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R. abbr. 1. REX. 2. REGINA. 3. RANGE.

rabbinical divorce. See DIVORCE.

race act. See RACE STATUTE.

race-notice statute. A recording law providing that the person who records first, without notice of prior unrecorded claims, has priority. • About half the states have race-notice statutes. — Also termed *race-notice act*; *notice-race statute*. Cf. RACE STATUTE; NOTICE STATUTE.

race of diligence. *Bankruptcy.* A first-come, first-served disposition of assets.

race statute. A recording act providing that the person who records first, regardless of notice, has priority. • Only Louisiana and North Carolina have race statutes. — Also termed *pure race statute*; *race act*. Cf. NOTICE STATUTE; RACE-NOTICE STATUTE.

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

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

racheter (rah-shə-tay), *vb.* [French] 1. To repurchase or buy back. 2. To ransom.

racial discrimination. See DISCRIMINATION.

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

racket, n. 1. An organized criminal activity; esp., the extortion of money by threat or violence. 2. A dishonest or fraudulent scheme or business.

racketeer, n. A person who engages in racketeering. — **racketeer, vb.**

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

“Before criminal or civil liability can attach under RICO, it must be shown that the two or more acts of racketeering alleged in the criminal indictment or civil complaint constitute a pattern of racketeering activity on the part of the culpable person. The statutory definition of pattern ‘requires at least two’ predicate acts occurring within ten years of each other, with one of them occurring after October 15, 1970. More broadly put, the pattern of racketeering activity is a scheme of unlawful conduct with a nexus to both the culpable person and the enterprise.” David R. McCormack, *Racketeering Influenced Corrupt Organizations* § 1.04, at 1–20 (1998).

racketeering, n. 1. A system of organized crime traditionally involving the extortion of money from businesses by intimidation, violence, or other illegal methods. 2. A pattern of illegal activity (such as bribery, extortion, fraud, and

murder) carried out as part of an enterprise (such as a crime syndicate) that is owned or controlled by those engaged in the illegal activity. • The modern sense (sense 2) derives from the federal RICO statute, which greatly broadened the term's original sense to include such activities as mail fraud, securities fraud, and the collection of illegal gambling debts.

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

raffle, *n.* A form of lottery in which each participant buys one or more chances to win a prize.

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

raider. See CORPORATE RAIDER.

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

railroad-aid bond. See BOND (3).

railroad company. See *railroad corporation* under CORPORATION.

railroad corporation. See CORPORATION.

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

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

raise, *vb.* 1. To increase in amount or value <the industry raised prices>. 2. To gather or

collect <the county raised property taxes>. 3. To bring up for discussion or consideration; to introduce or put forward <the party raised the issue in its pleading>. 4. To create or establish <the person's silence raised an inference of consent>. 5. To increase the stated amount of (a negotiable instrument) by fraudulent alteration <the indorser raised the check>.

raised check. See CHECK.

raising an instrument. The act of fraudulently altering a negotiable instrument, esp. a check, to increase the sum stated as being payable. See *raised check* under CHECK.

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

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

RAM. See *reverse annuity mortgage* under MORTGAGE.

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

R and D. *abbr.* RESEARCH AND DEVELOPMENT.

range, *n.* *Land law*. In U.S. government surveys, a strip of public land running due north to south, consisting of a row of townships, at six-mile intervals. — *Abbr.* R.

ranger. 1. *Hist.* In England, an officer or keeper of a royal forest, appointed to patrol the forest, drive out stray animals, and prevent trespassing. 2. An officer or warden who patrols and supervises the care and preservation of a public park or forest. 3. One of a group of soldiers who patrol a given region; esp., in the U.S. military, a soldier specially trained for surprise raids and close combat. 4. A member of a special state police force.

rank, *n.* A social or official position or standing, as in the armed forces <the rank of captain>.

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

ransom, n. 1. The release of a captured person or property in exchange for payment of a demanded price. 2. Money or other consideration demanded or paid for the release of a captured person or property. See KIDNAPPING.

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

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

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

rape, n. 1. At common law, unlawful sexual intercourse committed by a man with a woman not his wife through force and against her will. ● The common-law crime of rape required at least a slight penetration of the penis into the vagina. Also at common law, a husband could not be convicted of raping his wife. 2. Unlawful sexual activity (esp. intercourse) with a person (usu. a female) without consent and usu. by force or threat of injury. ● Most modern state statutes have broadened the definition along these lines. Marital status is now usu. irrelevant, and sometimes so is the victim's gender. — Also termed (in some statutes) *unlawful sexual intercourse*; *sexual assault*; *sexual battery*; *sexual abuse*. Cf. *sexual assault* under AS-SAULT.

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

"If force is to be declared an element of the crime [of rape] it becomes necessary to resort to the fiction of 'constructive force' to take care of those cases in which no force is needed beyond what is involved in the very act of intercourse itself. A better analysis is to recognize that the requirement of force is simply a means of demonstrating that the unlawful violation of the woman was without her consent and against her will. Therefore, evidence of serious force need not be shown in many cases. Hence the better view is that 'force' is not truly speaking an element of the crime itself, but if great force was not needed to accomplish the act the necessary *lack of consent* has been *disproved* in other than exceptional situations. The courts today frequently state the position

that a woman's resistance need not be 'more than her age, strength, the surrounding facts, and all attending circumstances' make reasonable." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 211-12 (3d ed. 1982).

date rape. Rape committed by someone known to the victim, esp. by the victim's social companion. — Also termed *acquaintance rape*.

marital rape. A husband's sexual intercourse with his wife by force or without her consent. ● Marital rape was not a crime at common law, but under modern statutes the marital exemption no longer applies, and in most jurisdictions a husband can be convicted of raping his wife.

statutory rape. Unlawful sexual intercourse with a person under the age of consent (as defined by statute), regardless of whether it is against that person's will. ● Generally, only an adult may be convicted of this crime. A person under the age of consent cannot be convicted. — Also termed *rape under age*. See AGE OF CONSENT.

"Carnal knowledge of a child is frequently declared to be rape by statute and where this is true the offense is popularly known as 'statutory rape,' although not so designated in the statute." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 198 (3d ed. 1982).

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

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

rape shield statute. See SHIELD LAW (2).

rape under age. See *statutory rape* under RAPE.

rapina (rə-pi-nə). [Latin "robbery, pillage"] *Civil law.* The forcible taking of another's movable property with the intent to appropriate it to one's own use.

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

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

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

rapporteur (ra-por-tuur or -tər), *n.* [French] An official who makes a report of committee proceedings for a larger body (esp. a legislature).

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

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

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

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

raptu virginum (rap-t[y]oo vər-ji-nəm). See DE RAPTU VIRGINUM.

