMENT LAW

food-disparagement law. See AGRICULTURAL-DISPARAGEMENT LAW.

FOOD, DRUG, AND COSMETIC ACT

Food, Drug, and Cosmetic Act. A 1938 federal law prohibiting the transportation in interstate commerce of adulterated or misbranded food, drugs, or cosmetics. The Act superseded the Pure Food and Drug Act of 1906. — Abbr. FDCA. [Cases: Food 2; Health 302.]

FOOD, NUTRITION, AND CONSUMER SERVICE

Food, Nutrition, and Consumer Service. An agency in the U.S. Department of Agriculture responsible for reducing hunger by educating children and needy people about healthy diets and by providing them access to food through the food-stamp and other programs. — Abbr. FNS.

FOOD SAFETY AND INSPECTION SERVICE

Food Safety and Inspection Service. An agency in the U.S. Department of Agriculture responsible for inspecting all types of meat, poultry, eggs, and related products to ensure safety and accurate labeling. — Abbr. FSIS.

FOOL'S TEST

fool's test. The test formerly used by federal courts and by the Federal Trade Commission to determine whether an advertisement is deceptive, by asking whether even a fool might believe it. •

The name comes from Isaiah: "wayfaring men, though fools, shall not err therein." The test was announced in *Charles of the Ritz Distrib. Corp. v. Fed. Trade Comm'n*, 143 F.2d 676 (2d Cir. 1944). It was replaced by a "reasonable consumer" test by the FTC in 1984. Cf. REASONABLE-CONSUMER TEST. [Cases: Copyrights and Intellectual Property 12(1).]

FOOT ACRE

foot acre. See ACRE.

FOOTAGE DRILLING CONTRACT

footage drilling contract. See DRILLING CONTRACT.

FOOT-FRONTAGE RULE

foot-frontage rule. Tax. A method of property-tax assessment — used esp. to pay for improvements such as sidewalks and sewers — that considers only the lot's actual frontage on the line of improvement and ignores the depth of the lot and the number and character of other improvements or their value.

FOOTGELD

footgeld (fuut-geld). Hist. In forest law, a fine imposed for not making a dog incapable of hunting by either cutting out the ball of its paw or cutting off its claws. • The cutting was known as "expeditating" the dog. To be "free" or "quit" of footgeld was to be relieved of the duty to expeditate one's dog.

FOOT OF THE FINE

foot of the fine. Hist. At common law, the fifth and last part of a fine of conveyance. • This part included the entire matter, reciting the names of the parties and the date, place, and before whom it was acknowledged or levied. — Also termed chirograph. See FINE(1).

FOOTPRINT

footprint. 1. Evidence. The impression made on a surface of soil, snow, etc., by a human foot or a shoe, boot, or any other foot covering. [Cases: Criminal Law 475.6.] 2. Real estate. The shape of a building's base.

FOR ACCOUNT OF

for account of. A form of indorsement on a note or draft introducing the name of the person entitled to receive the proceeds.

FORAKER ACT

Foraker Act (for-<<schwa>>-k<<schwa>>r). The original (1900) federal law providing Puerto Rico with a civil government but keeping it outside the U.S. customs area. See 48 USCA §§ 731–752.

FORANEIOUS

foraneous (f<<schwa>>-ray-nee-<<schwa>>s), adj.[fr. Latin forum “marketplace”] Of or relating to a court or marketplace.

FORANEUS

foraneus (f<<schwa>>-ray-nee-<<schwa>>s), n.[fr. Latin foris “without”] Hist. A foreigner; an alien; a stranger.

FORATHE

forathe (for-ayth).Hist. In forest law, one who can make an oath or bear witness for another.

FORBANNITUS

forbannitus (for-ban-<<schwa>>-t<<schwa>>s). [Law Latin] Hist. 1.A pirate; an outlaw. 2. One who was banished. — Also termed forisbanitus.

FORBARRE

forbarre (for-bahr), vb. [Law French] Hist. To preclude; to bar out; to estop.

FORBATUDUS

forbatudus (for-b<<schwa>>-t[y]oo-d<<schwa>>s). [Law Latin] Hist. A person who provokes — and dies in — a fight.

FORBEARANCE

forbearance,n.1. The act of refraining from enforcing a right, obligation, or debt. • Strictly speaking, forbearance denotes an intentional negative act, while omission or neglect is an unintentional negative act. 2. The act of tolerating or abstaining. — forbear,vb.

FORBIDDEN DEGREE

forbidden degree.See prohibited degree under DEGREE.

FORBIDDEN DEPARTURE

forbidden departure.See DEPARTURE.

FOR CAUSE

for cause.For a legal reason or ground. • The phrase expresses a common standard governing the removal of a civil servant or an employee under contract. — for-cause,adj.

FOR-CAUSE

for-cause,n. See challenge for cause under CHALLENGE(2).

FORCE

force,n. Power, violence, or pressure directed against a person or thing.

actual force.Force consisting in a physical act, esp. a violent act directed against a robbery

victim. — Also termed physical force. [Cases: Robbery 6. C.J.S. Robbery §§ 13–23.]

constructive force. Threats and intimidation to gain control or prevent resistance; esp., threatening words or gestures directed against a robbery victim. [Cases: Robbery 6. C.J.S. Robbery §§ 13–23.]

deadly force. Violent action known to create a substantial risk of causing death or serious bodily harm. • A person may use deadly force in self-defense only if retaliating against another's deadly force. — Also termed extreme force. Cf. nondeadly force.

“Under the common law the use of deadly force is never permitted for the sole purpose of stopping one fleeing from arrest on a misdemeanor charge” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 1098 (3d ed. 1982).

excessive force. Unreasonable or unnecessary force under the circumstances.

extreme force. See deadly force.

independent force. Force not stimulated by a situation created by the actor's conduct.

intervening force. Force that actively produces harm to another after the actor's negligent act or omission has been committed.

irresistible force. Force that cannot be foreseen or controlled, esp. that which prevents the performance of a contractual obligation; FORCE MAJEURE. [Cases: Contracts 309(1). C.J.S. Contracts §§ 520–522, 524.]

legal force. See reasonable force.

nondeadly force. 1. Force that is neither intended nor likely to cause death or serious bodily harm; force intended to cause only minor bodily harm. 2. A threat of deadly force, such as displaying a knife. — Also termed moderate force. Cf. deadly force.

physical force. See actual force.

reasonable force. Force that is not excessive and that is appropriate for protecting oneself or one's property. • The use of reasonable force will not render a person criminally or tortiously liable. — Also termed legal force.

“One does not use jeweller's scales to measure reasonable force.” *Reed v. Wastie*, [1972] *Crim. L.R.* 221 (per Lane, J.) (as quoted in *Glanville Williams, Textbook of Criminal Law* 451 (1978)).

unlawful force. Force that is directed against a person without that person's consent, and that is a criminal offense or an actionable tort. Model Penal Code § 3.11. [Cases: Assault and Battery 2. C.J.S. Assault and Battery §§ 2–4, 6–8.]

force, vb. To compel by physical means or by legal requirement <Barnes used a gun to force Jillian to use her ATM card> <under the malpractice policy, the insurance company was forced to defend the doctor>.

FORCE AND ARMS

force and arms.Hist. Violence. • The phrase was used in common-law pleading in declarations of trespass and in indictments to denote that the offending act was committed violently. See VI ET ARMIS.

FORCE AND EFFECT

force and effect,n. Legal efficacy <mailing the brief had the force and effect of filing it with the clerk>. • The term is now generally regarded as a redundant legalism.

FORCED CONVERSION

forced conversion.See CONVERSION(1).

FORCED EXILE

forced exile.See EXILE.

FORCED HEIR

forced heir.See HEIR.

FORCED LABOR

forced labor.Int'l law. Work exacted from a person under threat of penalty; work for which a person has not offered himself or herself voluntarily. • Under the U.N. Convention on Civil and Political Rights (article 8), exemptions from this definition include (1) penalties imposed by a court, (2) compulsory military service, (3) action taken in an emergency, (4) normal civil obligations, and (5) minor communal services. — Also termed compulsory labor.

FORCED POOLING

forced pooling.See compulsory pooling under POOLING.

FORCED PORTION

forced portion.See LEGITIME.

FORCED RESETTLEMENT

forced resettlement.Int'l law. The involuntary transfer of individuals or groups within the jurisdiction of a country whether inside its own territory or into or out of occupied territory.

FORCED RESPITE

forced respite.See RESPITE.

FORCED SALE

forced sale.See SALE.

FORCED SHARE

forced share.See ELECTIVE SHARE.

FORCED UNITIZATION

forced unitization.See compulsory unitization under UNITIZATION.

FORCE MAJEURE

force majeure (fors ma-zh<<schwa>>r). [Law French “a superior force”] An event or effect that can be neither anticipated nor controlled. • The term includes both acts of nature (e.g., floods and hurricanes) and acts of people (e.g., riots, strikes, and wars). — Also termed force majesture; vis major; superior force. Cf. ACT OF GOD; VIS MAJOR.

FORCE-MAJEURE CLAUSE

force-majeure clause.A contractual provision allocating the risk if performance becomes impossible or impracticable, esp. as a result of an event or effect that the parties could not have anticipated or controlled. [Cases: Contracts 309(1). C.J.S. Contracts §§ 520–522, 524.]

FORCIBLE

forcible,adj. Effected by force or threat of force against opposition or resistance.

“[In the law of trespass, the] term ‘forcible’ is used in a wide and somewhat unnatural sense to include any act of physical interference with the person or property of another. To lay one's finger on another person without lawful justification is as much a forcible injury in the eye of the law, and therefore a trespass, as to beat him with a stick. To walk peacefully across another man's land is a forcible injury and a trespass, no less than to break into his house vi et armis. So also it is probably a trespass deliberately to put matter where natural forces will take it on to the plaintiff's land.” R.F.V. Heuston, *Salmond on the Law of Torts* 5 (17th ed. 1977).

FORCIBLE DETAINER

forcible detainer. 1. The wrongful retention of possession of property by one originally in lawful possession, often with threats or actual use of violence. 2.FORCIBLE ENTRY AND DETAINER(2).

FORCIBLE ENTRY

forcible entry. 1. The act or an instance of violently and unlawfully taking possession of lands and tenements against the will of those in lawful possession. 2. The act of entering land in another's possession by the use of force against another or by breaking into the premises.

FORCIBLE ENTRY AND DETAINER

forcible entry and detainer. 1. The act of violently taking and keeping possession of lands and tenements without legal authority. [Cases: Forcible Entry and Detainer 4.]

“To walk across another's land, or to enter his building, without privilege, is a trespass, but this in itself, while a civil wrong, is not a crime. However, if an entry upon real estate is accomplished by violence or intimidation, or if such methods are employed for detention after a

peaceable entry, there is a crime according to English law, known as forcible entry and detainer. This was a common-law offense in England, although supplemented by English statutes that are old enough to be common law in this country.... It has sometimes been said that there are two separate offenses — (1) forcible entry and (2) forcible detainer. This may be true under the peculiar wording of some particular statute, but in general it seems to be one offense which may be committed in two different ways.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 487–88 (3d ed. 1982).

2. A quick and simple legal proceeding for regaining possession of real property from someone who has wrongfully taken, or refused to surrender, possession. — Also termed forcible detainer. See EVICTION; EJECTMENT. [Cases: Forcible Entry and Detainer 6; Landlord and Tenant 287.]“Forcible entry and detainer is a remedy given by statute for the recovery of possession of land and of damages for its detention. It is entirely regulated by statute, and the statutes vary materially in the different states.” Benjamin J. Shipman, *Handbook of Common-Law Pleading* § 74, at 188 (Henry Winthrop Ballantine ed., 3d ed. 1923).

FORECLOSE

foreclose,vb. To terminate a mortgagor's interest in property; to subject (property) to foreclosure proceedings. [Cases: Mortgages 320.C.J.S. Mortgages §§ 490–491, 495, 559, 568.]

“Should the mortgagor default in his obligations under the mortgage, the mortgagee will seek to ‘foreclose’, — i.e., ‘end’ or ‘close’ the mortgagor's rights in the security. After taking the appropriate statutory steps, the mortgagee will sell the mortgaged property. If the sale is to someone other than the mortgagor or the mortgagee (a ‘third party’ sale) the proceeds will go: first, to pay the costs of the foreclosure proceedings; second, to pay off the principal indebtedness and accrued interest; third, if there is anything left over (i.e., any ‘equity’ existed) this is paid to the mortgagor.” Edward H. Rabin, *Fundamentals of Modern Real Property Law* 1087 (1974).

FORECLOSURE

foreclosure (for-kloh-zh<<schwa>>r). A legal proceeding to terminate a mortgagor's interest in property, instituted by the lender (the mortgagee) either to gain title or to force a sale in order to satisfy the unpaid debt secured by the property. Cf. REPOSSESSION. [Cases: Mortgages 380.C.J.S. Mortgages §§ 490–491, 495, 690–691, 695, 697.]

equitable foreclosure.A foreclosure method in which the court orders the property sold, and the proceeds are applied first to pay the costs of the suit and sale and then to the mortgage debt. • Any surplus is paid to the mortgagor. [Cases: Mortgages 386. C.J.S. Mortgages § 693.]

judicial foreclosure.A costly and time-consuming foreclosure method by which the mortgaged property is sold through a court proceeding requiring many standard legal steps such as the filing of a complaint, service of process, notice, and a hearing. • Judicial foreclosure is available in all jurisdictions and is the exclusive or most common method of foreclosure in at least 20 states. [Cases: Mortgages 380. C.J.S. Mortgages §§ 490–491, 495, 690–691, 695, 697.]

mortgage foreclosure.A foreclosure of the mortgaged property upon the mortgagor's default.

[Cases: Mortgages 380, 394. C.J.S. Mortgages §§ 490–491, 495, 504, 521, 690–691, 695, 697.]

nonjudicial foreclosure. 1. See power-of-sale foreclosure. 2. A foreclosure method that does not require court involvement. [Cases: Mortgages 329. C.J.S. Mortgages §§ 490–491, 495, 575, 621.]

power-of-sale foreclosure. A foreclosure process by which, according to the mortgage instrument and a state statute, the mortgaged property is sold at a nonjudicial public sale by a public official, the mortgagee, or a trustee, without the stringent notice requirements, procedural burdens, or delays of a judicial foreclosure. • Power-of-sale foreclosure is authorized and used in more than half the states. — Also termed nonjudicial foreclosure; statutory foreclosure. [Cases: Mortgages 329. C.J.S. Mortgages §§ 490–491, 495, 575, 621.]

strict foreclosure. A rare procedure that gives the mortgagee title to the mortgaged property — without first conducting a sale — after a defaulting mortgagor fails to pay the mortgage debt within a court-specified period. • The use of strict foreclosure is limited to special situations except in those few states that permit this remedy generally. [Cases: Mortgages 384. C.J.S. Mortgages § 694.]

tax foreclosure. A public authority's seizure and sale of property for nonpayment of taxes. [Cases: Taxation 635. C.J.S. Taxation § 1133.]

FORECLOSURE DECREE

foreclosure decree. 1. Generally, a decree ordering a judicial foreclosure sale. 2. A decree ordering the strict foreclosure of a mortgage. [Cases: Mortgages 384. C.J.S. Mortgages § 694.]

FORECLOSURE SALE

foreclosure sale. See SALE.

FOREGIFT

foregift. Hist. A premium paid for a lease in addition to rent; forehand rent. See FOREHAND RENT(1).

FOREGOER

foregoer (for-goh-*<<schwa>>r*). Hist. A royal purveyor; a person who buys provisions for the Crown at an appraised (that is, reduced) price while the royal household travels about the country.

FOREHAND RENT

forehand rent. Hist. 1. A premium paid by the tenant on the making of a lease, esp. on the renewal of a lease by an ecclesiastical corporation. 2. Generally, rent payable before a lease begins.

FOREIGN

foreign, adj. 1. Of or relating to another country *<foreign affairs>*. 2. Of or relating to another jurisdiction *<the Arizona court gave full faith and credit to the foreign judgment from*

Mississippi>. — foreigner,n.

FOREIGN ADMINISTRATION

foreign administration.See ancillary administration under ADMINISTRATION.

FOREIGN ADMINISTRATOR

foreign administrator.See ADMINISTRATOR(2).

FOREIGN AGENT

foreign agent.See AGENT(2).

FOREIGN AGRICULTURAL SERVICE

Foreign Agricultural Service.An agency in the U.S. Department of Agriculture responsible for maintaining a worldwide agricultural intelligence and reporting system. — Abbr. FAS.

FOREIGN APPOSER

foreign apposer.See APPOSER.

FOREIGN ASSIGNMENT

foreign assignment.See ASSIGNMENT(2).

FOREIGN BILL

foreign bill.See BILL(6).

FOREIGN BILL OF EXCHANGE

foreign bill of exchange.See foreign draft under DRAFT.

FOREIGN BOND

foreign bond.See BOND(3).

FOREIGN CONSULATE

foreign consulate.See CONSULATE.

FOREIGN CORPORATION

foreign corporation.See CORPORATION.

FOREIGN COUNTY

foreign county.See COUNTY.

FOREIGN COURT

foreign court.See COURT.

FOREIGN CREDITOR

foreign creditor. See CREDITOR.

FOREIGN DIVORCE

foreign divorce. See DIVORCE.

FOREIGN DOCUMENT

foreign document. See DOCUMENT.

FOREIGN DOMICILE

foreign domicile. See DOMICILE.

FOREIGN DOMINION

foreign dominion. Hist. A country that at one time was a foreign state but that by conquest or cession has come under the British Crown.

FOREIGN DRAFT

foreign draft. See DRAFT.

FOREIGN-EARNED-INCOME EXCLUSION

foreign-earned-income exclusion. The Internal Revenue Code provision that excludes from taxation a limited amount of income earned by nonresident taxpayers outside the United States. • The taxpayer must elect between this exclusion and the foreign tax credit. IRC (26 USCA) § 911(a), (b). See foreign tax credit under TAX CREDIT. [Cases: Internal Revenue 4095–4122. C.J.S. Internal Revenue §§ 16, 475–476, 480–488.]

FOREIGNER

foreigner. 1. Hist. A person not an inhabitant of a particular city under discussion. 2. A citizen of another country.

FOREIGN EXCHANGE

foreign exchange. 1. The process of making international monetary transactions; esp., the conversion of one currency to that of a different country. 2. Foreign currency or negotiable instruments payable in foreign currency, such as traveler's checks.

FOREIGN-EXCHANGE MARKET

foreign-exchange market. See MARKET.

FOREIGN-EXCHANGE RATE

foreign-exchange rate. The rate at which the currency of one country is exchanged for the currency of another country.

FOREIGN GUARDIAN

foreign guardian. See GUARDIAN.

FOREIGN IMMUNITY

foreign immunity. See IMMUNITY(1).

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Foreign Intelligence Surveillance Act. A 1978 federal statute that established new procedures and courts to authorize electronic surveillance of foreign intelligence operations in the United States. • The Act established the Foreign Intelligence Surveillance Court and the Foreign Intelligence Court of Review. It allows the Attorney General to obtain warrants that authorize electronic surveillance of suspected foreign-intelligence operatives without public disclosure and without a showing of probable cause that criminal activity is involved. — Abbr. FISA.

FOREIGN INTELLIGENCE SURVEILLANCE COURT

Foreign Intelligence Surveillance Court. See UNITED STATES FOREIGN INTELLIGENCE SURVEILLANCE COURT .

FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW

Foreign Intelligence Surveillance Court of Review. See UNITED STATES FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW .

FOREIGN JUDGMENT

foreign judgment. See JUDGMENT.

FOREIGN JURISDICTION

foreign jurisdiction. See JURISDICTION.

FOREIGN JURY

foreign jury. See JURY.

FOREIGN LAW

foreign law. 1. Generally, the law of another country. 2. Conflict of laws. The law of another state or of a foreign country.

FOREIGN MINISTER

foreign minister. See MINISTER.

FOREIGN OBJECT

foreign object. An item that appears where it does not belong; esp., an item introduced into a living body, such as a sponge that is left in a patient's body during surgery. • The discovery rule usu. tolls the statute of limitations for a medical-malpractice claim based on a foreign object. — Also termed foreign substance. See FOREIGN SUBSTANCE. [Cases: Health 666.]

FOREIGN PORT

foreign port. See PORT

FOREIGN-RELATIONS LAW

foreign-relations law. See INTERNATIONAL LAW.

FOREIGN SERVICE

foreign service. 1. FORINSEC SERVICE. 2. Hist. A feudal service performed by a tenant outside of the fee.