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

RAR. *abbr.* REVENUE AGENT'S REPORT.

rasure (ray-zhər). **1.** The scraping or shaving of a document's surface to remove the writing from it; erasure. **2.** Obliteration.

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

ratchet theory. *Constitutional law.* The principle that Congress — in exercising its enforcement power under the 14th Amendment — can increase, but cannot dilute, the scope of 14th Amendment guarantees as previously defined by the Supreme Court. • Thus, the enabling clause works in only one direction, like a ratchet.

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

class rate. A single rate applying to the transportation of several articles of the same general character.

confiscatory rate. A utility rate so low that the utility company cannot realize a reasonable return on its investment.

freight rate. A rate charged by a carrier for the transportation of cargo, usu. based on the weight, volume, or quantity of goods but sometimes also on the goods' value or the mileage.

joint rate. A single rate charged by two or more carriers to cover a shipment of goods over a single route.

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

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

rate base. The investment amount or property value on which a company, esp. a public utility, is allowed to earn a particular rate of return.

rate of interest. See INTEREST RATE.

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

fair rate of return. The amount of profit that a public utility is permitted to earn, as determined by a public utility commission.

internal rate of return. *Accounting.* A discounted-cash-flow method of evaluating a long-term project, used to determine the actual return on an investment. — *Abbr.* IRR.

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

ratification, n. **1.** Confirmation and acceptance of a previous act, thereby making the act valid from the moment it was done <the board of directors' ratification of the president's resolution>. **2.** *Contracts.* A person's binding adoption of an act already completed but either not

done in a way that originally produced a legal obligation or done by a third party having at the time no authority to act as the person's agent <an adult's ratification of a contract signed during childhood is necessary to make the contract enforceable>.

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

3. Int'l law. The final establishment of consent by the parties to a treaty to be bound by it, usu. including the exchange or deposit of instruments of ratification <the ratification of the nuclear-weapons treaty>. — **ratify**, *vb.* Cf. CONFIRMATION.

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

ratiocination (rash-ee-os-ə-nay-shən), *n.* The process or an act of reasoning. — **ratiocinate** (rash-ee-os-ə-nayt), *vb.* — **ratiocinative** (rash-ee-os-ə-nay-tiv), *adj.*

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

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

"There are . . . two steps involved in the ascertainment of the *ratio decidendi* . . . First, it is necessary to determine all the facts of the case as seen by the judge; secondly, it is necessary to discover which of those facts were treated as material by the judge." Rupert Cross &

J.W. Harris, *Precedent in English Law* 65-66 (4th ed. 1991).

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

rationabile estoverium (rash-[ee]-ə-nay-bə-lee es-tə-veer-ee-əm), *n.* [Law Latin "reasonable necessities"] *Hist.* Alimony.

rationabilibus divisis. See DE RATIONABILIBUS DIVISIS.

rationabili parte bonorum. See DE RATIONABILIPARTE BONORUM.

rational-basis test. *Constitutional law.* A principle whereby a court will uphold a law as valid under the Equal Protection Clause if it bears a reasonable relationship to the attainment of some legitimate governmental objective. — Also termed *rational-purpose test*; *rational-relationship test*; *minimal scrutiny*; *minimum scrutiny*. Cf. STRICT SCRUTINY; INTERMEDIATE SCRUTINY.

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

ratione domicilii (dom-ə-sil-ee-ī). By reason of domicile.

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

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

ratione materiae (mə-teer-ee-ee). By reason of the matter involved.

ratione personae (pər-soh-nee). By reason of the person concerned.

ratione privilegii (priv-ə-lee-jee-ī). By reason of privilege. ● This was the basis for a property right in animals of warren. See WARREN.

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

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

ratione tenurae (ten-yə-ree). By reason of tenure.

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

ratio scripta (ray-shee-oh skrip-tə), *n.* [Latin] *Roman law.* Written reason.

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

ravishment, *n.* *Archaic.* 1. Forcible seizure and carrying off of another person (esp. a woman); abduction. 2. RAPE (1). • In this sense the term is widely considered inappropriate for modern usage, given its romantic connotations (in other contexts) of ecstasy and delight. — **ravish**, *vb.*

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

rea (ree-ə), *n.* [Latin] In civil and canon law, a female defendant. Pl. **reae**.

reacquired stock. See *treasury stock* under STOCK.

readjustment, *n.* Voluntary reorganization of a financially troubled corporation by the shareholders themselves, without a trustee's or a receiver's intervention. — **readjust**, *vb.*

ready, willing, and able. (Of a prospective buyer) legally and financially capable of consummating a purchase.

"READY, WILLING, AND ABLE" — A phrase referring to a prospective buyer of property who is legally capable and financially able to consummate the deal. Traditionally, the broker earns a commission upon procuring a 'ready, willing, and able' buyer on the listing terms, regardless of whether the seller actually goes through with the sale. The 'ready and willing' means, generally, that the broker must in fact produce a buyer who indicates that he or she is prepared to accept the terms of the seller and is willing to enter into a contract for sale. The buyer is not 'ready and willing' when he or she enters into an option with the seller, but the buyer is 'ready and willing' when the option is exercised. The buyer is not 'ready and willing' when the offer is subject to any new conditions, such as making the closing date an unreasonably long period, for example, one year from the offer. . . . The 'able' requires that the buyer be financially able to comply with the terms of the sale in both initial cash payment and any necessary financing. The

broker is not required to show that the purchaser has actual cash or assets to pay off the mortgage. But the broker is required to reveal the identity of the buyer if requested by the seller." John W. Reilly, *The Language of Real Estate* 326 (4th ed. 1993).

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

reaffirmation hearing. *Bankruptcy.* A hearing at which the debtor and a creditor present a reaffirmation of a dischargeable debt for the court's approval. • The reaffirmation hearing is usu. held simultaneously with the discharge hearing. See DISCHARGE HEARING.

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

real account. See ACCOUNT.

real action. See ACTION.

real asset. See ASSET.

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

real chattel. See *chattel real* under CHATTEL.

real contract. See CONTRACT.

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

real defense. See DEFENSE (4).

real earnings. See EARNINGS.

real estate. See *real property* under PROPERTY.

real-estate agent. See AGENT.

real-estate broker. See BROKER.

real-estate investment trust. A company that invests in and manages a portfolio of real estate, with the majority of the trust's income distributed to its shareholders. • Such a trust may qualify for special income-tax treatment if it distributes 95% of its income to its shareholders. — Abbr. REIT. See *investment company* under COMPANY. Cf. REAL-ESTATE MORTGAGE TRUST.

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

real-estate-mortgage investment conduit.

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

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

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

Real Estate Settlement Procedures Act. A federal law that requires lenders to provide home buyers with information about known or estimated settlement costs. 12 USCA §§ 2601–2617. — Abbr. RESPA. See REGULATION X.

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

real evidence. See EVIDENCE.

realignment (ree-ə-līn-mənt), *n.* The process by which a court, usu. in determining diversity jurisdiction, identifies and rearranges the parties as plaintiffs and defendants according to their ultimate interests. — **realign**, *vb.*

real income. See INCOME.

realization, *n.* **1.** Conversion of noncash assets into cash assets. **2. Tax.** An event or transaction, such as the sale or exchange of property, that substantially changes a taxpayer's economic position so that income tax may be imposed or a tax allowance granted. Cf. RECOGNITION (3). — **realize**, *vb.*

realized gain. See GAIN (3).

realized loss. See LOSS (4).

real law. 1. The law of real property; real-estate law. **2. Civil law.** The law relating to specific things as opposed to persons.

real money. See MONEY.

real party in interest. See PARTY (2).

real property. See PROPERTY.

real rate. See INTEREST RATE.

real right. See RIGHT.

real security. See SECURITY.

real servitude. See *servitude appartenant* under SERVITUDE (1).

real statute. See STATUTE.

real suretyship. See SURETYSHIP.

real things. Property that is fixed and immovable, such as lands and buildings; real property. — Also termed *things real*. See *real property* under PROPERTY. Cf. *chattel real* under CHATTEL.

realtor (reel-tər). 1. (*cap.*) *Servicemark*. A member of the National Association of Realtors. 2. Loosely, any real-estate agent or broker.

realty. See *real property* under PROPERTY.

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

real wages. See WAGE.

real wrong. See WRONG.

reapportionment, n. Realignment of a legislative district's boundaries to reflect changes in population. • The U.S. Supreme Court has required federal reapportionment. See U.S. Const. art. I, § 2, cl. 3. — Also termed *redistricting*. — **reapportion, vb.** Cf. GERRYMANDERING.

reargument, n. The presentation of additional arguments, which often suggest that a controlling legal principle has been overlooked, to a court (usu. an appellate court) that has already heard initial arguments. — **reargue, vb.** Cf. REHEARING.

rearrest. See ARREST.

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

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

"In one sense the word [*reasonable*] describes the proper use of the reasoning power, and in another it is no more than a word of assessment. Reasoning does not help much in fixing a reasonable or fair price or a reasonable or moderate length of time, or in estimating the size of a doubt. Lawyers say a reasonable doubt, meaning a substantial one; the Court of Appeal has frowned upon the description of a reasonable doubt as one for which rea-

sons could be given." Patrick Devlin, *The Judge* 134 (1979).

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

reasonable accommodation. 1. An action taken to adapt or adjust for a disabled person, done in a way that does not impose an undue hardship on the party taking the action. • Under the Americans with Disabilities Act, an employer must make reasonable accommodations for an employee's disability. Examples of reasonable accommodations that have been approved by the courts include providing additional unpaid leave, modifying the employee's work schedule, and reassigning the employee to a vacant position. 2. An action taken to adapt or adjust for an employee's religious need or practice, done in a way that does not impose an undue hardship on the employer.

reasonable care. See CARE.

reasonable cause. See PROBABLE CAUSE.

reasonable diligence. See *due diligence* (1) under DILIGENCE.

reasonable doubt. The doubt that prevents one from being firmly convinced of a defendant's guilt, or the belief that there is a real possibility that a defendant is not guilty. • "Beyond a reasonable doubt" is the standard used by a jury to determine whether a criminal defendant is guilty. In deciding whether guilt has been proved beyond a reasonable doubt, the jury must begin with the presumption that the defendant is innocent. See BURDEN OF PERSUASION.

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

"The gravamen of Lord Goddard's objection to the formula of 'reasonable doubt' seems to have been the muddle occasionally created by an impromptu effort to explain to a jury the meaning of this phrase. A simple solution would be to refrain from explaining it, relying on the common sense of the jury. As Barton J. said in an

Australian case, 'one embarks on a dangerous sea if he attempts to define with precision a term which is in ordinary use with reference to this subject-matter, and which is usually stated to a jury without embellishment as a well understood expression.' However, some modes of embellishment seem to be unobjectionable. There is probably no harm in telling the jury, as some judges do, that a reasonable doubt is one for which a sensible reason can be supplied." Glanville Williams, *Criminal Law* 873 (2d ed. 1961).

reasonable-expectation doctrine. *Insurance.*

The rule that resolves an insurance-policy ambiguity in favor of the insured's reasonable expectations.

reasonable force. See FORCE.

reasonable grounds. See PROBABLE CAUSE.

reasonable-inference rule. An evidentiary principle providing that a jury, in deciding a case, may properly consider any reasonable inference drawn from the evidence presented at trial.

reasonable man. See REASONABLE PERSON.

reasonable medical probability. In proving the cause of an injury, a standard requiring a showing that the injury was more likely than not caused by a particular stimulus, based on the general consensus of recognized medical thought. — Also termed *reasonable medical certainty*.

reasonable notice. See NOTICE.

reasonable person. 1. A hypothetical person used as a legal standard, esp. to determine whether someone acted with negligence. ● The reasonable person acts sensibly, does things without serious delay, and takes proper but not excessive precautions. — Also termed *reasonable man*; *prudent person*; *ordinarily prudent person*; *reasonably prudent person*. See *reasonable care* under CARE.

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

2. Archaic. A human being.

"In the antique phraseology which has been repeated since the time of Lord Coke the *actus reus* of murder

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

reasonable royalty. See ROYALTY (1).

reasonable suspicion. A particularized and objective basis, supported by specific and articulable facts, for suspecting a person of criminal activity. ● A police officer must have a reasonable suspicion to stop a person in a public place. See STOP AND FRISK. Cf. PROBABLE CAUSE.

reasonable time. 1. Contracts. The time needed to do what a contract requires to be done, based on subjective circumstances. ● If the contracting parties do not fix a time for performance, the law will usu. presume a reasonable time. **2. Commercial law.** The time during which the UCC permits a party to accept an offer, inspect goods, substitute conforming goods for rejected goods, and the like.

reasonable use. See USE (1).

reasonable-use theory. Property. The principle that owners of riparian land may make reasonable use of their water if this use does not affect the water available to lower riparian owners.

reasonably prudent person. See REASONABLE PERSON.

reason to know. Information from which a person of ordinary intelligence — or of the superior intelligence that the person may have — would infer that the fact in question exists or that there is a substantial enough chance of its existence that, if the person is exercising reasonable care, the person's action would be based on the assumption of its possible existence.

reassurance. See REINSURANCE.