FOREIGN SERVICE INSTITUTE

Foreign Service Institute. A unit in the U.S. Department of State responsible for training officers and employees of the Foreign Service as well as personnel in other agencies. — Abbr. FSI.

FOREIGN SITUS TRUST

foreign situs trust. See TRUST.

FOREIGN SOVEREIGN IMMUNITIES ACT

Foreign Sovereign Immunities Act. A federal statute providing individuals with a right of action against foreign governments, under certain circumstances, to the extent the claim arises from the private, as opposed to the public, acts of the foreign state. 28 USCA §§ 1602–1611. — Abbr. FSIA. See RESTRICTIVE PRINCIPLE OF SOVEREIGN IMMUNITY. [Cases: International Law 10.31–10.39. C.J.S. International Law §§ 46–52, 54–55.]

“The Foreign Sovereign Immunities Act (FSIA) of 1976 was designed to provide a set of comprehensive regulations governing access to federal and state courts in this country for plaintiffs asserting claims against foreign states and instrumentalities thereof. The enactment of this legislation responded to the reality that increased contacts between American citizens and companies on the one hand, and foreign states and entities owned by foreign states on the other, as well as a constantly expanding range of government activities, had created the need for judicial fora in this country to resolve disputes arising out of these activities.” 14A Charles Alan Wright et al., *Federal Practice and Procedure* § 3662, at 160–61 (2d ed. 1998).

FOREIGN STATE

foreign state. 1. A foreign country. 2. An American state different from the one under discussion.

FOREIGN SUBSTANCE

foreign substance. A substance found in a body, organism, or thing where it is not supposed to be found <the plaintiff sued because she thought she saw — and later confirmed that she had found — a foreign substance (namely, a piece of glass) in her hamburger>.

FOREIGN SUPPORT ORDER

foreign support order. See SUPPORT ORDER.

FOREIGN TAX CREDIT

foreign tax credit. See TAX CREDIT.

FOREIGN TRADE ZONE

foreign trade zone. See FREE-TRADE ZONE.

FOREIGN TRUST

foreign trust. See foreign-situs trust under TRUST.

FOREIGN VESSEL

foreign vessel. See VESSEL.

FOREIGN VOYAGE

foreign voyage. See VOYAGE.

FOREIGN WATER

foreign water. See WATER.

FOREJUDGE

forejudge, vb. 1. To prejudge; to judge beforehand. 2. Hist. To expel a person, esp. an officer or attorney, from court for some offense or misconduct. 3. To deprive (a person) of a thing by a judgment; to condemn (a person) to lose a thing. — Also spelled forjudge.

FOREJUDGER

forejudger (for-j<<schwa>>j-<<schwa>>r), n. Hist. 1. A judgment that deprives a person of a thing. 2. A judgment of expulsion or banishment. — Also spelled forjudger. — Also termed forisjudicatio; forisjudicatus.

FOREMAN

foreman. 1. See presiding juror under JUROR. 2. A person who directs the work of employees; an overseer, crew chief, or superintendent.

FOREMATRON

forematron. Archaic. The presiding juror in an all-woman jury.

FORENSIC

forensic (f<<schwa>>-ren-sik also -zik), adj. 1. Used in or suitable to courts of law or public debate <forensic psychiatry>. 2. Rhetorical; argumentative < Spence's considerable forensic skills>. 3. Hist. Exterior; foreign.

FORENSIC ENGINEERING

forensic engineering. The use of engineering principles or analysis in a lawsuit, usu. through an expert witness's testimony.

FORENSIC EVIDENCE

forensic evidence. See EVIDENCE.

FORENSIC LINGUISTICS

forensic linguistics. The science or technique that evaluates the linguistic characteristics of written or oral communications, usu. to determine identity or authorship.

FORENSIC MEDICINE

forensic medicine. The branch of medicine that establishes or interprets evidence using scientific or technical facts, such as ballistics. — Also termed medical jurisprudence.

FORENSIC PATHOLOGY

forensic pathology. The specific branch of medicine that establishes or interprets evidence dealing with diseases and disorders of the body, esp. those that cause death.

FORENSICS

forensics (f<<schwa>>-ren-siks also -ziks). 1. The art of argumentative discourse. 2. The branch of law enforcement dealing with legal evidence relating to firearms and ballistics.

FORENSIC SERVICES

forensic services. Hist. In feudal law, the payment of extraordinary aids or the rendition of extraordinary military services.

FORENSIS

forensis (f<<schwa>>-ren-sis), adj. [fr. Latin forum “court”] Roman law. Of or relating to a court of law. • An advocate, for example, was sometimes known as a homo forensis.

FOREPERSON

foreperson. See presiding juror under JUROR.

FORESEEABILITY

foreseeability, n. The quality of being reasonably anticipatable. • Foreseeability, along with actual causation, is an element of proximate cause in tort law. — foreseeable, adj.

FORESEEABLE DAMAGES

foreseeable damages. See DAMAGES.

FOREST

forest, n. Hist. A tract of land, not necessarily wooded, reserved to the king or a grantee for hunting deer and other game.

FORESTALL

forestall (for-stawl), vb. 1. To prevent (an event, result, etc.).2.Hist. To intercept or obstruct (as a person on a royal highway).3.Hist. To prevent (a tenant) from coming on the premises. 4.Hist. To intercept (as a deer reentering a forest).5.Hist. To buy (goods) for the purpose of reselling at a higher price. • At common law, this was an indictable offense. — Also spelled forstall. See FORESTALLING THE MARKET.

“[A] growing town in England might have placed a higher value on grain than a neighboring town with a static population, yet traditional patterns of business might continue to send the same amount of grain to both towns. A forestaller would bid against the traditional buyer in the smaller town, obtain the grain, and resell it where it could command a higher price in the larger town. Forestalling did not harm allocative efficiency. Indeed, it was a highly effective means of reallocating scarce goods to their most highly valued uses — the very definition of efficiency. Rather, forestalling was objectionable, and thus prohibited as a restraint of trade, because the bidding process necessarily resulted in higher grain prices in many parts of the country.” Stephen F. Ross, *Principles of Antitrust Law* 12 (1993).

FORESTALLER

forestaller,n.1. A person who forestalls. 2.Hist. One guilty of the offense of forestalling. See FORESTALL(5).

FORESTALLING THE MARKET

forestalling the market.Hist. 1.The taking possession of commodities on their way to the market. 2. The purchase of goods on their way to the market, with the intention of reselling them at a higher price. 3. The deterrence of having sellers offer their goods at market at a reasonable price; specif., the crime of inhibiting normal trading by persuading sellers to raise their prices on goods or dissuading them from offering the goods in a particular market, or by purchasing as much as possible of certain goods before they reach the market to drive up prices.

FOREST LAW

forest law.Hist. The body of law protecting game and preserving timber.

FORESTRY RIGHT

forestry right.A land interest under which a person has the right to enter the land, establish and maintain a crop of trees, harvest them, and construct works for that purpose. [Cases: Logs and Logging 1. C.J.S. Logs and Logging §§ 2, 9.]

FOREST SERVICE

Forest Service.An agency in the U.S. Department of Agriculture responsible for managing the nation's national forests. • The Forest Service also operates the Youth Conservation Corps and the Volunteers in the National Forest programs.

FORFEITURE

forfeiture (for-fi-ch<<schwa>>r), n.1. The divestiture of property without compensation. 2. The loss of a right, privilege, or property because of a crime, breach of obligation, or neglect of duty. • Title is instantaneously transferred to another, such as the government, a corporation, or a private person. [Cases: Controlled Substances 162; Forfeitures 1.C.J.S. RICO (Racketeer Influenced and Corrupt Organizations) § 30.] 3. Something (esp. money or property) lost or confiscated by this process; a penalty. — forfeit,vb. — forfeitable,adj.

civil forfeiture.An in rem proceeding brought by the government against property that either facilitated a crime or was acquired as a result of criminal activity. [Cases: Controlled Substances 162; Forfeitures 1. C.J.S. RICO (Racketeer Influenced and Corrupt Organizations) § 30.]

criminal forfeiture.A governmental proceeding brought against a person to seize property as punishment for the person's criminal behavior. [Cases: Controlled Substances 162; Forfeitures 1. C.J.S. RICO (Racketeer Influenced and Corrupt Organizations) § 30.]

forfeiture of marriage.Hist. A penalty exacted by a lord from a ward who married without the lord's consent. • The penalty was a money payment double the value that the marriage would otherwise have been worth to the lord.

forfeiture of pay.Military law. A punishment depriving the guilty party of all or part of his or her military pay. [Cases: Armed Services 48; Military Justice 1322. C.J.S. Armed Services § 181; Military Justice §§ 384–391, 423–427, 434.]

4. A destruction or deprivation of some estate or right because of the failure to perform some obligation or condition contained in a contract.“[When a condition] is not likely to occur until the obligee has relied on the expected exchange by, for example, performing or preparing to perform, ... nonoccurrence of the condition results in the obligee's loss of its reliance interest when the obligee loses the right to that exchange. This loss of reliance interest is often described as ‘forfeiture.’ ” E. Allan Farnsworth, *Contracts* § 8.4, at 533 (3d ed. 1999).

FORFEITURE CLAUSE

forfeiture clause. 1. A contractual provision stating that, under certain circumstances, one party must forfeit something to the other. • Forfeiture clauses are often held to be void, although they are similar to conditions and other qualifications of estates in land. 2.NO-CONTEST CLAUSE.

FORFEITURE RESTRAINT

forfeiture restraint.An attempt by an otherwise effective conveyance or contract to cause a later conveyance to terminate or to make some or all of the later conveyance subject to termination. — Sometimes shortened to restraint.

FORGAVEL

forgavel (for-gav-<<schwa>>l).Hist. A small reserved rent in money; quit-rent.

FORGERY

forger^y,n.1. The act of fraudulently making a false document or altering a real one to be used as if genuine <the contract was void because of the seller's forgery>. — Also termed false making. • Though forgery was a misdemeanor at common law, modern statutes typically make it a felony. [Cases: Forgery 1.] 2. A false or altered document made to look genuine by someone with the intent to deceive <he was not the true property owner because the deed was a forgery>. — Also termed fake. 3. Under the Model Penal Code, the act of fraudulently altering, authenticating, issuing, or transferring a writing without appropriate authorization. • Under the explicit terms of the Code, writing can include items such as coins and credit cards. Model Penal Code § 224.1(1). — forge,vb. — forger,n.

“While it is true that there is a distinction between fraud and forgery, and forgery contains some elements that are not included in fraud, forgeries are a species of fraud. In essence, the crime of forgery involves the making, altering, or completing of an instrument by someone other than the ostensible maker or drawer or an agent of the ostensible maker or drawer.” 37 C.J.S. Forgery § 2, at 66 (1997).

double forgery.A draft having a forged payor signature and a forged indorsement.

FORI DISPUTATIONES

fori disputationes (for-I dis-pyoo-tay-shee-oh-nee^z). [Latin “arguments of the court”] Roman law. Arguments or discussions before a court.

FORINSEC SERVICE

forinsec service (f<<schwa>>-rin-sik).Hist. The feudal services owed by a mesne (i.e., intermediate) lord, esp. those of a military nature. — Also termed foreign service; forinsecum servitium. Cf. INTRINSEC SERVICE.

“The terminology of Bracton's day and of yet earlier times neatly expresses the distinction between the service which the tenant owes to his immediate lord by reason of the bargain which exists between them, and the service which was incumbent on the tenement whilst it was in the lord's hand. The former is intrinsec service, the latter forinsec service; the former is the service which is created by, which (as it were) arises within, the bargain between the two persons, A and B, whose rights and duties we are discussing; the latter arises outside that bargain, is ‘foreign’ to that bargain [T]he term is a relative one; what is ‘intrinsec’ between A and B is ‘forinsec’ as regards C.” 1 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 238, 239 n.2 (2d ed. 1898).

FORINSECUS

forinsecus (f<<schwa>>-rin-s<<schwa>>-k<<schwa>>s), adv.[fr. Latin foris “without”] Hist. On the outside.

forinsecus (f<<schwa>>-rin-s<<schwa>>-k<<schwa>>s), n.[Latin] Hist. A foreigner; someone from another jurisdiction.

FORIS

foris (for-is), adj.[Latin] Abroad; outdoors; without.

FORISBANITUS

forisbanitus (for-is-ban-<<schwa>>-t<<schwa>>s). See FORBANNITUS.

FORISBANNIRE

forisbannire (for-is-b<<schwa>>-nI-ree), vb. [Law Latin “to banish”] Hist. To expel from a certain territory; to banish.

FORISFACERE

forisfacere (for-is-fay-s<<schwa>>-ree), vb. [fr. Latin foris “without” + facere “to make”] Hist. 1.To forfeit (an estate or other property). • Literally, this means to make the property foreign to oneself. 2. To violate the law; to do a thing against or without the law.

FORISFACTUM

forisfactum (for-is-fak-t<<schwa>>m), adj.[Law Latin] Hist. (Of property) forfeited.

FORISFACTUS

forisfactus (for-is-fak-t<<schwa>>s). [Law Latin] Hist. A criminal; esp., one who has forfeited his or her life by committing a capital offense.

FORISFACTUS SERVUS

forisfactus servus (for-is-fak-t<<schwa>>s <<schwa>>r-v<<schwa>>s). [Law Latin] Hist. A freed slave who has forfeited his or her freedom by committing a crime.

FORISFAMILIATE

forisfiliate (for-is-f<<schwa>>-mil-ee-ayt), vb. [fr. Latin foris “outside” + familia “family”] Hist. To emancipate (a son) from paternal authority by a gift of land. • This act usu. rendered the son ineligible to inherit more property. — Also termed (archaically) forisfamiliare.

FORISFAMILIATED

forisfiliated (for-is-f<<schwa>>-mil-ee-ay-tid), adj. Hist. (Of a son) emancipated from paternal authority and in possession of a portion of family land in lieu of inheritance.

“If our English law at any time knew an enduring patria potestas which could be likened to the Roman, that time had passed away long before the days of Bracton.... Bracton, it is true, has copied about this matter some sentences from the Institutes which he ought not to have copied; but he soon forgets them, and we easily see that they belong to an alien system. Our law knows no such thing as ‘emancipation,’ it merely knows an attainment of full age.... In old times a forisfiliated son, that is, one whom his father had enfeoffed, was excluded from the inheritance. This is already antiquated, yet Bracton can find nothing else to serve instead of an emancipatio.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 438, 438 n.3 (2d ed. 1899).

FORISFAMILIATION

forisfiliation.Scots law. The liberation of a child from the father's tutelage, as when a child under the age of majority left home, was given seisin in a part of the father's land, or accepted something as a settled inheritance. Cf. EMANCIPATION(2).

FORISJUDICATIO

forisjudicatio. See FORJUDGER.

FORISJUDICATUS

forisjudicatus. See FORJUDGER.

FORISJURARE

forisjurare (for-is-j<<schwa>>-rair-ee), vb. [Law Latin] Hist. To forswear; to renounce under oath. — Also termed forjurer.

FORISJURARE PARENTILAM

forisjurare parentilam (for-is-j<<schwa>>-rair-ee p<<schwa>>-ren-t<<schwa>>-l<<schwa>>m), vb. [Law Latin] Hist. To renounce parental authority. • One who did so lost all rights of heirship.

FORISJURARE PROVINCIAM

forisjurare provinciam (for-is-j<<schwa>>-rair-ee pr<<schwa>>-vin-shee-<<schwa>>m), vb. [Law Latin] Hist. To renounce under oath allegiance to one's country.

FORJUDGE

forjudge,vb. See FOREJUDGE.

FORJUDGER

forjudger (for-j<<schwa>>j-<<schwa>>r), n. See FOREJUDGER.

FORJURER

forjurer. See FORISJURARE.

FORJURER ROYALME

forjurer royalme (for-zh<<schwa>>-ray roy-ohm), vb. [Law French] Hist. To renounce the kingdom under oath; to abjure the realm.

FORM

form,n.1. The outer shape or structure of something, as distinguished from its substance or matter <courts are generally less concerned about defects in form than defects in substance>.2. Established behavior or procedure, usu. according to custom or rule <the prosecutor followed the established form in her closing argument>.3. A model; a sample; an example <attorneys often

draft pleadings by using a form instead of starting from scratch>.4. The customary method of drafting legal documents, usu. with fixed words, phrases, and sentences <Jones prepared the contract merely by following the state bar's form>.5. A legal document with blank spaces to be filled in by the drafter <the divorce lawyer used printed forms that a secretary could fill in>.

FORM 8-K

Form 8-K.See 8-K.

FORM 10-K

Form 10-K.See 10-K.

FORM 10-Q

Form 10-Q.See 10-Q.

FORMA

forma (for-m<<schwa>>). [Latin "form"] Hist. The prescribed form of judicial proceedings.

FORMA ET FIGURA JUDICII

forma et figura iudicii (for-m<<schwa>> et fig-y<<schwa>>r-<<schwa>> joo-dish-ee-I). [Latin] Hist. The form and shape of judgment. • A form prescribed by statute.

FORMAL

formal,adj.1. Pertaining to or following established procedural rules, customs, and practices. 2. Ceremonial. — formality,n.

FORMAL ABANDONMENT

formal abandonment.See express abandonment under ABANDONMENT(9).

FORMAL ACKNOWLEDGMENT

formal acknowledgment.See ACKNOWLEDGMENT.

FORMAL AGREEMENT

formal agreement.See AGREEMENT.

FORMAL CONTRACT

formal contract.See CONTRACT.

FORMAL DRAWING

formal drawing.See DRAWING.

FORMALITY

formality. 1. A small point of practice that, though seemingly unimportant, must usu. be observed to achieve a particular legal result. 2.Hist. (pl.) Robes worn by magistrates on solemn

occasions. 3. Copyright. (usu. pl.) A procedural requirement formerly required before receiving U.S. copyright protection. • Formalities included (1) a copyright notice appearing on the work, (2) actual publication, (3) registration with the Copyright Office, and (4) deposit of the work with the Library of Congress. The formality requirements eroded during the 20th century. Today, none are required, although registration remains a prerequisite for an infringement suit by U.S. authors.

FORMAL LAW

formal law. Procedural law.

“Procedure is by many German writers inappropriately called ‘formal law.’ ” Thomas E. Holland, *The Elements of Jurisprudence* 358 n.2 (13th ed. 1924).

FORMAL PARTY

formal party. See nominal party under PARTY(2).

FORMAL REJECTION

formal rejection. See REJECTION.

FORMAL RULEMAKING

formal rulemaking. See RULEMAKING.

FORMA PAUPERIS

forma pauperis. See IN FORMA PAUPERIS.

FORMATA

formata (for-may-t<<schwa>>). [Law Latin] Eccles. law. Canonical letters.

FORMATA BREVIA

formata brevia. See BREVIA FORMATA.

FORMA VERBORUM

forma verborum (for-m<<schwa>> v<<schwa>>r-bor-<<schwa>>m). [Latin] Hist. The form of the words.

FORMBOOK

formbook. A book that contains sample legal documents, esp. transaction-related documents such as contracts, deeds, leases, wills, trusts, and securities disclosure documents.

FORMED DESIGN

formed design. See DESIGN.

FORMEDON

formedon (for-m<<schwa>>-don). [fr. Latin forma doni “form of the gift”] Hist. A writ of

right for claiming entailed property held by another. • A writ of formedon was the highest remedy available to a tenant in tail. — Also termed writ of formedon. [Cases: Real Actions 4.]

“Called formedon, because the writ comprehended the form of the gift. It was of three kinds, in the descender, in the remainder, and in the reverter.” 1 Alexander M. Burrill, *A Law Dictionary and Glossary* 650 (2d ed. 1867).

formedon in the descender. A writ of formedon brought by the issue in tail to recover possession of the land.

formedon in the remainder. A writ of formedon brought by a remainderman under a grant or gift in tail to recover possession of the land.

formedon in the reverter. A writ of formedon brought by a reversioner or donor of the grant or gift in tail to recover possession of the land.

FORMER ACQUITTAL

former acquittal. See *autrefois acquit* under *AUTREFOIS*.

FORMER ADJUDICATION

former adjudication. A judgment in a prior action that resulted in a final determination of the rights of the parties or essential fact questions and serves to bar relitigation of the issues relevant to that determination. • Collateral estoppel and *res judicata* are the two types of former adjudication. See *COLLATERAL ESTOPPEL*; *RES JUDICATA*. [Cases: Judgment 540, 634. C.J.S. Judgments §§ 697–703, 707, 779–782, 834.]

FORMER JEOPARDY

former jeopardy. The fact of having previously been prosecuted for the same offense. • A defendant enters a plea of former jeopardy to inform the court that a second prosecution is improper. Cf. *DOUBLE JEOPARDY*. [Cases: Double Jeopardy 132.1.]