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

rebellion. 1. Open, organized, and armed resistance to an established government or ruler. **2.** Open resistance or opposition to an authority

or tradition. **3. Hist.** Disobedience of a legal command or summons.

rebus sic stantibus (ree-bəs sik stan-tə-bəs). [Law Latin “things standing thus”] *Civil & int’l law*. The principle that all agreements are concluded with the implied condition that they are binding only as long as there are no major changes in the circumstances. See CLAUDIA REBUS SIC STANTIBUS.

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

rebuttable presumption. See PRESUMPTION.

rebuttal, *n.* **1.** In-court contradiction of an adverse party’s evidence. **2.** The time given to a party to present contradictory evidence or arguments. Cf. CASE-IN-CHIEF.

rebuttal evidence. See EVIDENCE.

rebuttal witness. See WITNESS.

rebutter. **1.** *Common-law pleading.* The defendant’s answer to a plaintiff’s surrejoinder; the pleading that followed the rejoinder and surrejoinder, and that might in turn be answered by the surrebutter. **2.** One who rebuts.

recall, *n.* **1.** Removal of a public official from office by popular vote. **2.** A manufacturer’s request to consumers for the return of defective products for repair or replacement. **3.** Revocation of a judgment for factual or legal reasons. — **recall**, *vb.*

recall election. See ELECTION.

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

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

recapitalization, *n.* An adjustment or recasting of a corporation’s capital structure — that is, its stocks, bonds, or other securities — through

amendment of the articles of incorporation or merger with a parent or subsidiary. ● An example of recapitalization is the elimination of unpaid preferred dividends and the creation of a new class of senior securities. — **recapitalize**, *vb.* Cf. REORGANIZATION (2).

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

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

recapture, *n.* **1.** The act or an instance of retaking or reacquiring; recovery. **2.** The lawful taking by the government of earnings or profits exceeding a specified amount; esp., the government’s recovery of a tax benefit (such as a deduction or credit) by taxing income or property that no longer qualifies for the benefit. **3.** *Int’l law.* The retaking of a prize or booty so that the property is legally restored to its original owner. See POSTLIMINIUM (2). — **recapture**, *vb.*

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

receding market. See *bear market* under MARKET.

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

accountable receipt. A receipt coupled with an obligation.

warehouse receipt. See WAREHOUSE RECEIPT.

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

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

receiptor (ri-see-tər). A person who receives from a sheriff another's property seized in garnishment and agrees to return the property upon demand or execution.

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

receivable, *n.* See *account receivable* under ACCOUNT.

receiver. A disinterested person appointed by a court, or by a corporation or other person, for the protection or collection of property that is the subject of diverse claims (for example, because it belongs to a bankrupt or is otherwise being litigated). Cf. LIQUIDATOR.

ancillary receiver. One who is appointed as a receiver in a particular area to assist a foreign receiver in collecting the assets of an insolvent corporation or other entity.

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

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

receivership. **1.** The state or condition of being in the control of a receiver. **2.** The position or function of being a receiver appointed by a court or under a statute. **3.** A proceeding in which a court appoints a receiver.

dry receivership. A receivership in which there is no equity available to pay general creditors.

receiving state. The country to which a diplomatic agent or consul is sent by the country represented by that agent. Cf. SENDING STATE.

receiving stolen property. The criminal offense of acquiring or controlling property known to have been stolen by another person. ● Some jurisdictions require the additional element of wrongful intent. In some jurisdictions it is a felony, but in others it is either a felony or a misdemeanor depending on the value of the property. — Also termed *receiving stolen goods*. See FENCE.

recens insecutio (ree-senz in-sə-kyoo-shee-oh). [Latin "fresh pursuit"] *Hist.* Pursuit of a thief immediately after discovery of the theft. See FRESH PURSUIT.

reception. The adoption in whole or in part of the law of one jurisdiction by another jurisdiction.

receptitious (ree-sep-tish-əs), *adj.* *Roman law*. **1.** (Of property) retained by the wife and not included in the dowry. **2.** (Of a dowry) returnable by agreement to the donor upon the husband's death.

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

recess (ree-ses), *n.* **1.** A brief break in judicial proceedings <the court granted a two-hour recess for lunch>. Cf. CONTINUANCE (3). **2.** An interval between sittings of the same legislative body <Congress took a monthlong recess>. — **recess** (ri-ses), *vb.*

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

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

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

Rechtsphilosophi (rekts-fə-los-ə-fee). See *ethical jurisprudence* under JURISPRUDENCE.

recidivate (ri-sid-ə-vayt), *vb.* To return to a habit of criminal behavior; to relapse into crime.

recidivation. *Archaic*. See RECIDIVISM.

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

recidivist (ri-sid-ə-vist), *n.* One who has been convicted of multiple criminal offenses, usu. similar in nature; a repeat offender <proponents of prison reform argue that prisons don't cure the recidivist>. — Also termed *habitual offender; habitual criminal; repeater; career criminal*.

reciprocal (ri-sip-rə-kəl), *adj.* **1.** Directed by each toward the other or others; MUTUAL. **2.** BILATERAL <a reciprocal contract>. **3.** Corresponding; equivalent.

reciprocal contract. See *bilateral contract* under CONTRACT.

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

reciprocal exchange. An association whose members exchange contracts and pay premiums through an attorney-in-fact for the purpose of insuring themselves and each other. • A reciprocal exchange can consist of individuals, partnerships, trustees, or corporations, but the exchange itself is unincorporated. — Also termed *interinsurance exchange; reciprocal insurance exchange; reciprocal interinsurance exchange*. See *reciprocal insurance* under INSURANCE.

reciprocal insurance. See INSURANCE.

reciprocal insurance exchange. See RECIPROCAL EXCHANGE.

reciprocal interinsurance exchange. See RECIPROCAL EXCHANGE.

reciprocal negative easement. See EASEMENT.

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

reciprocal trust. See TRUST.

reciprocal will. See *mutual will* under WILL.

reciprocity (res-ə-pros-i-tee). **1.** Mutual or bilateral action <the Arthurs stopped receiving social invitations from friends because of their lack of reciprocity>. **2.** The mutual concession of advantages or privileges for purposes of commercial or diplomatic relations <Texas and Louisiana grant reciprocity to each other's citizens in qualifying for in-state tuition rates>.

recision. See RESCISSION.

recission. See RESCISSION.

recital. **1.** An account or description of some fact or thing <the recital of the events leading up to the accident>. **2.** A preliminary statement in a contract or deed explaining the background of the transaction or showing the existence of particular facts <the recitals in the settlement agreement should describe the underlying dispute>. — **recite, vb.**

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

reckless, adj. Characterized by the creation of a substantial and unjustifiable risk of harm to others and by a conscious (and sometimes deliberate) disregard for or indifference to that risk; heedless; rash. • Reckless conduct is much more than mere negligence: it is a gross deviation from what a reasonable person would do. — **recklessly, adv.** See RECKLESSNESS. Cf. WANTON.