FORMER PUNISHMENT

former punishment. Military law. The rule that nonjudicial punishment for a minor offense may bar trial by court-martial for the same offense.

FORM OF ACTION

form of action. The common-law legal and procedural device associated with a particular writ, each of which had specific forms of process, pleading, trial, and judgment. • The 11 common-law forms of action were trespass, trespass on the case, trover, ejectment, detinue, replevin, debt, covenant, account, special assumpsit, and general assumpsit. [Cases: Action 29; Federal Civil Procedure 71. C.J.S. Actions §§ 74–77.]

“Forms of action are usually regarded as different methods of procedure adapted to cases of different kinds, but in fact the choice between forms of action is primarily a choice between different theories of substantive liability, and the scope of the actions measures the existence and

extent of liability at common law.... The development and extension of the different forms of action is the history of the recognition of rights and liability in the law of torts, contracts, and property, and the essentials of rights of action.” Benjamin J. Shipman, *Handbook of Common-Law Pleading* §§ 27, 30, at 54, 60 (Henry Winthrop Ballantine ed., 3d ed. 1923).

FORM S-1

Form S-1. See S-1.

FORMULA

formula. [Latin “set form of words”] 1. Roman law. A written document, prepared by a praetor and forwarded to a judex, identifying the issue to be tried and the judgment to be given by the judex. • It was based on model pleas formulated by the praetor in his edict and adapted by him or other magistrates in civil suits for the benefit of the judex who had to try the issue. These pleas were adapted to the circumstances of the case. The usual parts of a formula were (1) the demonstratio, in which the plaintiff stated the facts of the claim; (2) the intentio, in which the plaintiff specified the relief sought against the defendant; and (3) the condemnatio, in which the judex condemned (usu. to pay the plaintiff a sum) or acquitted the defendant. Pl. formulae (for-my<<schwa>>-lee). — Also termed verba concepta (v<<schwa>>r-b<<schwa>>k<<schwa>>n-sep-t<<schwa>>).

“The Roman judges were not, as with us, the presiding officers in the administration of law and justice. This was the position of the magistrate, the praetor. When a suit at law was commenced, the parties appeared before the praetor, who made a preliminary examination, not to ascertain the merits of the case, but to find the precise points in controversy. He heard the statements of the plaintiff and the counter-statements of the defendant, and from the two he constructed a formula (as it was called), a brief technical expression of the disputed issues. He then appointed a judex... instructing him to investigate the matter, and if he found the facts to be so and so, as recited in the formula, then to condemn the accused party, but, if he did not find them so, to acquit him.” James Hadley, *Introduction to Roman Law* 59–60 (1881). [This quotation describes only the period of formulary procedure, ca. 150 B.C.–A.D. 300. — Ed.]

2. Common-law pleading. A set form of words (such as those appearing in writs) used in judicial proceedings.

FORMULA DEAL

formula deal. An agreement between a movie distributor and an independent or affiliated circuit to exhibit a feature movie in all theaters at a specified percentage of the national gross receipts realized by the theaters.

FORMULAE

formulae (for-my<<schwa>>-lee). [Latin “set forms of words”] Roman law. Model pleas formulated by the praetor in his edict and adapted by him or other magistrates in civil suits for the benefit of the judex who had to try the issue. • These pleas were adapted to the circumstances of the case. — Also termed verba concepta (v<<schwa>>r-b<<schwa>>).

k<<schwa>>n-sep-t<<schwa>>).

FORMULA INSTRUCTION

formula instruction. See JURY INSTRUCTION.

FORMULARY

formulary. 1. Hist. A collection of the forms of proceedings (formulae) used in litigation, such as the writ forms kept by the Chancery. See WRIT SYSTEM. 2. A list of drugs that Medicare or a health-maintenance organization will pay for.

FORMULARY PROCEDURE

formulary procedure. Hist. The common-law method of pleading and practice, which required formulaic compliance with the accepted forms of action even if through elaborate fictions. • In the 19th century, this type of procedure was replaced both in the United States and in England. See code pleading under PLEADING(2).

FORNICATION

fornication, n. 1. Voluntary sexual intercourse between two unmarried persons. • Fornication is still a crime in some states, such as Virginia. 2. Hist. Voluntary sexual intercourse with an unmarried woman. • At common law, the status of the woman determined whether the offense was adultery or fornication — adultery was sexual intercourse between a man, single or married, and a married woman not his wife; fornication was sexual intercourse between a man, single or married, and a single woman. Cf. ADULTERY. [Cases: Criminal Law 45.40; Lewdness 1. C.J.S. Criminal Law § 7.10; Lewdness §§ 2–9.] — fornicate, vb.

“Fornication was not a common-law crime but was made punishable by statute in a few states as a misdemeanor.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 455 (3d ed. 1982).

FORNIX

fornix (for-niks). [Latin] Hist. 1. A brothel. 2. Fornication.

FORPRISE

forprise (for-prIz). Hist. 1. An exception or reservation. • The term was frequently used in leases and conveyances.

“Forprise ... [a]n exception or reservation... We still use it in Conveyances and Leases, wherein Excepted and Forprised is an usual expression.” Thomas Blount, *Nomo-Lexicon: A Law-Dictionary* (1670).

2. An exaction.

FOR-PROFIT CORPORATION

for-profit corporation. See CORPORATION.

FORSCHER

forschel (for-sh<<schwa>>l).Hist. A strip of land next to a highway. — Also termed forschet.

FORSPECA

forspeca (for-spee-k<<schwa>>).PROLOCUTOR(2).

FORSWEARING

forswearing (for-swair-ing), n.1. The act of repudiating or renouncing under oath.
2.PERJURY. — forswear,vb.

FORTAXED

fortaxed (for-takst).Hist. Wrongly or extortionately taxed.

FORTHCOMING

forthcoming,n. Scots law. 1. An action through which arrestment is made available to an arrester. 2. An order that perfects an arrestment by directing a debtor either to pay the money owed or to deliver the arrested goods to the creditor.

FORTHCOMING BOND

forthcoming bond.See BOND(2).

FORTHWITH

forthwith,adv.1. Immediately; without delay. 2. Directly; promptly; within a reasonable time under the circumstances.

FORTIA

fortia (for-sh<<schwa>>). [Law Latin] Hist. 1.Force. • Fortia refers to force used by an accessory to allow the principal to commit the crime. 2. Power, dominion, or jurisdiction.

FORTIA FRISCA

fortia frisca (for-sh<<schwa>> fris-k<<schwa>>). [Law Latin] Hist. See FRESH FORCE .

FORTIOR

fortior (for-shee-<<schwa>>r or -or), adj.[Latin “stronger”] Hist. (Of evidence) involving a presumption that, because of the strength of a party's evidence, shifts the burden of proof to the opposing party.

FORTUITOUS

fortuitous (for-t[y]oo-<<schwa>>-t<<schwa>>s), adj. Occurring by chance. • A fortuitous event may be highly unfortunate. Literally, the term is neutral, despite its common misuse as a synonym for fortunate.

FORTUITOUS EVENT

fortuitous event. 1. A happening that, because it occurs only by chance or accident, the parties

could not reasonably have foreseen. 2. An event that, so far as contracting parties are aware, depends on chance. 3. Louisiana law. An event that could not have been reasonably foreseen at the time a contract was made. La. Civ. Code art. 1875. — Also termed *cas fortuit*. See FORCE MAJEURE ; UNAVOIDABLE-ACCIDENT DOCTRINE.

FORTUNE 500

Fortune 500. An annual compilation of the 500 largest U.S. corporations. • It is published in, and gets its name from, Fortune magazine.

FORTY

forty, n. Archaic. Forty acres of land in the form of a square <the south forty>. • To determine a forty, a section of land (640 acres) was quartered, and one of those quarters was again quartered.

FORTY-DAYS COURT

forty-days court. See COURT OF ATTACHMENTS.

FORUM

forum, n. 1. A public place, esp. one devoted to assembly or debate. See PUBLIC FORUM ; NONPUBLIC FORUM. 2. A court or other judicial body; a place of jurisdiction. Pl. forums, fora.

FORUM ACTUS

forum actus (for-*<<schwa>>*m ak-t*<<schwa>>*s). [Latin “the forum of the act”] Hist. The place where an act was done.

FORUM COMPETENS

forum competens (for-*<<schwa>>*m kom-p*<<schwa>>*-tenz). [Latin] Hist. A competent court; a court that has jurisdiction over a case.

FORUM CONSCIENTIAE

forum conscientiae (for-*<<schwa>>*m kon-shee-en-shee-ee). [Latin “the forum of conscience”] Hist. The tribunal or court of conscience. • This court was usu. a court of equity. See COURT OF CONSCIENCE.

FORUM CONTENTIOSUM

forum contentiosum (for-*<<schwa>>*m k*<<schwa>>*n-ten-shee-oh-s*<<schwa>>*m). [Latin “the forum of contention”] Hist. A court of justice; a place for litigation.

FORUM CONTRACTUS

forum contractus (for-*<<schwa>>*m k*<<schwa>>*n-trak-t*<<schwa>>*s). [Latin “the forum of the contract”] Hist. 1. The place where a contract was made, and thus the place of jurisdiction. 2. The court of the place where a contract was made.

FORUM CONVENIENS

forum conveniens (for-*<<schwa>>m k<<schwa>>n-vee-nee-enz*). [Latin “a suitable forum”] The court in which an action is most appropriately brought, considering the best interests and convenience of the parties and witnesses. Cf. FORUM NON CONVENIENS.

FORUM DOMESTICUM

forum domesticum (for-*<<schwa>>m d<<schwa>>-mes-ti-k<<schwa>>m*). [Latin] Hist. A domestic court. • This type of court decides matters (such as professional discipline) arising within the organization that created it.

FORUM DOMICILII

forum domicilii (for-*<<schwa>>m dom-<<schwa>>-sil-ee-I*). [Latin] Hist. The forum or court of the domicile, usu. of the defendant.

FORUM ECCLESIASTICUM

forum ecclesiasticum (for-*<<schwa>>m e-klee-z[h]ee-as-ti-k<<schwa>>m*). [Latin] Hist. An ecclesiastical court. — Also termed *judicium ecclesiasticum*.

FORUM EXTERNUM

forum externum (for-*<<schwa>>m ek-st<<schwa>>r-n<<schwa>>m*), n.[Latin “external tribunal”] Eccles. law. A court dealing with legal cases pertaining to or affecting the corporate life of the church. [Cases: Religious Societies 14. C.J.S. Religious Societies §§ 85–86, 88–92.]

FORUM INCONVENIENS

forum inconveniens. See FORUM NON CONVENIENS.

FORUM INTERNUM

forum internum (for-*<<schwa>>m in-t<<schwa>>r-n<<schwa>>m*), n.[Latin “internal tribunal”] Eccles. law. A court of conscience; a court for matters of conscience or the confessional.

FORUM LIGEANTIAE REI

forum ligeantiae rei (for-*<<schwa>>m lij-ee-an-shee-ee ree-I*). [Latin] Hist. The forum of the defendant's allegiance; the court or jurisdiction of the country to which the defendant owes allegiance.

FORUM NON COMPETENS

forum non competens (for-*<<schwa>>m non kom-p<<schwa>>-tenz*). [Latin] Hist. An inappropriate court; a court that lacks jurisdiction over a case.

FORUM NON CONVENIENS

forum non conveniens (for-*<<schwa>>m non k<<schwa>>n-vee-nee-enz*). [Latin “an unsuitable court”] Civil procedure. The doctrine that an appropriate forum — even though competent under the law — may divest itself of jurisdiction if, for the convenience of the litigants and the witnesses, it appears that the action should proceed in another forum in which the action

might also have been properly brought in the first place. — Also termed *forum inconueniens*. [Cases: Courts 28; Federal Courts 45. C.J.S. Courts §§ 68–69.]

“Forum non *conueniens* allows a court to exercise its discretion to avoid the oppression or vexation that might result from automatically honoring plaintiff's forum choice. However, dismissal on the basis of forum non *conueniens* also requires that there be an alternative forum in which the suit can be prosecuted. It must appear that jurisdiction over all parties can be secured and that complete relief can be obtained in the supposedly more convenient court. Further, in at least some states, it has been held that the doctrine cannot be successfully invoked when the plaintiff is resident of the forum state since, effectively, one of the functions of the state courts is to provide a tribunal in which their residents can obtain an adjudication of their grievances. But in most instances a balancing of the convenience to all the parties will be considered and no one factor will preclude a forum non *conueniens* dismissal, as long as another forum is available.” Jack H. Friedenthal et al., *Civil Procedure* §§ 2.17, at 87–88 (2d ed. 1993).

FORUM ORIGINIS

forum originis (for-*m rij-nis*). [Latin] Hist. The forum or place of a person's birth, considered as a place of jurisdiction.

FORUM REGIUM

forum regium (for-*m ree-jee-m*). [Latin] Hist. The king's court.

FORUM REI

forum rei (for-*m ree-I*). [Latin] Hist. 1. The forum of the defendant, i.e., the place where the defendant is domiciled or resides. 2.FORUM REI SITAE.

FORUM REI GESTAE

forum rei gestae (for-*m ree-Ijes-tee*). [Latin] Hist. The forum or court of a *res gesta* (thing done); the place where an act was done, considered as a place of jurisdiction.

FORUM REI SITAE

forum rei sitae (for-*m ree-IsI-tee*). [Latin] Hist. The court where the thing or subject-matter in controversy is situated, considered as a place of jurisdiction. — Often shortened to forum rei.

FORUM SECULARE

forum seculare (for-*m sek-y-lair-ee*). [Latin] Hist. A secular court. — Also spelled forum saeculare.

FORUM-SELECTION CLAUSE

forum-selection clause.A contractual provision in which the parties establish the place (such as the country, state, or type of court) for specified litigation between them. — Also termed choice-of-exclusive-forum clause. Cf. CHOICE-OF-LAW CLAUSE. [Cases: Contracts 127(4).

C.J.S. Contracts § 237.]

FORUM-SHOPPING

forum-shopping. The practice of choosing the most favorable jurisdiction or court in which a claim might be heard. • A plaintiff might engage in forum-shopping, for example, by filing suit in a jurisdiction with a reputation for high jury awards or by filing several similar suits and keeping the one with the preferred judge. Cf. JUDGE-SHOPPING.

FORUM STATE

forum state. Conflict of laws. The state in which a suit is filed.

FOR USE

for use. For the benefit or advantage of another. See USE.

FORWARD AGREEMENT

forward agreement. See forward contract under CONTRACT.

FORWARD AND BACKWARD AT SEA

forward and backward at sea. Marine insurance. From port to port in the course of a voyage, and not merely from one terminus to the other and back.

FORWARD CONFUSION

forward confusion. See CONFUSION.

FORWARD CONTRACT

forward contract. See CONTRACT.

FORWARD COVER

forward cover. The purchase of a cash commodity to meet the obligation of a forward contract. See forward contract under CONTRACT.

FORWARDING AGENT

forwarding agent. See AGENT(2).

FORWARD MARKET

forward market. See futures market under MARKET.

FORWARD-RATE AGREEMENT

forward-rate agreement. A contract that specifies what the interest rate on an obligation will be on some future date. — Abbr. FRA.

FORWARD TRIANGULAR MERGER

forward triangular merger. See triangular merger under MERGER.

FOSSAGE

fossage (fos-ij), n. Hist. A duty paid to maintain a moat around a fortification.

FOSTER

foster,adj.1. (Of a relationship) involving parental care given by someone not related by blood or legal adoption <foster home>.2. (Of a person) giving or receiving parental care to or from someone not related by blood or legal adoption <foster parent> <foster child>.

foster,vb. To give care to (something or someone); esp., to give parental care to (a child who is not one's natural or legally adopted child).

FOSTERAGE

fosterage,n.1. The act of caring for another's child. 2. The entrusting of a child to another. 3. The condition of being in the care of another. 4. The act of encouraging or promoting.

FOSTER CARE

foster care. 1. A federally funded child-welfare program providing substitute care for abused and neglected children who have been removed by court order from their parents' or guardians' care or for children voluntarily placed by their parents in the temporary care of the state because of a family crisis. 42 USCA §§ 670–679a. • The state welfare agency selects, trains, supervises, and pays those who serve as foster parents. [Cases: Infants 226. C.J.S. Adoption of Persons §§ 10–12.]

long-term foster care.The placing of a child in foster care for extended periods, perhaps even for the child's entire minority, in lieu of family reunification, termination and adoption, or guardianship. • Although most courts do not generally find this arrangement to be in a child's best interests, sometimes it is the only possibility, as when the child, because of age or disability, is unlikely to be adopted or when, although the parent cannot be permanently reunited with the child, limited contact with the parent would serve the child's best interests. Under the Adoption and Safe Families Act, long-term foster care is the permanent placement of last resort.

2. The area of social services concerned with meeting the needs of children who participate in these types of programs. [Cases: Infants 17.C.J.S. Infants §§ 8–9.]

FOSTER-CARE DRIFT

foster-care drift.The phenomenon that occurs when children placed in foster care remain in that system, in legal limbo, for too many years of their developmental life before they are reunited with their parents or freed for adoption and placed in permanent homes. • The Adoption and Safe Families Act was passed in 1997 to help rectify this problem. See ADOPTION AND SAFE FAMILIES ACT .

FOSTER-CARE PLACEMENT

foster-care placement.The (usu. temporary) act of placing a child in a home with a person or persons who provide parental care for the child. Cf. OUT-OF-HOME PLACEMENT T. [Cases:

Infants 226. C.J.S. Adoption of Persons §§ 10–12.]

FOSTER-CARE REVIEW BOARD

foster-care review board. A panel of screened and trained volunteers who routinely review cases of children placed in foster care, examine efforts at permanency planning, and report to the court. [Cases: Infants 17, 226. C.J.S. Adoption of Persons §§ 10–12; Infants §§ 8–9.]

FOSTER CHILD

foster child. See CHILD.

FOSTER FATHER**FOSTER HOME**

foster home. A household in which foster care is provided to a child who has been removed from his or her birth or adoptive parents, usu. for abuse or neglect. • A foster home is usu. an individual home, but it can also be a group home. [Cases: Infants 226. C.J.S. Adoption of Persons §§ 10–12.]

FOSTERLEAN

fosterlean (fos-t<<schwa>>r-leen). Hist. Remuneration for rearing a foster child.

FOSTERLING

fosterling. See foster child under CHILD.

FOSTER MOTHER

foster mother. See foster parent under PARENT.

FOSTER PARENT

foster parent. See PARENT.

FOUL BILL OF LADING

foul bill of lading. See BILL OF LADING.

FOUNDATION

foundation. 1. The basis on which something is supported; esp., evidence or testimony that establishes the admissibility of other evidence <laying the foundation>. [Cases: Evidence 117, 366–381. C.J.S. Evidence §§ 208, 819–822, 824–833, 870–878, 881, 884, 889, 917–919, 932–933, 935–939, 949, 957, 959–962, 964, 976, 982–983, 986, 992–994, 998, 1000, 1002–1006, 1008, 1010–1022, 1026–1034.] 2. A fund established for charitable, educational, religious, research, or other benevolent purposes; an endowment <the Foundation for the Arts>.

private foundation. A charitable organization that is funded by a single source, derives its income from investments rather than contributions, and makes grants to other charitable organizations. • A private foundation is generally exempt from taxation. IRC (26 USCA) § 509. —

Also termed private nonoperating foundation.

private nonoperating foundation. See private foundation.

private operating foundation. A private foundation that conducts its own charitable program rather than making grants to other charitable organizations. • Most of the foundation's earnings and assets must be used to further its particular charitable purpose.

FOUNDATIONAL EVIDENCE

foundational evidence. See EVIDENCE.

FOUNDATIONAL FACT

foundational fact. See predicate fact under FACT.

FOUNDED ON

founded on, adj. Having as a basis <the suit was founded on the defendant's breach of contract>.

FOUNDER

founder, n. 1. A person who founds or establishes; esp., a person who supplies funds for an institution's future needs. 2. SETTLOR(1).

FOUNDER'S SHARE

founder's share. (usu. pl.) In England, a share issued to the founder of a company as a part of the consideration for the business. • Now rare, a founder's share participates in profits only if the dividend on ordinary shares has been paid to a specified amount.

FOUNDING FATHER

founding father. A prominent figure in the founding of an institution or esp. a country; specif., one who played a leading role in founding the United States of America, and esp. in the Revolutionary War and the making of the U.S. Constitution.

FOUNDLING

foundling. A deserted or abandoned infant.

FOUNDLING HOSPITAL

foundling hospital. A charitable institution, found esp. in Europe, the purpose of which is to care for abandoned children.

FOUR, RULE OF

four, rule of. See RULE OF FOUR.

FOUR CORNERS

four corners. The face of a written instrument. • The phrase derives from the ancient custom

of putting all instruments (such as contracts) on a single sheet of parchment, as opposed to multiple pages, no matter how long the sheet might be. At common law, this custom prevented people from fraudulently inserting materials into a fully signed agreement. The requirement was that every contract could have only four corners. [Cases: Contracts 143(1), 147(2); Evidence 397, 448. C.J.S. Contracts §§ 302–303, 309–313; Evidence §§ 1159, 1165, 1189, 1214–1215, 1217, 1220–1221, 1228, 1286–1288, 1291.]

FOUR-CORNERS RULE

four-corners rule. 1. The principle that a document's meaning is to be gathered from the entire document and not from its isolated parts. [Cases: Contracts 143.5; Evidence 448. C.J.S. Contracts § 314.] 2. The principle that no extraneous evidence should be used to interpret an unambiguous document. Cf. PAROL-EVIDENCE RULE. [Cases: Evidence 448.C.J.S. Evidence §§ 1214–1215, 1217, 1220–1221, 1228, 1286–1288, 1291.]

FOUR-FOLDING

four-folding.Hist. The quadrupling of a property's taxable value for purposes of penalizing a person who falsely underreported the property's true taxable value.

“In the State of Connecticut a number of men are chosen annually by each town, to receive from each inhabitant a list of the taxable property in his possession. This list is required by law; and is made up by the proprietor. The men, who receive it, are from their employment called Listers. If the proprietor gives in a false list, he is punished by having the falsified article increased on the list four-fold.... We therefore style this punishment four-folding.” 4 Timothy Dwight, *Travels in New-England and New-York* 284 (1822).

FOURTEENTH AMENDMENT

Fourteenth Amendment.The constitutional amendment, ratified in 1868, whose primary provisions effectively apply the Bill of Rights to the states by prohibiting states from denying due process and equal protection and from abridging the privileges and immunities of U.S. citizenship. • The amendment also gave Congress the power to enforce these provisions, leading to legislation such as the civil-rights acts. [Cases: Constitutional Law 206, 209–250.5, 251–320.5. C.J.S. Constitutional Law §§ 455, 461–467, 470, 501, 503, 513, 518, 540, 557, 576–581, 585, 587, 596, 612, 614–618, 649, 700–773, 775–912, 916–917, 919–1348, 1350–1396, 1399–1401, 1405–1427; Right to Die § 2; Zoning and Land Planning § 23.]

FOURTH AMENDMENT

Fourth Amendment.The constitutional amendment, ratified with the Bill of Rights in 1791, prohibiting unreasonable searches and seizures and the issuance of warrants without probable cause. See PROBABLE CAUSE. [Cases: Searches and Seizures 23. C.J.S. Searches and Seizures §§ 3, 5, 9–12, 14–15, 24, 29–30, 32, 34, 47–48, 102.]

FOURTH ESTATE

fourth estate.The journalistic profession; the news media. • The term comes from the British

Parliament's reporters' gallery, whose influence was said to equal Parliament's three traditional estates: the Lords Spiritual, the Lords Temporal, and the Commons. (In France, the three estates were the clergy, the nobility, and the commons.)

FOURTH-SENTENCE REMAND

fourth-sentence remand. See REMAND.

FOUR UNITIES

four unities. The four qualities needed to create a joint tenancy at common law — interest, possession, time, and title. See UNITY(2). [Cases: Joint Tenancy 1. C.J.S. Estates § 19; Joint Tenancy §§ 2, 4, 7–9.]

FOVERE CONSIMILEM CAUSAM

fovere consimilem causam (foh-veer-ee k<<schwa>>n-sim-<<schwa>>-l<<schwa>>m kaw-z<<schwa>>m). [Law Latin] Hist. To favor a similar case. • A judge who is disqualified for having a personal interest in a case may also be disqualified in a later case if the ruling in the former case could affect the ruling in the latter.

FOX'S LIBEL ACT

Fox's Libel Act. Hist. A 1792 statute that gave the jury in a libel prosecution the right of rendering a guilty or not-guilty verdict on the whole matter in issue. • The jury was no longer bound to find the defendant guilty if it found that the defendant had in fact published the allegedly libelous statement. The Act empowered juries to decide whether the defendant's statement conformed to the legal standard for libel.

FOY

foy (foy or fwah). [Law French] Faith; allegiance.

FPA

FPA.abbr. Free from particular average.

“F.P.A. means Free from Particular Average; that is to say, the insured can recover only where the loss is total or is due to a general average sacrifice. The claims under the Sue and Labour clause are not affected by this stipulation.” 2 E.W. Chance, *Principles of Mercantile Law* 128 (P.W. French ed., 10th ed. 1951).

FPC CLAUSE

FPC clause. See AREA-RATE CLAUSE.

FPLS

FPLS.abbr. FEDERAL PARENT LOCATOR SERVICE.

FR

Fr.abbr.1. French. 2.FRAGMENTA.

FRA

FRA.abbr.1.FEDERAL RAILROAD ADMINISTRATION. 2.FORWARD-RATE AGREEMENT.

FRACTIONAL

fractional,adj. (Of a tract of land) covering an area less than the acreage reflected on a survey; pertaining to any irregular division of land containing either more or less than the conventional amount of acreage.

FRACTIONAL CURRENCY

fractional currency.See CURRENCY.

FRAGMENTA

fragmenta (frag-men-t<<schwa>>), n. pl.[Latin "fragments"] Roman law. Passages drawn from the writings of Roman jurists and compiled in Justinian's Digest. — Abbr. Fr.; Ff.

FRAGMENTED LITERAL SIMILARITY

fragmented literal similarity.See SIMILARITY.

FRAME

frame,vb. 1. To plan, shape, or construct; esp., to draft or otherwise draw up (a document).2. To incriminate (an innocent person) with false evidence, esp. fabricated. — framable, frameable,adj.

FRAME-UP

frame-up,n. A plot to make an innocent person appear guilty.

FRAMING

framing. On the Internet, a website's display of another entity's webpage inside a bordered area, often without displaying the page's URL or domain name. • Framing may constitute a derivative work and may infringe on a copyright or trademark if done without giving credit to or obtaining permission from the other website's owner.

FRANCBORDUS

francbordus. See FREE-BORD.

FRANCHISE

franchise (fran-chIz), n.1. The right to vote. — Also termed elective franchise. [Cases: Elections 1. C.J.S. Elections §§ 1(1, 10), 2.] 2. The right conferred by the government to engage in a specific business or to exercise corporate powers. — Also termed corporate franchise; general franchise. [Cases: Franchises 1.]

“When referring to government grants (other than patents, trademarks, and copyrights), the term ‘franchise’ is often used to connote more substantial rights, whereas the term ‘license’ connotes lesser rights. Thus, the rights necessary for public utility companies to carry on their operations are generally designated as franchise rights. On the other hand, the rights to construct or to repair, the rights to practice certain professions, and the rights to use or to operate automobiles are generally referred to as licenses.” 1 Eckstrom's Licensing in Foreign and Domestic Operations § 1.02 [3], at 1-10 to 1-11 (David M. Epstein ed., 1998).

“In a violent conceptual collision, some franchisors maintain that a franchise is merely an embellished license and therefore revocable at will. Franchisees contend that a franchise is a license coupled with an interest, not subject to unlimited control by franchisors. As a result of this disagreement, legislative draftsmen have had difficulty defining ‘franchise.’ ” 1 Harold Brown, Franchising Realities and Remedies § 1.03 [1], at 1-17 (1998).

franchise appurtenant to land. Rare. A franchise that is used in connection with real property and thus is sometimes characterized as real property.

general franchise. A corporation's charter.

special franchise. A right conferred by the government, esp. to a public utility, to use property for a public use but for private profit. [Cases: Franchises 1.]

3. The sole right granted by the owner of a trademark or tradename to engage in business or to sell a good or service in a certain area. 4. The business or territory controlled by the person or entity that has been granted such a right.

commercial franchise. A franchise using local capital and management by contracting with third parties to operate a facility identified as offering a particular brand of goods or services.

sports franchise. 1. A franchise granted by a professional sports league to field a team in that league. 2. The team itself.

trial franchise. A franchise having an initial term of limited duration, such as one year.

franchise, vb. To grant (to another) the sole right of engaging in a certain business or in a business using a particular trademark in a certain area.

FRANCHISE AGREEMENT

franchise agreement. The contract between a franchisor and franchisee establishing the terms and conditions of the franchise relationship. • State and federal laws regulate franchise agreements.

FRANCHISE APPURTENANT TO LAND

franchise appurtenant to land. See FRANCHISE(2).

FRANCHISE CLAUSE

franchise clause. Insurance. A provision in a casualty insurance policy stating that the insurer

will pay a claim only if it is more than a stated amount, and that the insured is responsible for all damages if the claim is under that amount. • Unlike a deductible, which the insured always has to pay, with a franchise clause, once the claim exceeds the stated amount, the insurer pays the entire claim.

FRANCHISE COURT

franchise court.Hist. A privately held court that (usu.) exists by virtue of a royal grant, with jurisdiction over a variety of matters, depending on the grant and whatever powers the court acquires over time. • In 1274, Edward I abolished many of these feudal courts by forcing the nobility to demonstrate by what authority (quo warranto) they held court. If a lord could not produce a charter reflecting the franchise, the court was abolished. — Also termed courts of the franchise.

“Dispensing justice was profitable. Much revenue could come from the fees and dues, fines and amercements. This explains the growth of the second class of feudal courts, the Franchise Courts. They too were private courts held by feudal lords. Sometimes their claim to jurisdiction was based on old pre-Conquest grants But many of them were, in reality, only wrongful usurpations of private jurisdiction by powerful lords. These were put down after the famous Quo Warranto enquiry in the reign of Edward I.” W.J.V. Windeyer, Lectures on Legal History 56–57 (2d ed. 1949).

FRANCHISEE

franchisee. One who is granted a franchise.

FRANCHISE FEE

franchise fee.See FEE(1).

FRANCHISER

franchiser. See FRANCHISOR.

FRANCHISE TAX

franchise tax.See TAX.

FRANCHISOR

franchisor. One who grants a franchise. — Also spelled franchiser.

FRANCIGENA

francigena (fran-s<<schwa>>-jee-n<<schwa>>). [Law Latin francus “french” + Latin genitus “born”] Hist. 1.A person born in France. 2. Any alien in England; a foreigner. See FRENCHMAN.

FRANCUS

francus (frangk-<<schwa>>s). [fr. French franc “free”] Hist. A freeman.

FRANCUS BANCUS

francus bancus. See FREE BENCH.

FRANCUS HOMO

francus homo (frangk-*<<schwa>>*s hoh-moh). Hist. A free man.

FRANCUS TENENS

francus tenens. See FRANK-TENANT.

FRANK

frank, adj. [Law French] Hist. Free. — Also spelled fraunc; fraunche; fraunke.

frank, n. 1. (cap.) A member of the Germanic people who conquered Gaul in the 6th century. • France received its name from the Franks. 2. A signature, stamp, or mark affixed to mail as a substitute for postage. [Cases: Postal Service 15. C.J.S. Postal Service and Offenses Against Postal Laws §§ 18–19.] 3. The privilege of sending certain mail free of charge, accorded to certain government officials, such as members of Congress and federal courts. — Also termed (in sense 3) franking privilege. [Cases: United States 12. C.J.S. United States §§ 27–28.] — frank, vb.

FRANKALMOIN

frankalmoin (frangk-al-moyn). [Law French “free alms”] Hist. A spiritual tenure by which a religious institution held land, usu. with a general duty to pray for the donor. • This tenure differed from the tenure by divine service, which required specific church services, such as a certain number of masses or alms distributions. — Also spelled frankalmoign; frankalmoigne. — Also termed almoign; almoin; free alms; libera eleemosyna. See spiritual tenure under TENURE.

“Frankalmoin, or free alms, was a survival of Anglo-Saxon law, and implied simply an indefinite promise to pray for the soul of the donor; but since it was deemed a tenure by which the land was held, the general doctrine of ‘services’ was applied. On the other hand, in the case of Divine Service, which was much less frequently met with, the tenant promised a definite number of prayers, a duty which might be enforced in the King's courts.” A.K.R. Kiralfy, *Potter's Outlines of English Legal History* 210 (5th ed. 1958).

FRANK BANK

frank bank. See FREE BENCH.

FRANK-CHASE

frank-chase. Hist. Free chase; a person's liberty or right to hunt or log within a certain area. • Others holding land within the frank-chase area were forbidden from hunting or logging in it. See CHASE.

FRANK-FEE

frank-fee. Hist. Freehold land — land that one held to oneself and one's heirs — exempted from all services except homage; land held other than by ancient demesne or copyhold.

FRANK FERM

frank ferm.Hist. An estate in land held in socage, the nature of the fee having been changed from knight's service by enfeoffment for certain yearly services. — Also spelled frank-ferme.

FRANKING PRIVILEGE

franking privilege.See FRANK(3).

FRANK-LAW

frank-law.Hist. The rights and privileges of a citizen or freeman; specif., the condition of being legally capable of giving an oath (esp. as a juror or witness). See LEGALIS HOMO.

“Frank law ... may be understood from Bracton's description of the consequences of losing it, among which the principal one was, that the parties incurred perpetual infamy, so that they were never afterwards to be admitted to oath, because they were not deemed to be othesworth, (that is, not worthy of making oath,) nor allowed to give testimony.” 1 Alexander M. Burrill, *A Law Dictionary and Glossary* 657–58 (2d ed. 1867).

FRANKLIN

franklin (frangk-lin).Hist. A freeman; a freeholder; a gentleman. — Also spelled francling; frankleyn; frankleyne.

FRANKMARRIAGE

frankmarriage.Hist. An entailed estate in which the donor retains control of the land by refusing to accept feudal services from the donee (usu. the donor's daughter) for three generations. • If the donee's issue fail in that time, the land returns to the donor. A donor who accepted homage (and the corresponding services arising from it) from the donee risked losing control of the land to a collateral heir. After three generations — a time considered sufficient to demonstrate that the line was well established — the donee's heir could insist on paying homage; doing so transformed the estate into a fee simple. — Also termed liberum maritagium. See MARITAGIUM.

“Only when homage has been done are we to apply the rule which excludes the lord from the inheritance. This is at the bottom of one of the peculiarities of the ‘estate in frankmarriage.’ When a father makes a provision for a daughter, he intends that if the daughter has no issue or if her issue fails — at all events if this failure occurs in the course of a few generations — the land shall come back to him or to his heir. Therefore no homage is done for the estate in frankmarriage until the daughter's third heir has entered, for were homage once done, there would be a danger that the land would never come back to the father or to his heir.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 291 (2d ed. 1899).

FRANKPLEDGE

frankpledge.Hist. A promise given to the sovereign by a group of ten freeholders (a tithing) ensuring the group's good conduct. • The frankpledge was of Saxon origin, but continued after the Norman Conquest. The members of the group were not liable for an injury caused by an offending

member, but they did act as bail to ensure that the culprit would appear in court. They were bound to produce a wrongdoer for trial. — Also termed borrow; laughe. See VIEW OF FRANKPLEDGE. Cf. DECENARY.

“Since there was no elaborate group of royal officials, the policing of the country had to be arranged for in a special way. The commonest way was to hold each household responsible for the offenses of any member of it. A further step was taken when, in the time of Cnut, a group of ten men was formed who were responsible for each other, in the sense that every one was security, borh, for the good behavior of the others. This group was called fri-borh, frankpledge, and remained for a long time one of the chief police methods of England.” Max Radin, *Handbook of Anglo-American Legal History* 33–34 (1936).

FRANKS<TT> HEARING

Franks hearing. A hearing to determine whether a police officer's affidavit used to obtain a search warrant that yields incriminating evidence was based on false statements by the police officer. *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674 (1978).

FRANK-TENANT

frank-tenant.Hist. A freeholder. — Also termed francus tenens.

FRANK-TENEMENT

frank-tenement.Hist. A free tenement; a freehold. • This term described both the tenure and the estate. — Also spelled franktenement. See FREEHOLD.

FRAP

FRAP (frap).abbr.FEDERAL RULES OF APPELLATE PROCEDURE.

FRATER

frater (fray-t<<schwa>>r), n. [Latin] Roman law. A brother.

frater consanguineus (fray-t<<schwa>>r kon-sang-gwin-ee-<<schwa>>s). A brother or half-brother having the same father.

frater germanus (fray-t<<schwa>>r j<<schwa>>r-may-n<<schwa>>s). A brother having both parents in common.

frater nutricius (fray-t<<schwa>>r n[y]oo-trish-ee-<<schwa>>s). A foster brother who was suckled by the same wet nurse.

frater uterinus (fray-t<<schwa>>r yoo-t<<schwa>>-ri-n<<schwa>>s). A brother or half-brother having the same mother.

FRATERNAL

fraternal,adj.1. Of or relating to the relationship of brothers. 2. Of or relating to a fraternity or a fraternal benefit association.

FRATERNAL BENEFIT ASSOCIATION

fraternal benefit association. A voluntary organization or society created for its members' mutual aid and benefit rather than for profit, and whose members have a common and worthy cause, objective, or interest. • These associations usu. have a lodge system, a governing body, rituals, and a benefits system for their members. — Also termed fraternal benefit society; fraternity; fraternal lodge; fraternal order. Cf. FRIENDLY SOCIETY. [Cases: Beneficial Associations 1. C.J.S. Beneficial Associations §§ 2–3.]

FRATERNAL INSURANCE

fraternal insurance. See INSURANCE.

FRATERNAL LODGE

fraternal lodge. See FRATERNAL BENEFIT ASSOCIATION.

FRATERNAL ORDER

fraternal order. See FRATERNAL BENEFIT ASSOCIATION.

FRATERNAL SOCIETY

fraternal society. See benevolent association under ASSOCIATION.

FRATERNITY

fraternity. See FRATERNAL BENEFIT ASSOCIATION.

FRATER NUTRICIUS

frater nutricius. See FRATER.

FRATER UTERINUS

frater uterinus. See FRATER.

FRATRES CONJURATI

fratres conjurati (fray-treez kon-j<<schwa>>-ray-ti). [Latin “sworn brothers”] Hist. Sworn brothers or companions for the defense of their sovereign or for other purposes.

FRATRIAGE

fratriage (fra-tree-ij orfray-). Hist. 1. A younger brother's portion of his father's estate, received as an inheritance. • Under feudal law, even though the land was from the father's estate, the younger brother was bound to pay homage to the older brother. 2. A portion of an inheritance given to coheirs. — Also termed fratriagium.

FRATRICIDE

fratricide (fra-tr<<schwa>>-sId orfray-). 1. The killing of one's brother or sister. 2. One who

has killed one's brother or sister. Cf. SORORICIDE. — fratricidal,adj.

FRAUD

fraud,n.1. A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. • Fraud is usu. a tort, but in some cases (esp. when the conduct is willful) it may be a crime. — Also termed intentional fraud. [Cases: Fraud 1, 3, 16.] 2. A misrepresentation made recklessly without belief in its truth to induce another person to act. [Cases: Fraud 31.] 3. A tort arising from a knowing misrepresentation, concealment of material fact, or reckless misrepresentation made to induce another to act to his or her detriment. [Cases: Fraud 13(3).] 4. Unconscionable dealing; esp., in contract law, the unfair use of the power arising out of the parties' relative positions and resulting in an unconscionable bargain. [Cases: Contracts 1. C.J.S. Contracts §§ 2–3, 9, 12.] — fraudulent,adj.