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

reckless disregard. **1.** Conscious indifference to the consequences (of an act). **2. Defamation.** Serious indifference to truth or accuracy of a publication. • "Reckless disregard for the truth" is the standard in proving the defendant's actual malice toward the plaintiff in a libel action.

reckless driving. The criminal offense of operating a motor vehicle in a manner that shows conscious indifference to the safety of others.

reckless endangerment. The criminal offense of putting another person at substantial risk of death or serious injury. • This is a statutory, not a common-law, offense.

reckless homicide. See HOMICIDE.

reckless knowledge. See KNOWLEDGE.

reckless negligence. See *gross negligence* under NEGLIGENCE.

recklessness, n. **1.** Conduct whereby the actor does not desire harmful consequence but nonetheless foresees the possibility and consciously takes the risk. • Recklessness involves a greater degree of fault than negligence but a lesser degree of fault than intentional wrongdoing. **2.** The state of mind in which a person does not care about the consequences of his or her actions. — Also termed *heedlessness*. Cf. WANTONNESS.

“The ordinary meaning of the word [*recklessness*] is a high degree of carelessness. It is the doing of something which in fact involves a grave risk to others, whether the doer realizes it or not. The test is therefore objective and not subjective.” R.F.V. Heuston, *Salmond on the Law of Torts* 194 (17th ed. 1977).

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

reclamation (rek-lə-may-shən), *n.* **1.** The act or an instance of improving the value of economically useless land by physically changing the land, such as irrigating a desert. **2.** *Commercial law.* A seller’s limited right to retrieve goods delivered to a buyer when the buyer is insolvent. UCC § 2-702(2). **3.** The act or an instance of obtaining valuable materials from waste materials. — **reclaim, vb.**

reclusion (ri-kloo-zhən). *Civil law.* Incarceration as punishment for a crime; esp., solitary confinement or confinement at hard labor in a penitentiary.

recognition, n. **1.** Confirmation that an act done by another person was authorized. See RATIFICATION. **2.** The formal admission that a person, entity, or thing has a particular status; esp., a nation’s act in formally acknowledging the existence of another nation or national government. **3.** *Tax.* The act or an instance of accounting for a taxpayer’s realized gain or loss for the purpose of income-tax reporting. Cf. NONRECOGNITION PROVISION; REALIZATION (2). **4.** An employer’s acknowledgment that a union has the right to act as a bargaining agent for employees. **5.** *Int’l law.* Official action by a country acknowledging, expressly or by implication, *de jure* or *de facto*, the legality of the existence of a government, a country, or a situation such as a change of territorial sovereignty. **6.** See RULE OF RECOGNITION. — **recognize, vb.**

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

recognition picketing. See PICKETING.

recognition strike. See STRIKE.

recognitor (ri-kog-nə-tər), *n.* **1.** *Hist.* A member of a jury impaneled on an assize or inquest. See RECOGNITION. **2.** *Rare.* RECOGNIZOR.

recognizance (ri-kog-nə-zənts). **1.** A bond or obligation, made in court, by which a person promises to perform some act or observe some condition, such as to appear when called, to pay a debt, or to keep the peace. • Most commonly, a recognizance takes the form of a bail bond that guarantees an unjailed criminal defendant’s return for a court date <the defendant was released on his own recognizance>. See RELEASE ON RECOGNIZANCE.

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

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

personal recognizance. The release of a defendant in a criminal case in which the court takes the defendant's word that he or she will appear for a scheduled matter or when told to appear. • This type of release dispenses with the necessity of the person's posting money or having a surety sign a bond with the court.

2. See *bail bond* under BOND (2).

recognized gain. See GAIN (3).

recognized loss. See LOSS.

recognized market. See MARKET.

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

recognizer (ri-kog-nə-zor). A person who is obligated under a recognizance; one who is bound by a recognizance.

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

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

recompensable. See COMPENSABLE.

recompense (rek-əm-pents), *n.* Repayment, compensation, or retribution for something, esp. an injury or loss. — **recompense, vb.**

reconciliation (rek-ən-sil-ee-ay-shən), *n.* 1. Restoration of harmony between persons or things that had been in conflict <a reconciliation between the plaintiff and the defendant is unlikely even if the lawsuit settles before trial>. 2. *Family law.* Voluntary resumption, after a separation, of full marital relations between spouses <the court dismissed the divorce petition after the parties' reconciliation>. 3. *Accounting.* An adjustment of accounts so that

they agree, esp. by allowing for outstanding items. — **reconcile** (rek-ən-sil), *vb.*

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

reconduction, n. 1. *Civil law.* The renewal of a lease. — Also termed *relocation*. Cf. TACIT RELOCATION. 2. *Int'l law.* The forcible return of aliens (esp. illegal aliens, destitute or diseased aliens, or alien criminals who have served their punishment) to their country of origin. — Also termed (in sense 2) *renvoi*. — **reconduct, vb.**

reconsideration. The action of discussing or taking something up again <legislative reconsideration of the measure>.

reconsignment. A change in the terms of a consignment while the goods are in transit. See CONSIGNMENT.

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

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

reconvention. *Civil law.* The act or process of making a counterclaim. See COUNTERCLAIM.

reconventional demand. See DEMAND (1).

reconversion. The notional or imaginary process by which an earlier constructive conversion — meaning a change of personal into real property, or real into personal property — is annulled and taken away, and the converted property restored to its original quality. See *equitable conversion* under CONVERSION (1).

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

record, *n.* **1.** A documentary account of past events, usu. designed to memorialize those events; information that is inscribed on a tangible medium or that, having been stored in an electronic or other medium, is retrievable in perceivable form. UCC § 2A-102(a)(34).

defective record. **1.** A record that fails to conform to requirements of appellate rules. **2.** A flawed real-estate title resulting from a defect on the property's record in the registry of deeds.

public record. A record that a governmental unit is required by law to keep, such as land deeds kept at a county courthouse. • Public records are generally open to view by the public. Cf. *public document* under DOCUMENT.

silent record. *Criminal procedure*. A record that fails to disclose that a defendant voluntarily and knowingly entered a plea, waived a right to counsel, or took any other action affecting his or her rights.

2. The official report of the proceedings in a case, including the filed papers, a verbatim transcript of the trial or hearing (if any), and tangible exhibits. See DOCKET (1).

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

record agent. See INSURANCE AGENT.

recordal. See RECORDATION.

recordare (ree-kor-dair-ee), *n.* [Law Latin] *Hist.* A writ to bring up on appeal a judgment of a justice of the peace.

recordari facias loquellam (ree-kor-dair-I fay-shee-əs lə-kwee-ləm), *n.* [Law Latin “you cause the plaint to be recorded”] *Hist.* In England, a writ by which a suit or plaint in replevin could be removed from a county court to a superior court (esp. to one of the courts of Westminster Hall). — Abbr. *re. fa. lo.* See PLAINT (1).

recordation (rek-ər-day-shən), *n.* The act or process of recording an instrument, such as a deed or mortgage, in a public registry. • Recordation generally perfects a person's interest in the property against later purchasers (including later mortgagees), but the effect of recorda-

tion depends on the type of recording act in effect. — Also termed *recordal*.

record date. See DATE.

recorded recollection. See PAST RECOLLECTION RECORDED.

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

court recorder. A court official who records court activities using electronic recording equipment, usu. for the purpose of preparing a verbatim transcript. Cf. COURT REPORTER (1).

recorder of deeds. See REGISTER OF DEEDS.

recorder's court. A court having jurisdiction over felony cases. • This court exists in only a few jurisdictions, such as Michigan, where the recorder's court hears felony cases arising within the Detroit city limits.

recording act. A law that establishes the requirements for recording a deed or other property interest and the standards for determining priorities between persons claiming interests in the same property (usu. real property). • Recording acts — the three main types of which are the *notice statute*, the *race statute*, and the *race-notice statute* — are designed to protect bona fide purchasers from earlier unrecorded interests. — Also termed *recording statute*. See NOTICE STATUTE; RACE STATUTE; RACE-NOTICE STATUTE.

recording agent. See INSURANCE AGENT.

recording statute. See RECORDING ACT.

record notice. See NOTICE.

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

record on appeal. The record of a trial-court proceeding as presented to the appellate court for review. — Also termed *appellate record*. See RECORD (2).

record owner. See OWNER.

record title. See TITLE (2).

recordum (ri-kor-dəm). [Law Latin] *Hist.* A record, esp. a judicial one.

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

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

recourse loan. See *LOAN*.

recourse note. See *NOTE* (1).

recover, *vb.* **1.** To get back or regain in full or in equivalence <the landlord recovered higher operating costs by raising rent>. **2.** To obtain by a judgment or other legal process <the plaintiff recovered punitive damages in the lawsuit>. **3.** To obtain (a judgment) in one's favor <the plaintiff recovered a judgment against the defendant>. **4.** To obtain damages or other relief; to succeed in a lawsuit or other legal proceeding <the defendant argued that the plaintiff should not be allowed to recover for his own negligence>.

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

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

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

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

double recovery. **1.** A judgment that erroneously awards damages twice for the same loss, based on two different theories of recovery. **2.** Recovery by a party of more than the maximum recoverable loss that the party has sustained.

recrimination (ri-krim-i-nay-shən), *n.* *Archaic.* In a divorce suit, a countercharge that the complainant has been guilty of an offense constituting a ground for divorce. • Recriminations are now virtually obsolete because of the prevalence of no-fault divorce. — **recriminatory**, *adj.*

recross-examination. A second cross-examination, after redirect examination. — Often shortened to *recross*. See *CROSS-EXAMINATION*.

recta gubernatio (rek-tə g[y]oo-bər-nay-sheeh), *n.* [Latin "right government"] A government in which the highest power, however strong and unified, is neither arbitrary nor irresponsible, and derives from a law that is superior to itself. — Also termed *legitima gubernatio*.

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

rectification of boundaries. *Hist.* An action to determine or correct the boundaries between two adjoining pieces of land.

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

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

recto de advocacione. See DE RECTO DE ADVOCATIONE.

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

recto patens. See DE RECTO PATENS.

rector (rek-tər). **1.** *Eccles. law.* The spiritual head and presiding officer of a church. — Also termed *parson*. Cf. VICAR.

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

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

2. Roman law. A governor or ruler.

rector provinciae (prə-vin-shee-ee). A governor of a province.

rectum (rek-təm). [Latin] **1.** Right. **2.** A trial or accusation.

rectus (rek-təs). [Latin "right"] *Hist.* (Of a line of descent) straight; direct. Cf. OBLIQUUS.

rectus in curia (rek-təs in kyoor-ee-ə), *adj.* [Latin "right in the court"] *Hist.* Free from charge or offense; competent to appear in court and entitled to the benefit of law. See LEGALIS HOMO.

recuperatio (ri-k[y]oo-pə-ray-shee-oh), *n.* [Latin "recovery"] *Hist.* Judicial restitution of something that has been wrongfully taken or denied.

recuperatore (ri-k[y]oo-pə-rə-tor-ee), *n.* [Latin] *Roman law.* A special judge who was appointed to decide controversies between Roman citizens and strangers in an expedited fashion, but whose jurisdiction was gradually extended to include cases that could be brought before an ordinary judge.

recusable (ri-kyoo-zə-bəl), *adj.* **1.** (Of an obligation) arising from a party's voluntary act and that can be avoided. Cf. IRRECUSABLE. **2.** (Of a judge) capable of being disqualified from sitting

on a case. **3.** (Of a fact) providing a basis for disqualifying a judge from sitting on a case.

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

recusant (rek-yə-zənt or ri-kyoo-zənt), *adj.* Refusing to submit to an authority or comply with a command <a recusant witness>.

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

recusation (rek-yə-zay-shən). **1.** *Civil law.* An objection, exception, or appeal; esp., an objection alleging a judge's prejudice or conflict of interest. **2.** RECUSAL.

recuse (ri-kyooz), *vb.* **1.** To remove (oneself) as a judge in a particular case because of prejudice or conflict of interest <the judge recused himself from the trial>. **2.** To challenge or object to (a judge) as being disqualified from hearing a case because of prejudice or a conflict of interest <the defendant filed a motion to recuse the trial judge>.

recusement. See RECUSAL.

redaction (ri-dak-shən), *n.* **1.** The careful editing (of a document), esp. to remove confidential references or offensive material. **2.** A revised or edited document. — **redact**, *vb.* — **redactional**, *adj.*

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

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

reddendum (ri-den-dəm). A clause in a deed by which the grantor reserves some new thing (esp. rent) out of what had been previously granted.

reddidit se (red-ə-dit see). [Latin "he has rendered himself"] *Hist.* A person who has personally appeared in order to discharge bail.

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

redditus. See REDITUS.

redeemable bond. See BOND (3).

redeemable security. See SECURITY.

redeemable stock. See STOCK.