“[T]he use of the term fraud has been wider and less precise in the chancery than in the common-law courts. This followed necessarily from the remedies which they respectively administered. Common law gave damages for a wrong, and was compelled to define with care the wrong which furnished a cause of action. Equity refused specific performance of a contract, or set aside a transaction, or gave compensation where one party had acted unfairly by the other. Thus ‘fraud’ at common law is a false statement ... : fraud in equity has often been used as meaning unconscientious dealing — ‘although, I think, unfortunately,’ a great equity lawyer has said.” William R. Anson, *Principles of the Law of Contract* 263 (Arthur L. Corbin ed., 3d Am. ed. 1919).

actual fraud.A concealment or false representation through a statement or conduct that injures another who relies on it in acting. — Also termed fraud in fact; positive fraud; moral fraud. [Cases: Fraud 3.]

bank fraud.The criminal offense of knowingly executing, or attempting to execute, a scheme or artifice to defraud a financial institution, or to obtain property owned by or under the control of a financial institution, by means of false or fraudulent pretenses, representations, or promises. 18 USCA § 1344. [Cases: Banks and Banking 509.10, 509.25. C.J.S. Banks and Banking §§ 687, 746, 749–754, 756–757, 769–783.]

bankruptcy fraud.A fraudulent act connected to a bankruptcy case; esp., any of several proscribed acts performed knowingly and fraudulently in a bankruptcy case, such as concealing assets or destroying, withholding, or falsifying documents in an effort to defeat bankruptcy-code provisions. See 18 USCA § 152. — Also termed criminal bankruptcy; bankruptcy crime.

civil fraud. 1.FRAUD(3).2.Tax. An intentional — but not willful — evasion of taxes. • The distinction between an intentional (i.e., civil) and willful (i.e., criminal) fraud is not always clear, but civil fraud carries only a monetary, noncriminal penalty. Cf. criminal fraud; TAX EVASION. [Cases: Internal Revenue 5218; Taxation 1103. C.J.S. Internal Revenue § 825; Taxation § 1782.]

common-law fraud.See promissory fraud.

constructive fraud. 1. Unintentional deception or misrepresentation that causes injury to

another. — Also termed legal fraud; fraud in contemplation of law; equitable fraud; fraud in equity. 2. See fraud in law. [Cases: Fraud 5.]

“In equity law the term fraud has a wider sense, and includes all acts, omissions, or concealments by which one person obtains an advantage against conscience over another, or which equity or public policy forbids as being to another's prejudice; as acts in violation of trust and confidence. This is often called constructive, legal, or equitable fraud, or fraud in equity.” Encyclopedia of Criminology 175 (Vernon C. Branham & Samuel B. Kutash eds., 1949), s.v. “Fraud.”

criminal fraud. Fraud that has been made illegal by statute and that subjects the offender to criminal penalties such as fines and imprisonment. • An example is the willful evasion of taxes accomplished by filing a fraudulent tax return. Cf. civil fraud; larceny by trick under LARCENY. [Cases: Internal Revenue 5263.20; Taxation 1103. C.J.S. Internal Revenue §§ 851–852; Taxation § 1782.]

election fraud. See ELECTION FRAUD.

equitable fraud. See constructive fraud (1).

extrinsic fraud. 1. Deception that is collateral to the issues being considered in the case; intentional misrepresentation or deceptive behavior outside the transaction itself (whether a contract or a lawsuit), depriving one party of informed consent or full participation. • For example, a person might engage in extrinsic fraud by convincing a litigant not to hire counsel or answer by dishonestly saying the matter will not be pursued. — Also termed collateral fraud. 2. Deception that prevents a person from knowing about or asserting certain rights. [Cases: Judgment 375, 443(1). C.J.S. Judgments § 309.]

fraud in contemplation of law. See constructive fraud (1).

fraud in equity. See constructive fraud (1).

fraud in fact. See actual fraud.

fraud in law. Fraud that is presumed under the circumstances, as when a debtor transfers assets and thereby impairs creditors' efforts to collect sums due. — Also termed constructive fraud.

fraud in the execution. See fraud in the factum.

fraud in the factum. Fraud occurring when a legal instrument as actually executed differs from the one intended for execution by the person who executes it, or when the instrument may have had no legal existence. • Compared to fraud in the inducement, fraud in the factum occurs only rarely, as when a blind person signs a mortgage when misleadingly told that it is just a letter. — Also termed fraud in the execution; fraud in the making. Cf. fraud in the inducement. [Cases: Contracts 94(1). C.J.S. Contracts §§ 136, 139–140, 156–160, 170–171, 173–174.]

fraud in the inducement. Fraud occurring when a misrepresentation leads another to enter into a transaction with a false impression of the risks, duties, or obligations involved; an intentional

misrepresentation of a material risk or duty reasonably relied on, thereby injuring the other party without vitiating the contract itself, esp. about a fact relating to value. — Also termed fraud in the procurement. Cf. fraud in the factum. [Cases: Contracts 94(1); Fraud 3, 24. C.J.S. Contracts §§ 136, 139–140, 156–160, 170–171, 173–174.]

fraud in the making. See fraud in the factum.

fraud in the procurement. See fraud in the inducement.

fraud on the community. Family law. In a community-property state, the deliberate hiding or fraudulent transfer of community assets before a divorce or death for the purpose of preventing the other spouse from claiming a half-interest ownership in the property.

fraud on the court. In a judicial proceeding, a lawyer's or party's misconduct so serious that it undermines or is intended to undermine the integrity of the proceeding. • Examples are bribery of a juror and introduction of fabricated evidence. [Cases: Federal Civil Procedure 2654; Judgment 372, 440. C.J.S. Judgments §§ 309, 319, 331, 465.]

fraud on the market. 1. Fraud occurring when an issuer of securities gives out misinformation that affects the market price of stock, the result being that people who buy or sell are effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price. [Cases: Securities Regulation 60.25. C.J.S. Securities Regulation §§ 214, 226–227.] 2. The securities-law claim based on such fraud. See FRAUD-ON-THE-MARKET PRINCIPLE.

fraud on the Patent Office. Patents. A defense in a patent-infringement action, attacking the validity of the patent on the grounds that the patentee gave the examiner false or misleading information or withheld relevant information that the examiner would have considered important in considering patentability. • The scope of prohibited acts is wider than that covered by common-law fraud, and today the defense is generally called “inequitable conduct before the PTO.” If the defense is established, the entire patent is rendered unenforceable. See defense of inequitable conduct under DEFENSE(1). [Cases: Patents 97. C.J.S. Patents §§ 135–138, 145, 178.]

hidden fraud. See fraudulent concealment under CONCEALMENT.

insurance fraud. Fraud committed against an insurer, as when an insured lies on a policy application or fabricates a claim.

intrinsic fraud. Deception that pertains to an issue involved in an original action. • Examples include the use of fabricated evidence, a false return of service, perjured testimony, and false receipts or other commercial documents. [Cases: Judgment 373, 441. C.J.S. Judgments §§ 319, 331, 465, 471.]

legal fraud. See constructive fraud (1).

long-firm fraud. The act of obtaining goods or money on credit by falsely posing as an established business and having no intent to pay for the goods or repay the loan.

mail fraud. An act of fraud using the U.S. Postal Service, as in making false representations through the mail to obtain an economic advantage. 18 USCA §§ 1341–1347. [Cases: Postal Service 35. C.J.S. Postal Service and Offenses Against Postal Laws § 23.]

moral fraud. See actual fraud.

positive fraud. See actual fraud.

promissory fraud. A promise to perform made when the promisor had no intention of performing the promise. — Also termed common-law fraud. [Cases: Fraud 12.]

tax fraud. See TAX EVASION.

wire fraud. An act of fraud using electronic communications, as by making false representations on the telephone to obtain money. • The federal Wire Fraud Act provides that any artifice to defraud by means of wire or other electronic communications (such as radio or television) in foreign or interstate commerce is a crime. 18 USCA § 1343. [Cases: Telecommunications 362.]

FRAUD, BADGE OF

fraud, badge of. See BADGE OF FRAUD.

FRAUDARE

fraudare (fraw-dair-ee), vb. [Latin] Roman law. To defraud.

FRAUDE

fraude (frawd). [French] Civil law. Fraud committed in performing a contract. Cf. DOL.

FRAUDFEASOR

fraudfeasor (frawd-fee-z<<schwa>>r). A person who has committed fraud. — Also termed defrauder.

FRAUD IN THE EXECUTION

fraud in the execution. See fraud in the factum under FRAUD.

FRAUD ON CREDITORS

fraud on creditors. See FRAUDULENT CONVEYANCE(1).

FRAUD ON THE COMMUNITY

fraud on the community. See FRAUD.

FRAUD-ON-THE-MARKET PRINCIPLE

fraud-on-the-market principle. Securities. The doctrine that, in a claim under the antifraud provisions of the federal securities laws, a plaintiff may presumptively establish reliance on a misstatement about a security's value — without proving actual knowledge of the fraudulent

statement — if the stock is purchased in an open and developed securities market. • This doctrine recognizes that the market price of an issuer's stock reflects all available public information. The presumption is rebuttable. — Also termed fraud-on-the-market theory. See fraud on the market under FRAUD. [Cases: Securities Regulation 60.25. C.J.S. Securities Regulation §§ 214, 226–227.]

FRAUDS, STATUTE OF

frauds, statute of. See STATUTE OF FRAUDS.

FRAUDULENT ACT

fraudulent act. Conduct involving bad faith, dishonesty, a lack of integrity, or moral turpitude. — Also termed dishonest act; fraudulent or dishonest act.

FRAUDULENT ALIENATION

fraudulent alienation. 1. The transfer of property with an intent to defraud others, esp. creditors and lienholders. 2. The transfer of an estate asset by the estate's administrator for little or no consideration.

FRAUDULENT ALIENEE

fraudulent alienee. See ALIENEE.

FRAUDULENT BANKING

fraudulent banking. The receipt of a deposit by a banker who knew that the bank was insolvent at the time of the deposit. [Cases: Banks and Banking 82(2), 83. C.J.S. Banks and Banking §§ 228–229, 740–745.]

FRAUDULENT CLAIM

fraudulent claim. A false insurance claim. See FRAUD.

FRAUDULENT CONCEALMENT

fraudulent concealment. See CONCEALMENT.

FRAUDULENT-CONCEALMENT RULE

fraudulent-concealment rule. See CONCEALMENT RULE.

FRAUDULENT CONVERSION

fraudulent conversion. See CONVERSION(2).

FRAUDULENT CONVEYANCE

fraudulent conveyance. 1. A transfer of property for little or no consideration, made for the purpose of hindering or delaying a creditor by putting the property beyond the creditor's reach; a transaction by which the owner of real or personal property seeks to place the property beyond the reach of creditors. — Also termed fraud on creditors. [Cases: Fraudulent Conveyances 1.]

“With respect to the general power which is exercisable by deed, it seems that the principle that the donee's creditors can reach the property subject to the exercised general power will have application only to the so-called fraudulent conveyance. That is to say, if the owned assets of the donee after the donative inter vivos exercise are sufficient to satisfy the creditors, then the exercise of the power will not subject the appointive property to the claims of the creditors; if, on the other hand, the owned assets of the donee are inadequate to satisfy creditors' claims after the exercise of the power, then the transfer resulting from the exercise is likely to fall into the category of the fraudulent conveyance and the creditors will be able to reach the appointive property in the hands of the appointee.” Thomas F. Bergin & Paul G. Haskell, Preface to *Estates in Land and Future Interests* 173 (2d ed. 1984).

2.Bankruptcy. A prebankruptcy transfer or obligation made or incurred by a debtor for little or no consideration or with the actual intent to hinder, delay, or defraud a creditor. • A bankruptcy trustee may recover such a conveyance from the transferee if the requirements of 11 USCA § 548 are met. — Also termed fraudulent transfer. Cf. PREFERENTIAL TRANSFER. [Cases: Bankruptcy 2641–2651. C.J.S. Bankruptcy §§ 152–157, 159.]

FRAUDULENT DEBT

fraudulent debt.See DEBT.

FRAUDULENT JOINDER

fraudulent joinder.See JOINDER.

FRAUDULENT MARRIAGE

fraudulent marriage.See MARRIAGE(1).

FRAUDULENT MISREPRESENTATION

fraudulent misrepresentation.See MISREPRESENTATION.

FRAUDULENT OR DISHONEST ACT

fraudulent or dishonest act.See FRAUDULENT ACT.

FRAUDULENT PRETENSES

fraudulent pretenses.See FALSE PRETENSES.

FRAUDULENT REPRESENTATION

fraudulent representation.See fraudulent misrepresentation under MISREPRESENTATION.

FRAUDULENT SALE

fraudulent sale.See SALE.

FRAUDULENT TRANSFER

fraudulent transfer.See FRAUDULENT CONVEYANCE(2).

FRAUS

fraus (fraws). [Latin] Deceit; cheating. • For example, a debtor who conveyed property with the specific intent (fraus) of defrauding a creditor risked having the conveyance rescinded. See DOLUS.

FRAUS LEGIS

fraus legis (fraws lee-jis). [Latin “fraud on the law”] Roman law. Evasion of the law; specif., doing something that is not expressly forbidden by statute, but that the law does not want done.

FRAY

fray. See AFFRAY.

FRB

FRB.abbr.FEDERAL RESERVE BOARD OF GOVERNORS.

FRCP

FRCP.abbr.FEDERAL RULES OF CIVIL PROCEDURE.

F.R.D.

F.R.D.abbr.Federal Rules Decisions; a series of reported federal court decisions (beginning in 1938) that construe or apply the Federal Rules of Civil, Criminal, or Appellate Procedure, or the Federal Rules of Evidence. • Also included are rule changes, ceremonial proceedings of federal courts, and articles on federal-court practice and procedure. — Often written FRD.

FRE

FRE.abbr.FEDERAL RULES OF EVIDENCE.

FREDDIE MAC

Freddie Mac.See FEDERAL HOME LOAN MORTGAGE CORPORATION.

FREE

free,adj.1. Having legal and political rights; enjoying political and civil liberty <a free citizen> <a free populace>.2. Not subject to the constraint or domination of another; enjoying personal freedom; emancipated <a free person>.3. Characterized by choice, rather than by compulsion or constraint <free will>.4. Unburdened <the land was free of any encumbrances>.5. Not confined by force or restraint <free from prison>.6. Unrestricted and unregulated <free trade>.7. Costing nothing; gratuitous <free tickets to the game>. — freely,adv.

free,vb. 1. To liberate. 2. To remove (a person or animal) from a constraint or burden.

FREE AGENCY

free agency,n. A professional athlete's ability to negotiate an employment contract with any team in the league, rather than being confined to the league's collective system. • Free agency is

usu. granted to veteran players who have been in the league for a certain number of years. Cf. RESERVE CLAUSE . — free agent,n.

FREE ALMS

free alms.See FRANKALMOIN.

FREE ALONGSIDE SHIP

free alongside ship.A mercantile-contract term allocating the rights and duties of the buyer and the seller of goods with respect to delivery, payment, and risk of loss, whereby the seller must clear the goods for export, and deliver the goods to the wharf beside the buyer's chosen vessel. • The seller's delivery is complete (and the risk of loss passes to the buyer) when the goods are placed on the wharf beside the vessel. The buyer is responsible for all costs of carriage. This term is used only when goods are transported by sea or inland waterway. UCC § 2-319. — Abbr. FAS. Cf. FREE ON BOARD; DELIVERED EX QUAY. [Cases: Sales 201(4). C.J.S. Sales §§ 224–227.]

FREE AND CLEAR

free and clear,adj. Unencumbered by any liens; marketable <free and clear title>.

FREE AND COMMON SOCAGE

free and common socage.See free socage under SOCAGE.

FREE AND EQUAL

free and equal,adj. (Of an election) conducted so that the electorate has a reasonable opportunity to vote, with each vote given the same effect. [Cases: Elections 1. C.J.S. Elections §§ 1(1, 10), 2.]

FREE BENCH

free bench.Hist. A widow's (and occasionally a widower's) interest in the deceased spouse's estate. • Free bench gave the surviving spouse a half interest in the estate until death or remarriage. — Also termed francus bancus; frank bank; liber bancus.

“The bench in question was, we may guess ... a bench at the fireside. The surviving spouse has in time past been allowed to remain in the house along with the children. In the days when families kept together, the right of the widower or widow to remain at the fireside may have borne a somewhat indefinite character.... By way of ‘free bench’ the surviving spouse now has the enjoyment of one-half of the land until death or second marriage, whether there has ever been a child of the marriage or no.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 419 (2d ed. 1899).

FREE-BORD

free-bord.Hist. 1. A small strip of land (usu. 2 1/2 feet wide and lying just outside a fence) that the owner of the fenced property was allowed to claim and use. 2. The right of claiming that

quantity of land. — Also spelled freebord; free bord; free-board. — Also termed francbordus.

FREE CARRIER

free carrier. A mercantile-contract term allocating the rights and duties of the buyer and the seller of goods with respect to delivery, payment, and risk of loss, whereby the seller must clear the goods for export and deliver them to the buyer's chosen carrier at a named place. • The seller's delivery is complete (and the risk of loss passes to the buyer) when the goods are loaded on the collecting vehicle or otherwise placed at the carrier's disposal. The buyer is responsible for all costs of carriage. There are no restrictions on the buyer's choice of carrier. — Abbr. FCA.

FREE CHAPEL

free chapel. Hist. Eccles. law. A church founded by the Crown (or by a person under royal grant) and not subject to the bishop's jurisdiction.

“[T]hose onely are Free-chappels, which are of the King's Foundation, and by him exempted from the Jurisdiction of the Ordinary; but the King may licence a Subject to found such a Chappel, and by his Charter exempt it from the Ordinaries Visitation also.... [I]t is called free, in respect of its exemption from the Jurisdiction of the Diocesan....” Thomas Blount, *Nomo-Lexicon: A Law-Dictionary* (1670).

FREE CHASE

free chase. See CHASE.

FREE CITY

free city. Int'l law. A country-like political and territorial entity that, although independent in principle, does not have the full capacity to act according to general international law but is nevertheless a subject of international law.

FREEDMAN

freedman (freed-m<<schwa>>n). Hist. An emancipated slave.

FREEDOM

freedom. 1. The state of being free or liberated. 2. A political right.

FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT

Freedom of Access to Clinic Entrances Act. A 1994 federal statute that provides for criminal sanctions, private civil causes of action, and civil action by the U.S. Attorney General against a person who uses force, threat of force, or physical obstruction to injure, intimidate, or interfere with a provider or patient of reproductive services or who damages a reproductive-services facility. — Abbr. FACE.

FREEDOM OF ASSEMBLY

freedom of assembly. See RIGHT OF ASSEMBLY.

FREEDOM OF ASSOCIATION

freedom of association. The right to join with others in a common undertaking that would be lawful if pursued individually. • This right is protected by the First Amendment to the U.S. Constitution. The government may not prohibit outsiders from joining an association, but the insiders do not necessarily have a right to exclude others. Cf. RIGHT OF ASSEMBLY. [Cases: Constitutional Law 91. C.J.S. Constitutional Law §§ 461–462, 466, 612–629.]

freedom of expressive association. The constitutional right of an individual to associate with others, without undue government interference, for the purpose of engaging in activities protected by the First Amendment, such as speech, assembly, and the exercise of religion.

freedom of intimate association. The constitutional right of privacy to form and preserve certain intimate human relationships without intrusion by the state because the relationships safeguard individual freedom. • The group relationships protected by the right to freedom of intimate association are familial in nature and are characterized by deep attachments, a high degree of commitment, and the sharing of distinctly personal aspects of life. The exclusion of others is an essential characteristic of these relationships.

FREEDOM OF CHOICE

freedom of choice. 1. The liberty embodied in the exercise of one's rights. 2. The parents' opportunity to select a school for their child in a unitary, integrated school system that is devoid of de jure segregation. 3. The liberty to exercise one's right of privacy, esp. the right to have an abortion. — Also termed right to choose; choice. [Cases: Abortion and Birth Control 0.5.]

FREEDOM OF CONTRACT

freedom of contract. The doctrine that people have the right to bind themselves legally; a judicial concept that contracts are based on mutual agreement and free choice, and thus should not be hampered by external control such as governmental interference. • This is the principle that people are able to fashion their relations by private agreements, esp. as opposed to the assigned roles of the feudal system. As Maine famously said, “[T]he movement of progressive societies has been a movement from Status to Contract.” Henry Sumner Maine, *Ancient Law* 165 (1864). — Also termed liberty of contract; autonomy of the parties. [Cases: Constitutional Law 89. C.J.S. Constitutional Law § 491.]

“Like most shibboleths, that of ‘freedom of contract’ rarely, if ever, received the close examination which its importance deserved, and even today it is by no means easy to say what exactly the nineteenth-century judges meant when they used this phrase. At least it may be said that the idea of freedom of contract embraced two closely connected, but none the less distinct, concepts. In the first place it indicated that contracts were based on mutual agreement, while in the second place it emphasized that the creation of a contract was the result of a free choice unhampered by external control such as government or legislative interference.” P.S. Atiyah, *An Introduction to the Law of Contract* 5 (3d ed. 1981).

FREEDOM OF EXPRESSION

freedom of expression. The freedom of speech, press, assembly, or religion as guaranteed by the First Amendment; the prohibition of governmental interference with those freedoms. Cf. FREEDOM OF SPEECH. [Cases: Constitutional Law 84, 90, 91. C.J.S. Constitutional Law §§ 461–462, 466, 513–517, 539, 542, 612–629.]