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

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

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

redemption, n. **1.** The act or an instance of reclaiming or regaining possession by paying a specific price. **2.** *Bankruptcy.* A debtor's right to repurchase property from a buyer who obtained the property at a forced sale initiated by a creditor. **3.** *Securities.* The reacquisition of a security by the issuer. • Redemption usu. refers to the repurchase of a bond before maturity, but it may also refer to the repurchase of stock and mutual-fund shares. — Also termed (in reference to stock) *stock redemption*; *stock repurchase*. **4.** *Property.* The payment of a defaulted mortgage debt by a borrower who does not want to lose the property. — **redeem, vb.** — **redeemable, redemptive, redemptional adj.**

statutory redemption. The statutory right of a defaulting mortgagor to recover property, within a specified period, after a foreclosure or tax sale, by paying the outstanding debt or charges. • The purpose is to protect against the sale of property at a price far less than its value. See REDEMPTION PERIOD.

tax redemption. A taxpayer's recovery of property taken for nonpayment of taxes, ac-

complished by paying the delinquent taxes and any interest, costs, and penalties.

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

redemption period. The statutory period during which a defaulting mortgagor may recover property after a foreclosure or tax sale by paying the outstanding debt or charges.

redemption price. See PRICE.

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

redeundo (ree-dee-ən-doh). [Latin] Returning; in returning; while returning.

redeavance (ruu-də-vahns). [French] *Hist.* Dues payable by a tenant to the lord, not necessarily in money.

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

red-herring prospectus. See *preliminary prospectus* under PROSPECTUS.

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

redhibition (red-[h]i-bish-ən), *n.* *Civil law.* The voidance of a sale as the result of an action brought on account of some defect in a thing sold, on grounds that the defect renders the thing either useless or so imperfect that the buyer would not have originally purchased it. — **redhibitory** (red-hib-ə-tor-ee), *adj.*

redhibitory action. See ACTION.

redhibitory defect. *Civil law.* A fault or imperfection in something sold, as a result of which the buyer may return the item and demand back the purchase price. — Also termed *redhibitory vice*.

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

redirect examination. A second direct examination, after cross-examination, the scope ordinarily being limited to matters covered during cross-examination. — Often shortened to *redirect*. — Also termed (in England) *reexamination*. See DIRECT EXAMINATION.

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

rediscout rate. See INTEREST RATE.

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

redisseisina. See DE REDISSEISINA.

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

redistrict, *vb.* To organize into new districts, esp. legislative ones; reapportion.

redistricting. See REAPPORTIONMENT.

reditus (red-ə-təs), *n.* [Latin “return”] A revenue or return; esp., rent. — Also spelled *reditus*.

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

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

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

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

reditus siccus (sik-əs). [Latin “dry return”] Rent seck. See *rent seck* under RENT (2).

redlining, *n.* **1.** Credit discrimination (*usu.* unlawful discrimination) by a financial institution that refuses to make loans on properties in allegedly bad neighborhoods. **2.** The process of creating a new draft of a document showing suggested revisions explicitly alongside the text of an earlier version. — **redline**, *vb.*

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

redress (ri-dres or ree-dres), *n.* **1.** Relief; remedy <money damages, as opposed to equitable relief, is the only redress available>. **2.** A means of seeking relief or remedy <if the statute of limitations has run, the plaintiff is without redress>. — **redress** (ri-dres), *vb.* — **redressable**, *adj.*

penal redress. A form of penal liability requiring full compensation of the injured person as an instrument for punishing the offender; compensation paid to the injured person for the full value of the loss (an amount that may far exceed the wrongdoer’s benefit). See RESTITUTION (3).

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

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

reductio ad absurdum (ri-dək-shee-oh or ri-dək-tee-oh ad ab-sər-dəm). [Latin “reduction to the absurd”] In logic, disproof of an argument by showing that it leads to a ridiculous conclusion.

reduction to practice. *Patents.* The physical act of producing the desired results by means conceived by an inventor; the physical construction of an inventor’s conception into actual working form. ● The date of reduction to practice is critical in determining priority between inventors competing for a patent on the same invention. See INVENTION.

actual reduction to practice. The use of an idea or invention — as by testing it — to establish that the idea or invention will perform its intended purpose. *Brunswick Corp. v. United States*, 34 Fed. Cl. 532 (1995).

constructive reduction to practice. Filing a patent application on an invention or design. *Brunswick Corp. v. United States*, 34 Fed. Cl. 532 (1995).

reenactment rule. In statutory construction, the principle that when reenacting a law, the legislature implicitly adopts well-settled judicial or administrative interpretations of the law.

reentry, n. 1. The act or an instance of retaking possession of land by someone who formerly held the land and who reserved the right to retake it when the new holder let it go. **2.** A landlord's resumption of possession of leased premises upon the tenant's default under the lease. — **reenter, vb.** See POWER OF TERMINATION.

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

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

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

reexamination, n. 1. REDIRECT EXAMINATION <the attorney focused on the defendant's alibi during reexamination>. **2.** *Patents.* A procedure whereby a party can seek review of a patent on the basis of additional references to prior art not originally considered by the U.S. Patent Office <the alleged infringer, hoping to avoid liability, sought reexamination of the patent to narrow its scope>. — **reexamine, vb.**

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

reexecution. The equitable remedy by which a lost or destroyed deed or other instrument is restored. • Equity compels the party or parties to execute a new deed or instrument if a claimant properly proves a right under one that has been lost or destroyed.

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

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

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

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

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

referee. A type of master appointed by a court to assist with certain proceedings. • In some jurisdictions, referees take testimony before reporting to the court. See MASTER (2).

referee in bankruptcy. A federal judicial officer who administers bankruptcy proceedings. • Abolished by the Bankruptcy Reform Act of 1978, these referees were replaced by bankruptcy judges. — Also termed *register in bankruptcy*. See BANKRUPTCY JUDGE.

reference, n. 1. The act of sending or directing to another for information, service, consideration, or decision; specif., the act of sending a case to a master or referee for information or decision.

general reference. A court's reference of a case to a referee, usu. with all parties' consent, to decide all issues of fact and law. • The referee's decision stands as the judgment of the court.

special reference. A court's reference of a case to a referee for decisions on specific questions of fact. • The special referee makes findings and reports them to the trial judge, who treats them as advisory only and not as binding decisions.

2. An order sending a case to a master or referee for information or decision. **3.** Mention or citation of one document or source in another document or source. — **refer**, *vb.*

reference statute. See STATUTE.

referendarius (ref-ə-ren-dair-ee-əs). [Law Latin] *Roman law.* An officer who received petitions to the emperor and who delivered answers to the petitioners. See APOCRISARIUS.

referendo singula singulis. See REDDENDO SINGULA SINGULIS.

referendum. 1. The process of referring a state legislative act, a state constitutional amendment, or an important public issue to the people for final approval by popular vote. **2.** A vote taken by this method. Pl. **referendums, referenda.** Cf. INITIATIVE.