FREEDOM OF INFORMATION ACT

Freedom of Information Act. The federal statute that establishes guidelines for public disclosure of documents and materials created and held by federal agencies. 5 USCA § 552. • The basic purpose of the statute, or of a state statute modeled after it, is to give the public access to official information so that the public will be better informed and the government will be more accountable for its actions. — Abbr. FOIA. [Cases: Records 50–68. C.J.S. Records §§ 93–131.]

FREEDOM OF INTIMATE ASSOCIATION

freedom of intimate association. See FREEDOM OF ASSOCIATION.

FREEDOM OF PETITION

freedom of petition. See RIGHT TO PETITION.

FREEDOM OF RELIGION

freedom of religion. The right to adhere to any form of religion or none, to practice or abstain from practicing religious beliefs, and to be free from governmental interference with or promotion of religion, as guaranteed by the First Amendment and Article VI, § 3 of the U.S. Constitution. [Cases: Constitutional Law 84. C.J.S. Constitutional Law §§ 513–517.]

FREEDOM OF SPEECH

freedom of speech. The right to express one's thoughts and opinions without governmental restriction, as guaranteed by the First Amendment. — Also termed liberty of speech. Cf. FREEDOM OF EXPRESSION. [Cases: Constitutional Law 90. C.J.S. Constitutional Law §§ 539, 542.]

FREEDOM OF SPEECH CLAUSE

Freedom of Speech Clause. See SPEECH CLAUSE.

FREEDOM OF THE CITY

freedom of the city. Hist. An immunity or privilege from some burden, esp. from county jurisdiction and its privilege of municipal taxation and self-government, held under a royal charter.

FREEDOM OF THE PRESS

freedom of the press. The right to print and publish materials without governmental intervention, as guaranteed by the First Amendment. — Also termed liberty of the press. [Cases: Constitutional Law 90.1(8). C.J.S. Constitutional Law §§ 552, 554, 562–565, 597–598, 603–604.]

“ ‘Freedom of the press' has less significance than meets the eye. It is true, of course, that the First Amendment specifically guarantees freedom of the press as well as free speech, and the media often ascribe the freedom they enjoy to the Press Clause. Even the Supreme Court occasionally emits rhetoric that implies as much. But as a matter of positive law, the Press Clause actually plays a rather minor role in protecting the freedom of the press. Most of the freedoms the press receives from the First Amendment are no different from the freedoms everyone enjoys under the Speech Clause. The press is protected from most government censorship, libel judgments, and prior restraints not because it is the press but because the Speech Clause protects all of us from those threats.” David A. Anderson, *Freedom of the Press*, 80 *Tex. L. Rev.* 429, 430 (2002).

FREEDOM OF THE PRESS CLAUSE

Freedom of the Press Clause. See PRESS CLAUSE.

FREEDOM OF THE SEAS

freedom of the seas. Int'l law. The principle that the seas beyond territorial waters are not subject to any country's control. • Ships on the high seas are subject only to the jurisdiction of the country whose flag they fly, except in cases of piracy, hijacking, hot pursuit from territorial waters, slave trading, and certain rights of approach by warships. — Also termed *mare liberum*. [Cases: *International Law* 7. C.J.S. *International Law* §§ 23–24.]

FREEDOM-TO-CREATE STATUTE

freedom-to-create statute. Patents. A law restricting an employer's ability to require employees to assign to the employer all rights to their inventions, even those independently developed. [Cases: *Master and Servant* 62. C.J.S. *Employer–Employee Relationship* §§ 115, 117–122.]

FREEDOM-TO-OPERATE SEARCH

freedom-to-operate search. See INFRINGEMENT SEARCH.

FREE ELECTION

free election. See ELECTION(3).

FREE ENTERPRISE

free enterprise. A private and consensual system of production and distribution, usu. conducted for a profit in a competitive environment that is relatively free of governmental interference. See CAPITALISM.

FREE ENTRY, EGRESS, AND REGRESS

free entry, egress, and regress (ee-gres / ree-gres). Hist. A person's right to go on land as often as reasonably necessary. • A tenant could go on land to gather crops still growing after the tenancy expired.

FREE EXERCISE CLAUSE

Free Exercise Clause.The constitutional provision (U.S. Const. amend. I) prohibiting the government from interfering in people's religious practices or forms of worship. — Also termed **Exercise Clause**. Cf. **ESTABLISHMENT CLAUSE** . [Cases: Constitutional Law 84. C.J.S. Constitutional Law §§ 513–517.]

FREE FISHERY

free fishery.See **FISHERY**(1).

FREE-GAS CLAUSE

free-gas clause.Oil & gas. A provision in an oil-and-gas lease entitling the lessor or the surface owner to use gas produced from the leased property without charge. • Used commonly in colder states, free-gas clauses usu. limit how the gas may be used (e.g., domestic heating and light), how much gas may be used (e.g., not more than 300 MCF per year), or both.

FREEHOLD

freehold,n.1. An estate in land held in fee simple, in fee tail, or for term of life; any real-property interest that is or may become possessory. • At common law, these estates were all created by enfeoffment with livery of seisin. [Cases: Estates in Property 4–7, 12. C.J.S. Estates §§ 10–14, 20–27.] 2. The tenure by which such an estate is held. — Also termed **freehold estate**; **estate in freehold**; **freehold interest**; **franktenement**; **liberum tenementum**. Cf. **LEASEHOLD**.

determinable freehold.See **determinable estate** under **ESTATE**(1).

movable freehold.The land a seashore owner acquires or loses as water recedes or approaches. [Cases: Navigable Waters 44. C.J.S. Navigable Waters § 94.]

perpetual freehold.An estate given to a grantee for life, and then successively to the grantee's heirs for life. • The effect of this type of freehold was to keep land within a family in perpetuity, much like a fee tail.

“It took the form of a grant ‘to A for life, remainder to A's son for life, remainder to that son's son for life’, and so on ad infinitum. Such a limitation, if valid, would have been an effective substitute for the fee tail. The courts, however, set their face against this ‘perpetual freehold’ (as it was sometimes termed), and in *Lovelace v. Lovelace* (1585) it was held that remainders which did not vest before the determination of the first life estate would fail ex post facto. Subsequently a number of other, not entirely convincing, reasons were found for invalidating perpetual freeholds, ultimately culminating in what is sometimes termed the ‘old’ rule against perpetuities, but, more commonly, the rule in *Whitby v. Mitchell*, taking its name from the case which marked its emphatic reiteration.” Peter Butt, *Land Law* 136 (2d ed. 1988).

FREEHOLDER

freeholder.Hist. One who possesses a freehold.

FREEHOLDER'S COURT BARON

freeholder's court baron.See **COURT BARON**.

FREEHOLD ESTATE

freehold estate. See FREEHOLD.

FREEHOLD INTEREST

freehold interest. See FREEHOLD.

FREEHOLD LAND SOCIETY

freehold land society. (usu. pl.) Hist. A society in England created to enable mechanics, artisans, and other workers to buy at the lowest possible price freehold land with a sufficient yearly value to entitle the owner to the right to vote in the county in which the land was located.

FREE ICE

free ice. Hist. Ice in navigable streams that does not belong to the adjacent riparian owner or to another with the right to appropriate it, but that belongs to the person who first appropriates it.

FREE LAW

free law. Hist. The civil rights enjoyed by a freeman (as opposed to a serf). • Free law could be forfeited if the freeman was convicted of treason or an infamous crime.

FREEMAN

freeman. 1. A person who possesses and enjoys all the civil and political rights belonging to the people under a free government. 2. A person who is not a slave. 3. Hist. A member of a municipal corporation (a city or borough) who possesses full civic rights, esp. the right to vote. 4. Hist. A freeholder. Cf. VILLEIN. 5. Hist. An allodial landowner. Cf. VASSAL. — Also spelled free man.

FREEMAN–WALTER–ABELE TEST

Freeman–Walter–Abele test. Patents. An outmoded two-step judicial test for determining whether a claimed invention is an unpatentable mathematical algorithm. • The test looks first to whether an algorithm is explicit or inherent in the claim, and second to whether a patent would wholly preempt others from using the algorithm. In *re Freeman*, 573 F.2d 1237 (CCPA 1978); In *re Walter*, 618 F.2d 758 (CCPA 1980); In *re Abele*, 684 F.2d 902 (CCPA 1982). The Federal Circuit has said that the test has “little, if any, applicability” after *State St. Bank & Trust Co. v. Signature Fin. Group*, 149 F.3d 1368 (Fed. Cir. 1998).

FREE MARKET

free market. See open market under MARKET.

FREE OF ALL AVERAGE

free of all average. Maritime law. Insurance that covers a total loss only. — Abbr. FAA.

FREE ON BOARD

free on board. A mercantile-contract term allocating the rights and duties of the buyer and the seller of goods with respect to delivery, payment, and risk of loss, whereby the seller must clear the goods for export, and the buyer must arrange for transportation. • The seller's delivery is complete (and the risk of loss passes to the buyer) when the goods pass the transporter's rail. The buyer is responsible for all costs of carriage. UCC § 2-319. — Abbr. FOB; F.O.B. Cf. FREE ALONGSIDE SHIP; DELIVERED EX SHIP. [Cases: Sales 77(2). C.J.S. Sales §§ 96–98.]

“In an F.O.B. (‘free on board’) contract, the goods must be delivered on board by the seller, free of expense to the purchaser, and they are not at the latter's risk until actually delivered on board, when the property in them passes to him. The seller must also give the buyer sufficient notice to enable him to insure against loss during the sea transit. The buyer, on the other hand, must name a ship or authorize the seller to select one. The seller cannot sue for the price until the goods are loaded, and if his inability to load was caused by the buyer's failure to name an effective ship, his only remedy lies in damages. Similarly, F.O.R. means ‘free on rail.’ ” 2 E.W. Chance, *Principles of Mercantile Law* 86–87 (P.W. French ed., 10th ed. 1951).

FOB destination. A mercantile term denoting that the seller is required to pay the freight charges as far as the buyer's named destination. [Cases: Sales 79. C.J.S. Sales § 168.]

FOB shipping. A mercantile term denoting that the seller is required to bear the risk of placing the goods on a carrier. [Cases: Sales 201(4). C.J.S. Sales §§ 224–227.]

FREE PORT

free port. See PORT.

FREE RIDE

free ride. A benefit obtained without paying a fair price. • For example, a competitor who used aerial photographs of a plant-construction site to discover secret manufacturing techniques was judicially criticized for getting a free ride, in contrast to others who might spend time and effort legally reverse-engineering the same techniques.

FREE RIDER

free rider. One who obtains an economic benefit at another's expense without contributing to it. — Also spelled freerider.

FREE SEAS

free seas. See SEA.

FREE SOCAGE

free socage. See SOCAGE.

FREESTONE RIDER

Freestone rider. See PUGH CLAUSE.

FREE TRADE

free trade,n. The open and unrestricted import and export of goods without barriers, such as quotas or tariffs, other than those charged only as a revenue source, as opposed to those designed to protect domestic businesses. Cf. protective tariff under TARIFF(2).

FREE-TRADE ZONE

free-trade zone.A duty-free area within a country to promote commerce, esp. transshipment and processing, without entering into the country's market. — Also termed foreign trade zone; free port.

FREEWARE

freeware. Software, esp. open-source code, that is made generally available with express or implicit permission for anyone to use, copy, modify, and distribute for any purpose, including financial gain. • The term “free” refers to usage rights rather than price — a distinction important in two respects. First, a user may purchase the initial copy of freeware. Second, software available at no cost may not include permission for the software's user to copy, modify, or give away the software. — Also termed free software. Cf. PROPRIETARY SOFTWARE; SEMI-FREE SOFTWARE; SHAREWARE.

FREE WARREN

free warren.See WARREN.

FREEZE

freeze,n.1. A period when the government restricts or immobilizes certain commercial activity.

credit freeze.A period when the government restricts bank-lending.

wage-and-price freeze.A period when the government forbids the increase of wages and prices.

2. A recapitalization of a closed corporation so that the value of its existing capital is concentrated primarily in preferred stock rather than in common stock. • By freezing capital, the owner can transfer the common stock to heirs without taxation while continuing to enjoy preferred-stock income during the owner's lifetime, while the common stock grows.

freeze,vb. 1. To cause to become fixed and unable to increase <to freeze interest rates> <to freeze prices>.2. To make immobile by government mandate or banking action <to freeze assets>.3. To cease physical movement, esp. when ordered by a law enforcement officer <the police officer shouted at the suspect to freeze>.

FREEZEE

freezee,n. A person or entity subjected to a freeze-out.

FREEZE-OUT

freeze-out,n. Corporations. The process, usu. in a closely held corporation, by which the

majority shareholders or the board of directors oppresses minority shareholders in an effort to compel them to liquidate their investment on terms favorable to the controlling shareholders. Cf. SQUEEZE-OUT T. [Cases: Corporations 182.3, 584; Securities Regulation 60.21. C.J.S. Corporations §§ 344, 799–801; Securities Regulation § 190.]

“A ‘freeze-out’ is usually accomplished by the merger of a corporation into its parent corporation, where the parent corporation owns a large percentage of the shares of the subsidiary, and the minority shareholders are entitled to minimal distributions of cash or securities. A ‘freeze-out’ may also be used to connote the situation where so large a number of equity shares are issued to the acquiring corporation that the public shareholders own less than 10 percent of the outstanding equity securities and, therefore, have no control over the corporation or any of its decisions. In such event, a short-form merger could later be used to eliminate the minority shareholders.” 69A Am. Jur. 2d Securities Regulation — State § 245, at 971 n.60 (1993).

FREEZE OUT

freeze out,vb. 1. To subject one to a freeze-out. 2. To exclude a business competitor <freezing out the competition>.

FREEZE-OUT MERGER

freeze-out merger.See cash merger under MERGER.

FREIGHT

freight. 1. Goods transported by water, land, or air; CARGO. 2. The compensation paid to a carrier for transporting goods. [Cases: Carriers 189; Shipping 144. C.J.S. Aeronautics and Aerospace § 231; Carriers §§ 470–472, 474; Shipping § 368.]

“Freight, in the common acceptance of the term, means the price for the actual transportation of goods by sea from one place to another; but, in its more extensive sense, it is applied to all rewards or compensation paid for the use of ships, including the transportation of passengers.” 3 James Kent, Commentaries on American Law *219 (George Comstock ed., 11th ed. 1866).

dead freight.The amount paid by a shipper to a shipowner for the ship's unused cargo space. [Cases: Shipping 147. C.J.S. Shipping §§ 369–370.]

FREIGHT ABSORPTION

freight absorption.See ABSORPTION(5).

FREIGHT FORWARDER

freight forwarder.Maritime law. A person or company whose business is to receive and ship goods for others. • A freight forwarder may be an agent of the cargo's owner or of the carrier, or may be an independent contractor acting as a principal and assuming the carrier's responsibility for delivering the cargo. — Also termed third-party logistical service provider; forwarding agent.

FREIGHTING VOYAGE

freighting voyage. See VOYAGE.

FREIGHT RATE

freight rate. See RATE.

FRENCHMAN

frenchman. Hist. A stranger; a foreigner. • In early English law, this term was applied to all foreigners, even those not from France.

F REORGANIZATION

F reorganization. See REORGANIZATION(2).

FRESH

fresh, adj. Recent; not stale; characterized by newness without any material interval.

FRESH COMPLAINT

fresh complaint. A reasonably prompt lodging of a grievance; esp., a victim's prompt report of a sexual assault to someone trustworthy. [Cases: Criminal Law 366; Rape 48(1)–49, 49.2. C.J.S. Criminal Law § 874; Rape §§ 62, 72–77.]

FRESH-COMPLAINT RULE

fresh-complaint rule. The theory that the credibility of a sexual-assault victim is bolstered if the victim reports the assault soon after it occurs. • Most courts no longer recognize this theory. [Cases: Rape 48(1)–49, 49.2. C.J.S. Rape §§ 62, 72–77.]

FRESH DISSEISIN

fresh disseisin. See DISSEISIN.

FRESH FINE

fresh fine. See FINE(5).

FRESH FORCE

fresh force. Hist. Force, such as disseisin or deforcement, newly done. • This term refers to force used in a town, and for which a remedy (the Assize of Fresh Force) existed. See assize of fresh force under ASSIZE(8).

FRESH PURSUIT

fresh pursuit. 1. The right of a police officer to make a warrantless search of a fleeing suspect or to cross jurisdictional lines to arrest a fleeing suspect. [Cases: Arrest 63.3; Automobiles 349(12). C.J.S. Arrest §§ 18–20.] 2. The right of a person to use reasonable force to retake property that has just been taken. — Also termed hot pursuit.

FRESH START

fresh start.Bankruptcy. The favorable financial status obtained by a debtor who receives a release from personal liability on prepetition debts or who reorganizes debt obligations through the confirmation and completion of a bankruptcy plan. [Cases: Bankruptcy 2363.1.]

FRIDAY MARKET

Friday market.See MARKET.

FRIENDLY AMENDMENT

friendly amendment. See AMENDMENT(3).

FRIENDLY FIRE

friendly fire. 1. A fire burning where it is intended to burn, yet capable of causing unintended damage. 2. Military or police gunfire that injures one's own side.

FRIENDLY-PARENT LAW

friendly-parent law.A statute that requires or allows a judge to consider as a factor in awarding custody the extent to which one parent encourages or thwarts the child's relationship with the other parent.

FRIENDLY SOCIETY

friendly society.In Britain, a voluntary association, supported by subscriptions or contributions, for the purpose of providing financial relief to ill members and to their widows and children upon death. • Friendly societies are regulated by statute. See benevolent association under ASSOCIATION. Cf. FRATERNAL BENEFIT ASSOCIATION.

FRIENDLY SUIT

friendly suit.A lawsuit in which all the parties have agreed beforehand to allow a court to resolve the issues. • Friendly suits are often filed by settling parties who wish to have a judgment entered.

FRIENDLY SUITOR

friendly suitor.See WHITE KNIGHT.

FRIENDLY TAKEOVER

friendly takeover.See TAKEOVER.

FRIEND OF THE COURT

friend of the court. 1.AMICUS CURIAE. 2. In some jurisdictions, an official who investigates and advises the court in domestic-relations cases involving minors. • The friend of the court may also help enforce court orders in those cases. [Cases: Child Custody 613, 616; Infants 208.C.J.S. Infants §§ 57–61, 63, 68–85.]

FRINGE BENEFIT

fringe benefit. See BENEFIT.

FRISK

frisk, n. A pat-down search to discover a concealed weapon. — Also termed pat-down. See STOP AND FRISK. Cf. SEARCH(1). [Cases: Arrest 63.5(8); Automobiles 349.5(10); Searches and Seizures 70. C.J.S. Arrest § 40; Searches and Seizures §§ 88–89.]

FRIVOLOUS

frivolous, adj. Lacking a legal basis or legal merit; not serious; not reasonably purposeful <a frivolous claim>.

FRIVOLOUS APPEAL

frivolous appeal. See APPEAL.

FRIVOLOUS CLAIM

frivolous claim. See CLAIM(4).

FRIVOLOUS DEFENSE

frivolous defense. See DEFENSE(1).

FRIVOLOUS SUIT

frivolous suit. See SUIT.

FRM

FRM. See fixed-rate mortgage under MORTGAGE.

FROLIC

frolic (frol-ik), n. Torts. An employee's significant deviation from the employer's business for personal reasons. • A frolic is outside the scope of employment, and thus the employer is not vicariously liable for the employee's actions. Cf. DETOUR. [Cases: Master and Servant 302(6). C.J.S. Employer–Employee Relationship §§ 221–222.]

FRONT

front, n. 1. The side or part of a building or lot that is open to view, that is the principal entrance, or that faces out to the open (as to a lake or ocean); the foremost part of something <the property's front was its most valuable attribute>. 2. A person or group that serves to conceal the true identity or activity of the person or group in control <the political party was a front for the terrorist group>. 3. A political association similar to a party <popular front>.

FRONTAGE

frontage (fr<<schwa>>n-tij). 1. The part of land abutting a street or highway or lying between a building's front and a street or highway <the property's value was so low because of its narrow frontage>. 2. The linear distance of a frontage <the lot's frontage was 90 feet>.

FRONTAGE ASSESSMENT

frontage assessment. See **ASSESSMENT**.

FRONTAGER

frontager (fr<<schwa>>n-tij-<<schwa>>r), n. A person owning or occupying land that abuts a highway, river, seashore, or the like.

FRONT-END LOAD

front-end load. See loan fund under **MUTUAL FUND**.

FRONT-END MONEY

front-end money. See **SEED MONEY**.

FRONT FOOT

front foot. A measurement used to calculate a frontage assessment. — Also termed abutting foot. [Cases: Municipal Corporations 469. C.J.S. Municipal Corporations §§ 1281–1283, 1285.]

FRONT-FOOT RULE

front-foot rule. The principle that an improvement cost is to be apportioned among several properties in proportion to their frontage, without regard to the benefits conferred on each property. — Also termed front-foot plan. [Cases: Municipal Corporations 469. C.J.S. Municipal Corporations §§ 1281–1283, 1285.]

FRONT MONEY

front money. See **SEED MONEY**.

FRONT-PAGE CITATION

front-page citation. See **CITATION(4)**.

FRONT-PAGE DRAWING

front-page drawing. See **DRAWING**.

FRONT-RUNNING

front-running, n. Securities. A broker's or analyst's use of nonpublic information to acquire securities or enter into options or futures contracts for his or her own benefit, knowing that when the information becomes public, the price of the securities will change in a predictable manner. • This practice is illegal. Front-running can occur in many ways. For example, a broker or analyst who works for a brokerage firm may buy shares in a company that the firm is about to recommend as a strong buy or in which the firm is planning to buy a large block of shares. See **INSIDER TRADING**.

FRONT WAGES

front wages. See WAGE.

FROTTAGE

frottage. Sexual stimulation by rubbing the genitals against another person. • This may be accomplished without removing clothing. When a child is involved, it is a form of sexual abuse.

FROZEN ACCOUNT

frozen account. See blocked account under ACCOUNT.

FROZEN ASSET

frozen asset. See ASSET.

FROZEN DEPOSIT

frozen deposit. See DEPOSIT(2).

FRS

FRS. abbr. FEDERAL RESERVE SYSTEM.

FRTIB

FRTIB. abbr. FEDERAL RETIREMENT THRIFT INVESTMENT BOARD.

FRUCTUARIUS

fructuarius (fr<<schwa>>k-choo-air-ee-<<schwa>>s). [Latin “(one) entitled to fruits”] 1. Roman & civil law. One having the usufruct of a thing (as of land and animals); a usufructuary. See USUFRUCTUARY. 2. Hist. A lessee. Pl. fructuarii.

FRUCTUS

fructus (fr<<schwa>>k-t<<schwa>>s). [Latin “fruits”] 1. Roman & civil law. The natural produce of land and animals; the profit or increase from land and animals. • The owner of the land or animals acquired ownership by separatio, the separation of the fruit from the parent body. A bona fide possessor or an emphyteuta also acquired ownership by separatio, which allowed a nonowner to claim title from a thief. But in Justinian's law, a bona fide possessor had to account to a successful claimant for ownership for the principal thing and any unconsumed fruits. A tenant or usufructuary acquired title only by perceptio, and cannot claim title from a thief. See PERCEPTION(2). Cf. FRUCTUS CIVILES. 2. USUFRUCT. Pl. fructus.

FRUCTUS CIVILES

fructus civiles (fr<<schwa>>k-t<<schwa>>s s<<schwa>>-vI-leez). [Latin “civil fruits”] Roman & civil law. Income (such as rent or interest) that one receives from another for the use or enjoyment of a thing, esp. real property or loaned money. • In Roman law, fructus civiles included both minerals and the earnings of slaves.

FRUCTUS FUNDI

fructus fundi (fr<<schwa>>k-t<<schwa>>s f<<schwa>>n-dI). [Latin "land fruits"] The fruits or produce of land.

FRUCTUS INDUSTRIALES

fructus industriales (fr<<schwa>>k-t<<schwa>>s in-d<<schwa>>s-tree-ay-leez). [Latin "industrial fruits"] See EMBLEMENTS.

FRUCTUS LEGIS

fructus legis (fr<<schwa>>k-t<<schwa>>s lee-jis). [Latin "fruits of the law"] The proceeds of judgment or execution. [Cases: Execution 322.C.J.S. Executions § 258.]

FRUCTUS NATURALES

fructus naturales (fr<<schwa>>k-t<<schwa>>s nach-<<schwa>>-ray-leez). [Latin "natural fruits"] The natural produce of land or plants and the offspring of animals. • Fructus naturales are considered part of the real property.

FRUCTUS PECUDUM

fructus pecudum (fr<<schwa>>k-t<<schwa>>s pek-y<<schwa>>-d<<schwa>>m). [Latin "fruits of the herd"] The produce or increase of flocks or herds.

FRUCTUS PENDENTES

fructus pendentes (fr<<schwa>>k-t<<schwa>>s pen-den-teez). [Latin "hanging fruits"] Fruits not yet severed or gathered; fruits united with that which produces them.

FRUCTUS PERCEPTI

fructus percepti (fr<<schwa>>k-t<<schwa>>s p<<schwa>>r-sep-tI). [Latin "gathered fruits"] Roman & civil law. Fruits that have been gathered.

FRUCTUS REI ALIENAE

fructus rei alienae (fr<<schwa>>k-t<<schwa>>s ree-I ay-lee-ee-nee or al-ee-). [Latin "fruits of another's property"] The fruits of another's property; fruits taken from another's estate.

FRUCTUS SEPARATI

fructus separati (fr<<schwa>>k-t<<schwa>>s sep-<<schwa>>-ray-tI). [Latin "separated fruits"] Roman & civil law. The produce of a thing after being separated from it, and so becoming in law "fruits."

FRUCTUS STANTES

fructus stantes (fr<<schwa>>k-t<<schwa>>s stan-teez). [Latin "standing fruits"] Fruits that have not yet been severed from the stalk or stem.

FRUCTUUM PERCEPTIO

fructuum perceptio (fr<<schwa>>k-choo-<<schwa>>m p<<schwa>>r-sep-shee-oh). [Latin]

Roman & civil law. The rightful taking of the produce of property by a person who does not own the property.

FRUGES

fruges (froo-jeez). [Latin “fruits” or “crops”] Roman & civil law. Edible produce or crops; esculents.

FRUGI AUT BONAE FAMAE

frugi aut bonae famae (froo-jī awt boh-nee fay-mee). [Latin] Hist. Frugal or of good reputation.

FRUIT

fruit. 1. The produce or product of something (as of land or property). 2. Civil law. Income or goods derived or produced from property without a diminution of the property's inherent value.

civil fruit. Civil law. Revenue derived from a thing by operation of law or by reason of a juridical act, such as lease or interest payments, or certain corporate distributions. La. Civ. Code art. 551. See FRUCTUS CIVILES.

natural fruit. Civil law. A product of the land or of animals. • Examples are crops and eggs. La. Civ. Code art. 2317. See FRUCTUS NATURALES.

3. Something (such as evidence) obtained during an activity or operation <the fruit of the officer's search>. See FRUIT-OF-THE-POISONOUS-TREE DOCTRINE.

FRUIT-AND-THE-TREE DOCTRINE

fruit-and-the-tree doctrine. Tax. The rule that an individual who earns income cannot assign that income to another person to avoid taxation.

FRUIT-OF-THE-POISONOUS-TREE DOCTRINE

fruit-of-the-poisonous-tree doctrine. Criminal procedure. The rule that evidence derived from an illegal search, arrest, or interrogation is inadmissible because the evidence (the “fruit”) was tainted by the illegality (the “poisonous tree”). • Under this doctrine, for example, a murder weapon is inadmissible if the map showing its location and used to find it was seized during an illegal search. — Also termed fruits doctrine. See EXCLUSIONARY RULE; ATTENUATION DOCTRINE; INDEPENDENT-SOURCE RULE; INEVITABLE-DISCOVERY RULE. [Cases: Criminal Law 394.1(3). C.J.S. Criminal Law §§ 771, 773–775.]

FRUITS OF A CRIME

fruits of a crime. The proceeds acquired through criminal acts. [Cases: Criminal Law 1221. C.J.S. Criminal Law § 1733.]

FRUSTRA

frustra (fr<<schwa>>s-tr<<schwa>>). [Latin] Hist. In vain; to no purpose.

FRUSTRATION

frustration, n.1. The prevention or hindering of the attainment of a goal, such as contractual performance.

commercial frustration. An excuse for a party's nonperformance because of some unforeseeable and uncontrollable circumstance. — Also termed economic frustration. [Cases: Contracts 309(1). C.J.S. Contracts §§ 520–522, 524.]

self-induced frustration. A breach of contract caused by one party's action that prevents the performance. • The phrase is something of a misnomer, since self-induced frustration is not really a type of frustration at all but is instead a breach of contract.

temporary frustration. An occurrence that prevents performance and legally suspends the duty to perform for the duration of the event. • If the burden or circumstance is substantially different after the event, then the duty may be discharged.

2. Contracts. The doctrine that if a party's principal purpose is substantially frustrated by unanticipated changed circumstances, that party's duties are discharged and the contract is considered terminated. — Also termed frustration of purpose. Cf. IMPOSSIBILITY(4); IMPRACTICABILITY; MISTAKE. [Cases: Contracts 309. C.J.S. Contracts §§ 520–522, 524.] — frustrate, vb.

FRUSTRUM TERRAE

frustrum terrae (fr<<schwa>>s-tr<<schwa>>m ter-ee). [Latin] Hist. A piece of land. • This usu. referred to a fragment of land remaining after a survey.

FRYE TEST

Frye test. The defunct federal common-law rule of evidence on the admissibility of scientific evidence. • It required that the tests or procedures must have gained general acceptance in their particular field. In *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 113 S.Ct. 2786 (1993), the Supreme Court held that scientific evidence must meet the requirements of the Federal Rules of Evidence, not the Frye test, to be admissible. *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923). See DAUBERT TEST. [Cases: Criminal Law 388.1–388.4; Evidence 555. C.J.S. Evidence §§ 597–598, 601, 649, 652, 713.]

FSA

FSA.abbr. FARM SERVICE AGENCY.

FSI

FSI.abbr. FOREIGN SERVICE INSTITUTE.

FSIA

FSIA.abbr. FOREIGN SOVEREIGN IMMUNITIES ACT.

FSIS

FSIS.abbr. FOOD SAFETY AND INSPECTION SERVICE.

FSLIC

FSLIC.abbr.FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.

FSS

FSS.abbr. FEDERAL SUPPLY SERVICE.

FST

FST. See field sobriety test under SOBRIETY TEST.

F.SUPP.

F.Supp.abbr.Federal Supplement, a series of reported decisions of the federal district courts (from 1932 to 1998), the U.S. Court of Claims (1932 to 1960), and the U.S. Customs Court (from 1949 to 1998, but renamed the Court of International Trade in 1980). • It is the first of the Federal Supplement series.

F.SUPP. 2D

F.Supp.2d.abbr.The second series of the Federal Supplement, which includes decisions of federal district courts and the Court of International Trade from 1997 to the present. • Some of the F.Supp. volumes contain cases from 1998 and some of the F.Supp.2d volumes contain cases decided in 1997.

FTA

FTA.abbr.FEDERAL TRANSIT ADMINISTRATION.

FTC

FTC.abbr.FEDERAL TRADE COMMISSION.

FTCA

FTCA.abbr.FEDERAL TORT CLAIMS ACT.

FTDA

FTDA.abbr. FEDERAL TRADEMARK DILUTION ACT.

FTO SEARCH

FTO search.See INFRINGEMENT SEARCH.

FTP

FTP.abbr.FILE-TRANSFER PROTOCOL.

FTS

FTS.abbr. FEDERAL TECHNOLOGY SERVICE.

FTT

FTT.abbr.FAILURE TO THRIVE.

FUER

fuer (fyoo-<<schwa>>r). [Law French "to flee"] Flight from the law. — Also termed fugere.

fuer in fait (fyoo-<<schwa>>r in fay). [Law French "flight in fact"] Actual flight from the law. — Also termed fugere in facta.

fuer in ley (fyoo-<<schwa>>r in lay). [Law French "flight in law"] Legal flight from the law.
 • If the accused failed to appear, the law treated that failure as flight. — Also termed fugere in lege.

FUERO

fuego (foo-wer-oh).Spanish law. 1. A forum; court. 2. The territory in which a court has the power to act. 3. A privilege enjoyed by some but not others. 4. A custom having the force of law. 5.Hist. A collection of local, usu. customary, laws.

Fuero Juzgo (hooz-goh).Hist. A 7th-century Visigothic code that was revised and incorporated into the laws of 13th-century Spain. • The code contains the earliest known laws of community property. In the 18th century, much of the Fuero Juzgo was incorporated into the Code Napoleon. In the 19th century, vestiges of the Fuero Juzgo were incorporated into the Spanish Civil Code.

Fuero Real (ray-ahl).Hist. A collection of the ancient customs of Castile, collected by order of Alfonse X in 1255 to produce a uniform legal code, much of which was incorporated into local fueros. • Louisiana's system of acquets and gains was adapted from the Fuero Real.

FUGAM FECIT

fugam fecit (fyoo-g<<schwa>>m fee-sit). [Law Latin] Hist. He fled; he has made flight. • When a jury made this finding in a felony or treason trial, the defendant's property was subject to forfeiture.

FUGERE

fugere. See FUER.

FUGERE IN FACTA

fugere in facta.See fuer in fait under FUER.

FUGERE IN LEGE

fugere in lege.See fuer in ley under FUER.

FUGITATION

fugitation (fyoo-j<<schwa>>-tay-sh<<schwa>>n).Hist. A sentence or declaration of fugitive

status that was pronounced against an accused person for failing to answer a citation and appear. • The effect was that the person forfeited his or her goods and chattels. — fugitate,vb.

FUGITIVE

fugitive. 1. A person who flees or escapes; a refugee. 2. A criminal suspect or a witness in a criminal case who flees, evades, or escapes arrest, prosecution, imprisonment, service of process, or the giving of testimony, esp. by fleeing the jurisdiction or by hiding. See 18 USCA § 1073. — Also termed (in sense 2) fugitive from justice.

FUGITIVE-DISENTITLEMENT DOCTRINE

fugitive-disentitlement doctrine.An equitable rule that allows a trial or appellate court to limit a fugitive's access to civil and criminal courts in the United States. [Cases: Action 13; Criminal Law 1026.10(7). C.J.S. Actions §§ 57–63.]

FUGITIVE-DISMISSAL RULE

fugitive-dismissal rule.The principle that an appellate court may dismiss a criminal defendant's appeal if the defendant is a fugitive. [Cases: Criminal Law 1131(5). C.J.S. Criminal Law §§ 1698–1699.]

FUGITIVE FELON ACT

Fugitive Felon Act.A federal statute that makes it a felony to flee across state lines to avoid state-felony prosecution or confinement, or to avoid giving testimony in a state-felony case. 18 USCA § 1073. [Cases: Escape 1. C.J.S. Escape §§ 2–3, 5–10, 12, 27, 44.]

FUGITIVE FROM JUSTICE

fugitive from justice.See FUGITIVE.

FUGITIVE'S GOODS

fugitive's goods.Hist. The goods that a person forfeited as a result of fleeing.

FUGITIVE-SLAVE LAWS

fugitive-slave laws.Hist. Federal statutes passed in 1793 and 1850 providing for the surrender and return of slaves who had escaped and fled to a free territory or a free state. [Cases: Slaves 9.]

FUGITIVE WARRANT

fugitive warrant.See WARRANT(1).

FUGITIVUS

fugitivus (fyoo-j<<schwa>>-tī-v<<schwa>>s), n. [Latin] Roman law. A runaway slave; a fugitive.

FUGUE

fugue (fyoog). An abnormal state of consciousness in which one appears to function normally

but on recovery has no memory of what one did while in that condition.

FULL ADVERSARY HEARING

full adversary hearing. See adjudication hearing under HEARING.

FULL AGE

full age. See age of majority under AGE.

FULL BENCH

full bench. See full court under COURT.

FULL BLOOD

full blood. See BLOOD.

FULL CASH VALUE

full cash value. See VALUE(2).

FULL COPY

full copy. Equity practice. A complete transcript of a bill or other pleading, with all indorsements and a copy of all exhibits. [Cases: Equity 460.]

FULL COURT

full court. See COURT.

FULL COUSIN

full cousin. See COUSIN(1).

FULL-COVENANT-AND-WARRANTY DEED

full-covenant-and-warranty deed. See warranty deed under DEED.

FULL COVERAGE

full coverage. See COVERAGE.

FULL-CREW LAW

full-crew law. A law that regulates the number of railroad employees required to operate a train, or airline employees required to operate an airplane. [Cases: Railroads 230. C.J.S. Railroads §§ 767-778.]

FULL DEFENSE

full defense. See DEFENSE(1).

FULL DISCLOSURE

full disclosure. See DISCLOSURE(1).

FULL FAITH AND CREDIT

full faith and credit.The recognition, acceptance, and enforcement of the laws, orders, and judgments of another jurisdiction; specif., the recognition by one state of another state's legal decisions. [Cases: Judgment 815, 828.4; States 5(2). C.J.S. Judgments §§ 969–979, 998, 1002–1003, 1007, 1009, 1011, 1014.]

FULL FAITH AND CREDIT ACT

Full Faith and Credit Act.A federal statute requiring federal courts to give a state court's judgment the same preclusive effect as the judgment would have under state law. 28 USCA § 1738. See *Migra v. Warren City School Dist. Bd. of Educ.*, 465 U.S. 75, 81, 104 S.Ct. 892, 896 (1984).

FULL-FAITH-AND-CREDIT BOND

full-faith-and-credit bond.See general-obligation bond under BOND (3).

FULL FAITH AND CREDIT CLAUSE

Full Faith and Credit Clause.U.S. Const. art. IV, § 1, which requires states to give effect to the acts, public records, and judicial decisions of other states. [Cases: Judgment 815, 828.4; States 5(2).C.J.S. Judgments §§ 969–979, 998, 1002–1003, 1007, 1009, 1011, 1014.]

FULL FAITH AND CREDIT FOR CHILD–SUPPORT ORDERS ACT

Full Faith and Credit for Child-Support Orders Act.A 1994 federal statute designed to facilitate interstate child-support collection. • Under the Act, the state first issuing a child-support order maintains continuing, exclusive jurisdiction to modify the order as long as the child or one or both of the litigants continue to reside there, unless all the contestants agree in writing to change jurisdiction. An order from one state may be registered for enforcement in another state. 28 USCA § 1738B.

FULL HEARING

full hearing.See HEARING.

FULL INDORSEMENT

full indorsement.See irregular indorsement and special indorsement under INDORSEMENT.

FULL INTERDICTION

full interdiction.See INTERDICTION(3).

FULL MEMBER

full member.See voting member under MEMBER.

FULL NAME

full name.See NAME.

FULL OWNERSHIP

full ownership.See perfect ownership under OWNERSHIP.

FULL-PAID STOCK

full-paid stock.See STOCK.

FULL PARDON

full pardon.See absolute pardon under PARDON.

FULL PARTNER

full partner.See general partner under PARTNER.

FULL PAYOUT LEASE

full payout lease.See finance lease under LEASE.

FULL PERFORMANCE

full performance.See PERFORMANCE.

FULL POWERS

full powers.Int'l law. An official document designating a person to represent a country for (1) negotiating, adopting, or authenticating the text of a treaty, (2) expressing the consent of the country to be bound by a treaty, or (3) accomplishing any act with respect to the treaty.

FULL PROOF

full proof.See PROOF.

FULL-REPORTING CLAUSE

full-reporting clause. 1.Insurance. An insurance-policy clause that requires the insured to reveal values and that penalizes the insured if the insured revealed less than required in the policy application. — Also termed honesty clause. [Cases: Insurance 2169.] 2. An insurance-policy clause providing that the indemnity will not exceed the proportion of the loss that the last reported value bears to the actual value.

FULL RIGHT

full right.The union of good title with actual possession.

FULL-SERVICE LEASE

full-service lease.See LEASE.

FULL SETTLEMENT

full settlement.See SETTLEMENT(2).

FULL VALUE

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

FULL WARRANTY

full warranty. See WARRANTY(2).

FULLY ADMINISTERED

fully administered. A plea by an executor or administrator that he or she has completely and legally disposed of all the assets of the estate and that the estate has no remaining assets from which a new claim could be satisfied.

FULLY DILUTED EARNINGS PER SHARE

fully diluted earnings per share. See EARNINGS PER SHARE.

FULLY FUNDED

fully funded, adj. 1. Having sufficient financial resources to meet current payments, even upon bankruptcy <the company's pension plan was fully funded>. 2. Having completely satisfied a funding requirement; paid <the construction loan was fully funded>. — Also termed funded.

FULLY MANAGED FUND

fully managed fund. See MUTUAL FUND.

FULLY MET

fully met. See ANTICIPATED.

FULLY PAID FACE-AMOUNT CERTIFICATE

fully paid face-amount certificate. See face-amount certificate (2) under STOCK CERTIFICATE .

FUNCTION

function, n. 1. Activity that is appropriate to a particular business or profession <a court's function is to administer justice>. 2. Office; duty; the occupation of an office <presidential function>. [Cases: Officers and Public Employees 110. C.J.S. Officers and Public Employees §§ 234–245.]

FUNCTIONAL ANALOG

functional analog. See ANALOG.

FUNCTIONAL DEPRECIATION

functional depreciation. See DEPRECIATION.

FUNCTIONAL DISCOUNT

functional discount. See DISCOUNT.

FUNCTIONAL DISEASE

functional disease. See DISEASE.

FUNCTIONAL FEATURE

functional feature. Trademarks. A design element that is either physically necessary to construct an article or commercially necessary to manufacture and sell it; a product's attribute that is essential to its use, necessary for its proper and successful operation, and utilitarian rather than ornamental in every detail. • A functional feature is not eligible for trademark protection. [Cases: Trade Regulation 43. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 49–50.]

FUNCTIONALITY

functionality. Trademarks. The quality of having a shape, configuration, design, or color that is so superior to available alternatives that giving the first user exclusive trademark rights would hinder competition. [Cases: Trade Regulation 43. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 49–50.]

aesthetic functionality. A doctrine that denies protection to the design of a product or its container when the design is necessary to enable the product to function as intended.

FUNCTIONAL LIMITATION

functional limitation. Patents. In a patent application, the definition of an invention by what it does rather than what it is. • A functional limitation is not inherently invalid, but it is examined closely because it tends to be too broad, claiming every possible way of doing the same thing. MPEP 2173.05(g). See functional rejection under REJECTION. [Cases: Patents 101(3).]

FUNCTIONAL OBSOLESCENCE

functional obsolescence. See OBSOLESCENCE.

FUNCTIONAL REJECTION

functional rejection. See REJECTION.

FUNCTIONARY

functionary. A public officer or employee.

FUNCTUS OFFICIO

functus officio (f<<schwa>>ngk-t<<schwa>>s <<schwa>>-fish-ee-oh). [Latin “having performed his or her office”] (Of an officer or official body) without further authority or legal competence because the duties and functions of the original commission have been fully accomplished. • The term is sometimes abbreviated to functus <the court was functus>. [Cases: Officers and Public Employees 44. C.J.S. Officers and Public Employees §§ 339, 345.]

FUND

fund, n. 1. A sum of money or other liquid assets established for a specific purpose <a fund reserved for unanticipated expenses>.

blended fund.A fund created by income from more than one source, usu. from the sale of a testator's real and personal property.

changing fund.A fund, esp. a trust fund, that changes its form periodically as it is invested and reinvested.

client-security fund.A fund established usu. by a state or a state bar association to compensate persons for losses that they suffered because of their attorneys' misappropriation of funds or other misconduct. [Cases: Attorney and Client 129.5. C.J.S. Attorney and Client § 279.]

contingent fund. 1. A fund created by a municipality for expenses that will necessarily arise during the year but that cannot be appropriately classified under any of the specific purposes for which taxes are collected. [Cases: Municipal Corporations 886. C.J.S. Municipal Corporations § 1627.] 2. A fund segregated by a business to pay unknown costs that may arise in the future. — Also termed contingency reserve.

executor fund.A fund established for an executor to pay an estate's final expenses.

fund in court. 1. Contested money deposited with the court. See INTERPLEADER. [Cases: Deposits in Court 1. C.J.S. Deposits in Court §§ 1, 4–7.] 2. Money deposited to pay a contingent liability.

general fund. 1. A government's primary operating fund; a state's assets furnishing the means for the support of government and for defraying the legislature's discretionary appropriations. • A general fund is distinguished from assets of a special character, such as trust, escrow, and special-purpose funds. [Cases: States 126. C.J.S. States § 228.] 2. A nonprofit entity's assets that are not earmarked for a specific purpose.

general revenue fund.The fund out of which a municipality pays its ordinary and incidental expenses. [Cases: Municipal Corporations 886. C.J.S. Municipal Corporations § 1627.]

guaranty fund.A private deposit-insurance fund, raised primarily by assessments on banks, and used to pay the depositors of an insolvent bank. • Guaranty funds preceded the FDIC's federal-deposit insurance, which began in 1933, though many funds continued until the savings-and-loan crisis in the 1980s. Massachusetts has a guaranty fund for uninsured deposits (deposits above \$100,000) that are not covered by federal-deposit insurance. [Cases: Banks and Banking 15, 504–506. C.J.S. Banks and Banking §§ 24–26, 673, 676–679, 682–694, 696, 699–706, 708–717.]

imprest fund (im-prest). A fund used by a business for small, routine expenses.

joint-welfare fund.A fund that is established in collective bargaining to provide health and welfare benefits to union employees. • The fund is jointly managed by labor and management representatives. — Also termed Taft–Hartley fund.

paid-in fund.A reserve cash fund established by a mutual insurance company to pay unforeseen losses. • The fund is in lieu of a capital stock account.

public fund.(usu. pl.) 1. The revenue or money of a governmental body. • The term includes

not only coins and paper but also bank deposits and instruments representing investments of public money. [Cases: Municipal Corporations 880. C.J.S. Municipal Corporations § 1623.] 2. The securities of a state or national government. [Cases: States 122. C.J.S. States § 224.]

revolving fund.A fund whose moneys are continually expended and then replenished, such as a petty-cash fund.

sinking fund.A fund consisting of regular deposits that are accumulated with interest to pay off a long-term corporate or public debt. — Abbr. SF. [Cases: Corporations 486; Municipal Corporations 951. C.J.S. Corporations § 671; Municipal Corporations §§ 1704–1705.]

strike fund.See STRIKE FUND.

Taft–Hartley fund.See joint-welfare fund.

trust fund.See TRUST FUND.

unsatisfied-judgment fund.A fund established by a state to compensate persons for losses stemming from an automobile accident caused by an uninsured or underinsured motorist. [Cases: Automobiles 251.1. C.J.S. Motor Vehicles §§ 1285, 1290–1294.]

2. (usu. pl.) Money or other assets, such as stocks, bonds, or working capital, available to pay debts, expenses, and the like <Sue invested her funds in her sister's business>.

current funds.Assets that can be readily converted into cash.

3. A pool of investments owned in common and managed for a fee; MUTUAL FUND < a diverse portfolio of funds>.

fund,vb. 1. To furnish money to (an individual, entity, or venture), esp. to finance a particular project. 2. To use resources in a manner that produces interest. 3. To convert (a debt, esp. an open account) into a long-term debt that bears interest at a fixed rate.

FUNDAMENTAL ERROR

fundamental error.See plain error under ERROR(2).

FUNDAMENTAL-FAIRNESS DOCTRINE

fundamental-fairness doctrine.The rule that applies the principles of due process to a judicial proceeding. • The term is commonly considered synonymous with due process.

FUNDAMENTAL INTEREST

fundamental interest.See FUNDAMENTAL RIGHT.

FUNDAMENTAL LAW

fundamental law.The organic law that establishes the governing principles of a nation or state; esp., CONSTITUTIONAL LAW. — Also termed organic law; ground-law. Cf. NATURAL LAW.

FUNDAMENTAL-MISCARRIAGE-OF-JUSTICE EXCEPTION

fundamental-miscarriage-of-justice exception. The doctrine allowing a federal court in a habeas corpus proceeding to address a claim of constitutional error that, although ordinarily unreviewable, is subject to review because of a state-court procedural default that rendered the proceedings basically unfair. • For the exception to apply, among other things, the petitioner must show by a preponderance of the evidence that constitutional error resulted in the conviction of one who is actually innocent. If the defaulted claim applies only to sentencing, the exception permits review of the claim if the petitioner shows by clear and convincing evidence that, but for the constitutional error, no reasonable judge or jury would have imposed the sentence that the petitioner received. [Cases: Habeas Corpus 401.]

FUNDAMENTAL RIGHT

fundamental right. 1. A right derived from natural or fundamental law. 2. Constitutional law. A significant component of liberty, encroachments of which are rigorously tested by courts to ascertain the soundness of purported governmental justifications. • A fundamental right triggers strict scrutiny to determine whether the law violates the Due Process Clause or the Equal Protection Clause of the 14th Amendment. As enunciated by the Supreme Court, fundamental rights include voting, interstate travel, and various aspects of privacy (such as marriage and contraception rights). — Also termed fundamental interest. See STRICT SCRUTINY. Cf. SUSPECT CLASSIFICATION. [Cases: Constitutional Law 252.5. C.J.S. Constitutional Law §§ 953, 966–967, 980.]

FUNDAMENTAL TERM

fundamental term. See TERM(2).

FUNDAMENTAL TREND

fundamental trend. See major trend under TREND.

FUNDATIO

fundatio (f<<schwa>>n-day-shee-oh). [Latin “founding” or “foundation”] Hist. The founding of a corporation, particularly an eleemosynary corporation.

fundatio incipiens (f<<schwa>>n-day-shee-oh in-sip-ee-enz). [Latin “incipient foundation”] The incorporation or grant of corporate powers.

fundatio perficiens (f<<schwa>>n-day-shee-oh p<<schwa>>r-fish-ee-enz). [Latin “perfecting foundation”] The endowment or gift of funds to a corporation.

FUNDED

funded. See FULLY FUNDED.

FUNDED DEBT

funded debt. See DEBT.

FUND IN COURT

funeral expense. See EXPENSE.

FUNGIBILES RES

fungibiles res (f<<schwa>>n-jib-<<schwa>>-leez reez). [Latin] Civil law. Fungible things.

FUNGIBLE

fungible (f<<schwa>>n-j<<schwa>>-b<<schwa>>l), adj. Regarded as commercially interchangeable with other property of the same kind <corn and wheat are fungible goods, whereas land is not>. — fungible, n.

FUNGIBLE GOODS

fungible goods. See GOODS.

FUR

fur (f<<schwa>>r), n. [Latin] Roman law. A thief.

FURANDI ANIMUS

furandi animus (fyuu-ran-dlan-<<schwa>>-m<<schwa>>s). See animus furandi under ANIMUS.

FURCA

furca (f<<schwa>>r-k<<schwa>>), n. [Latin “fork”] Roman law. An instrument of punishment with two prongs to which the arms are tied. • In England, furca became another name for gallows.

FURCA ET FLAGELLUM

furca et flagellum (f<<schwa>>r-k<<schwa>> et fl<<schwa>>-jel-<<schwa>>m). [Law Latin] Hist. Gallows and whip. • This referred to the basest of servile tenures — the tenant was completely at the mercy of the lord.

FURCA ET FOSSA

furca et fossa (f<<schwa>>r-k<<schwa>> et fahs-<<schwa>>). [Law Latin] Hist. Gallows and pit. • This phrase was used in ancient grants of criminal jurisdiction for punishing felons: hanging for men and drowning for women.

FUR FAMOSUS

fur famosus (f<<schwa>>r f<<schwa>>-moh-s<<schwa>>s). [Latin] Scots law. A reputed thief.

FURIGELDUM

furigeldum (fy<<schwa>>r-<<schwa>>-jel-d<<schwa>>m). [Law Latin fur “theft” + geldum “payment”] Hist. A fine paid for theft.

FURLONG

furlong (f<<schwa>>r-lawng). One-eighth of a mile, or forty rods. — Also termed ferlingus; ferlingum. [Cases: Weights and Measures 3. C.J.S. Weights and Measures § 3.]

FURLOUGH

furlough (f<<schwa>>r-loh).1. A leave of absence from military or other employment duty. 2. A brief release from prison. See study release under RELEASE. [Cases: Convicts 2. C.J.S. Convicts §§ 10–12.]

FUR MANIFESTUS

fur manifestus (f<<schwa>>r man-<<schwa>>-fes-t<<schwa>>s). [Latin “manifest thief”] Roman law. A thief caught in the act of stealing. • A fur manifestus could be put to death on the spot in either of two circumstances: (1) if the theft occurred at night, or (2) if the thief used a lethal weapon against the person who discovered the crime. Apart from this, the manifest thief was liable to pay the owner four times the value of the stolen property. — Also termed manifest thief.

FUROR BREVIS

furor brevis. See HEAT OF PASSION.

FURTA

furta (f<<schwa>>r-t<<schwa>>). Hist. A right or privilege from the monarch to try, condemn, and execute criminals within a jurisdiction.

FURTHER ADVANCE

further advance. 1. A second or later loan to a mortgagor by a mortgagee, either on the same security as the original loan or on an additional security. [Cases: Mortgages 16, 116. C.J.S. Mortgages §§ 154–156.] 2. Equity practice. The agreed conversion of arrears of interest on a mortgage security into principal.

FURTHER ASSURANCE

further assurance. See ASSURANCE.

FURTHER-EXPLORATION COVENANT

further-exploration covenant. Oil & gas. In an oil-and-gas lease, an implied promise that once production has been obtained from the leased property, the lessee will continue to explore other parts of the property and other formations under it. • Some jurisdictions hold that the covenant for further exploration does not exist independently of the covenant for reasonable development. See also REASONABLE-DEVELOPMENT COVENANT; REASONABLY-PRUDENT-OPERATOR STANDARD D.

FURTHER INSTRUCTION

further instruction. See additional instruction under JURY INSTRUCTION.

FURTUM

furtum (f<<schwa>>r-t<<schwa>>m), n. [Latin "theft"] Roman law. 1. The offense of stealing movable property. • Under Roman law, furtum included not only the taking of another's property, but any handling of the property done with the intent of profiting by it. Furtum was not only a private wrong (delictum) prosecuted by the person suffering the loss. Cf. PECULATUS. 2. The thing stolen.

furtum conceptum (f<<schwa>>r-t<<schwa>>m k<<schwa>>n-sep-t<<schwa>>m). [Latin] Roman law. A theft in which someone is discovered in possession of stolen property after a search with witnesses. • The possessor was liable to pay the owner three times the value of the stolen property. The possessor could bring an action against the thief and recover triple damages.

furtum grave (f<<schwa>>r-t<<schwa>>m gray-vee orgrah-vay).Hist. Scots law. An aggravated degree of theft that, in ancient times, was punishable by death.

furtum manifestum (f<<schwa>>r-t<<schwa>>m man-<<schwa>>-fes-t<<schwa>>m). [Latin "open theft"] Roman law. A theft in which the thief is caught in the act. • A theft was "manifest" if the thief was caught on the day of the theft with the stolen property before reaching the place where he intended to take it. Fourfold damages were available by means of actio furti. (See actio furti under ACTIO.) A theft other than this type was known as furtum nec manifestum.

furtum oblatum (f<<schwa>>r-t<<schwa>>m <<schwa>>-blay-t<<schwa>>m). [Latin "offered theft"] Roman law. 1. A theft in which the thief offers stolen property to a person who is then found with the goods. • The person found in possession of the stolen goods could bring an action against the true thief. 2. The planting of stolen goods.

furtum possessionis (f<<schwa>>r-t<<schwa>>m p<<schwa>>-zes[h]-ee-oh-nis). [Latin "theft of possession"] Roman law. The owner's dishonest removal of a thing from the control of a pledgee, a bona fide possessor, a commodatary with a lien, or a usufructuary.

furtum rei (f<<schwa>>r-t<<schwa>>m ree-I). [Latin "theft of a thing"] Roman law. Ordinary theft, involving the dishonest taking of something to which the taker had no right.

furtum usus (f<<schwa>>r-t<<schwa>>m yoo-s<<schwa>>s oryoo-z<<schwa>>s). [Latin "theft of the use of a thing"] Roman law. 1. A bailee's dishonest use of the thing bailed or lent. 2. A creditor's dishonest use of a pledge (pignus) without contractual authority.

FUSTIGATION

fustigation (f<<schwa>>s-ti-gay-sh<<schwa>>n), n.1. The beating of someone with a stick or club. 2. Harsh criticism. — fustigate,vb.

FUSTIS

fustis (f<<schwa>>s-tis).Hist. 1. A staff used in making livery of seisin. 2. A baton or club.

FUTHWITE

futhwite (footh-wIt).Hist. A fine for fighting or breaking the peace. — Also termed fithwite.

FUTURE-ACQUIRED PROPERTY

future-acquired property. See AFTER-ACQUIRED PROPERTY(1).

FUTURE ADVANCE

future advance. Money secured by an original security agreement even though it is lent after the security interest has attached. [Cases: Secured Transactions 20, 114. C.J.S. Secured Transactions §§ 18, 83.]

FUTURE-ADVANCE CLAUSE

future-advance clause. A contractual term in a security agreement covering additional loaned amounts on present collateral or collateral to be acquired in the future, regardless of whether the secured party is obliged to make the advances; esp., a provision in an open-end mortgage or deed of trust allowing the borrower to borrow additional sums in the future, secured under the same instrument and by the same security. • This type of clause makes a new security agreement unnecessary when the secured creditor makes a future loan to the debtor. [Cases: Mortgages 16, 116; Secured Transactions 20, 114. C.J.S. Mortgages §§ 154–156; Secured Transactions §§ 18, 83.]

FUTURE-ADVANCES MORTGAGE

future-advances mortgage. See MORTGAGE.

FUTURE CONSIDERATION

future consideration. See CONSIDERATION(1).

FUTURE COVENANT

future covenant. See COVENANT(4).

FUTURE DAMAGES

future damages. See DAMAGES.

FUTURE EARNINGS

future earnings. See lost earnings under EARNINGS.

FUTURE ESTATE

future estate. See FUTURE INTEREST.

FUTURE GOODS

future goods. See GOODS.

FUTURE INTEREST

future interest. A property interest in which the privilege of possession or of other enjoyment is future and not present. • A future interest can exist in either the grantor (as with a reversion) or

the grantee (as with a remainder or executory interest). Today, most future interests are equitable interests in stocks and debt securities, with power of sale in a trustee. — Also termed future estate; expectant estate; estate in expectancy; nonpossessory estate. Cf. present interest under INTEREST(2). [Cases: Estates in Property 1. C.J.S. Estates §§ 2–5, 8, 15–21, 116–128, 137, 243.]

“[T]he interest is an existing interest from the time of its creation, and is looked upon as a part of the total ownership of the land or other thing [that] is its subject matter. In that sense, future interest is somewhat misleading, and it is applied only to indicate that the possession or enjoyment of the subject matter is to take place in the future.” Lewis M. Simes & Allan F. Smith, *The Law of Future Interests* § 1, at 2–3 (2d ed. 1956).

“To own a future interest now means not only to be entitled now to judicial protection of one's possible future possession, but also (in most cases) to be able to make transfers now of that right of possible future possession.” Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 56 (2d ed. 1984). “When O transfers today ‘to A for five years,’ we can say either that O has a future interest or that he has a ‘present’ estate subject to a term for years in A. Similarly, when O transfers today his entire estate in fee simple absolute by a conveyance ‘to A for five years, then to B and his heirs,’ we can say either that B has a future interest or that he has a ‘present’ estate subject to a term for years in A. Unhappily, the fact that we have two locutions available to us can be a source of confusion” *Id.* at 42.

FUTURE PERFORMANCE

future performance. See PERFORMANCE.

FUTURES

futures, n. 1. Standardized assets (such as commodities, stocks, or foreign currencies) bought or sold for future acceptance or delivery. — Also termed financial futures. 2. FUTURES CONTRACT. 3. Future claimants, esp. those who would become members of a class of persons injured by a defendant and thus included in a class action.

FUTURES-COMMISSION MERCHANT

futures-commission merchant. An individual or firm that executes orders to buy and sell futures or futures options.

FUTURES CONTRACT

futures contract. An agreement to buy or sell a standardized asset (such as a commodity, stock, or foreign currency) at a fixed price at a future time, usu. during a particular time of a month. • Futures contracts are traded on exchanges such as the Chicago Board of Trade or the Chicago Mercantile Exchange. — Often shortened to futures. — Also termed futures agreement; time-bargain. Cf. forward contract under CONTRACT; LEVERAGE CONTRACT; OPTION. [Cases: Commodity Futures Trading Regulation 10. C.J.S. Securities Regulation §§ 455, 470.]

FUTURES MARKET

futures market. See MARKET.

FUTURES OPTION

futures option. See OPTION.

FUTURES TRADING

futures trading. The buying and selling of futures contracts, usu. on formal exchanges. [Cases: Commodity Futures Trading Regulation 11. C.J.S. Securities Regulation § 456.]

FUTURE USE

future use. See contingent use under USE(4).

FUTURE VALUE

future value. See VALUE(2).

FWC

FWC. abbr. File-wrapper continuation. See CONTINUATION; CONTINUATION-IN-PART.

FWS

FWS. abbr. UNITED STATES FISH AND WILDLIFE SERVICE.

FYRDFARE

fyrdfare. See FERDFARE.