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

referral sales contract. A dual agreement consisting of an agreement by the consumer to purchase goods or services (usu. at an inflated price) and an agreement by the seller to compensate the consumer for each customer (or potential customer) referred to the seller. — Also termed *referral sales agreement*.

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

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

reformation (ref-ər-may-shən), *n.* An equitable remedy by which a court will modify a written agreement to reflect the actual intent of the parties, usu. to correct fraud or mutual mistake, such as an incomplete property description in a deed. ● The actual intended agreement usu. must be established by clear and convincing evidence. — **reform**, *vb.* See RECTIFICATION.

reformative punishment. See PUNISHMENT.

reformatory, n. A penal institution for young offenders, esp. minors. — Also termed *reform school*.

refoulement (ri-fowl-mənt). [French] Expulsion or return of a refugee from one state to another. Cf. NONREFOULEMENT.

refreshing recollection. See PRESENT RECOLLECTION REFRESHED.

refugee. A person who flees or is expelled from a country, esp. because of persecution, and seeks haven in another country.

refund, n. 1. The return of money to a person who overpaid, such as a taxpayer who overestimated tax liability or whose employer withheld too much tax from earnings. **2.** The money returned to a person who overpaid. **3.** The act of refinancing, esp. by replacing outstanding securities with a new issue of securities. — **refund**, *vb.*

refund annuity. See ANNUITY.

refunding. See FUNDING.

refunding bond. See BOND (2).

re-funding bond. See BOND (3).

refusal. 1. The denial or rejection of something offered or demanded <the lawyer's refusal to answer questions was based on the attorney-client privilege>. **2.** An opportunity to accept or reject something before it is offered to others; the right or privilege of having this opportunity <she promised her friend the first refusal on her house>. See RIGHT OF FIRST REFUSAL.

refusal to deal. A company's declination to do business with another company. ● A business has the right to refuse to deal only if it is not accompanied by an illegal restraint of trade.

refusal to pay. See VEXATIOUS DELAY.

refus de justice (ruu-foo də zhoos-tees). See DENIAL OF JUSTICE.

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

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

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

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

regale episcoporum (ri-gay-lee ə-pis-kə-por-əm). *Eccles. law.* The temporal rights and privileges of a bishop.

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

regalia majora (mə-jor-ə). [Latin “greater rights”] The Crown’s greater rights; the Crown’s dignity, power, and royal prerogatives, as distinguished from the Crown’s rights to revenues.

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

2. *Hist.* Feudal rights usu. associated with royalty, but held by the nobility.

“Counties palatine are so called a *palatio*; because the owners thereof, the earl of Chester, the bishop of Durham, and the duke of Lancaster, had in those counties *jura regalia*, as fully as the king hath in his palace. . . .”

1 William Blackstone, *Commentaries on the Laws of England* 113 (1765).

3. Emblems of royal authority, such as a crown or scepter, given to the monarch at coronation.

4. Loosely, finery or special dress.

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

regardant (ri-gahr-dənt), *adj. Hist.* Attached or annexed to a particular manor <a villein regardant>. See VILLEIN.

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

reg. brev. *abbr.* REGISTRUM BREVIUM.

rege inconsulto (ree-jee in-kən-səl-toh). [Latin] *Hist.* A writ issued by a sovereign directing one or more judges not to proceed in a case that might prejudice the Crown until advised to do so.

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

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

reg. gen. *abbr.* REGULA GENERALIS.

regicide (rej-ə-sid). **1.** The killing or murder of a king. **2.** One who kills or murders a king, esp. to whom one is subject.

regime (rə-zheem or ray-zheem). A system of rules, regulations, or government <the community-property regime>. — Also spelled *régime*.

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

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

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

régime en communauté (ray-zheem on koh-moo-noh-tay or kom-yoo-). *Hist. civil law.* The community of property between

husband and wife arising automatically upon their marriage, unless excluded by marriage contract.

regina (ri-jī-nə). (*usu. cap.*) **1.** A queen. **2.** The official title of a queen. **3.** The prosecution side (as representatives of the queen) in criminal proceedings in a monarchy. — Abbr. R. Cf. REX.

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

regional securities exchange. See SECURITIES EXCHANGE.

register, n. **1.** A governmental officer who keeps official records <each county employs a register of deeds and wills>. Cf. REGISTRAR.

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

2. PROBATE JUDGE. **3.** A book in which all docket entries are kept for the various cases pending in a court. — Also termed *register of actions*. **4.** An official record or list, such as a corporation's list of the names and addresses of its shareholders. — Abbr. Reg. — Also termed *registry*.

register; vb. **1.** To enter in a public registry <register a new car>. **2.** To enroll formally <five voters registered yesterday>. **3.** To make a record of <counsel registered three objections>. **4.** (Of a lawyer, party, or witness) to check in with the clerk of court before a judicial proceeding <please register at the clerk's office before entering the courtroom>. **5.** To file (a new security issue) with the Securities and Exchange Commission or a similar state agency <the company hopes to register its securities before the end of the year>.

registered agent. See AGENT.

registered bond. See BOND (2), (3).

registered broker. See BROKER.

registered check. See CHECK.

registered corporation. See CORPORATION.

registered dealer. See DEALER.

registered mail. See MAIL.

registered offering. See OFFERING.

registered organization. An organization created under state or federal law, for which the state or federal government must maintain a public record showing that the organization has been duly organized. UCC § 9-102(a)(47).

registered public offering. See *registered offering* under OFFERING.

registered representative. See REPRESENTATIVE.

registered security. See SECURITY.

registered stock. See *registered security* under SECURITY.

registered tonnage. See REGISTER TONNAGE.

registered trademark. See TRADEMARK.

registered voter. A person who is qualified to vote and whose name is recorded in the voting district where he or she resides.

register in bankruptcy. See REFEREE IN BANKRUPTCY.

register of actions. See REGISTER.

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

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

register of land office. *Hist.* A federal officer appointed for each federal land district to take charge of the local records and to administer the sale, preemption, or other disposition of public lands within the district.

register of ships. *Maritime law.* A record kept by a customs collector containing the names and owners of commercial vessels and other key information about the vessels. ● When a ship logs in with customs, it receives a certificate of registry. Cf. REGISTRY (2).

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

register of wills. A public official who records probated wills, issues letters testamentary and letters of administration, and serves generally as clerk of the probate court. • The register of wills exists only in some states.

register's court. *Hist.* A probate court in Pennsylvania. See *probate court* under COURT.

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

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

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

registrarii liber (rej-ə-strair-ee-I li-bər). [Latin] *Hist.* The register's book in chancery, containing all decrees. — Abbr. *reg. lib.*

registrarius (rej-ə-strair-ee-əs). [Latin] *Hist.* A registrar or register; a notary.

Registrar of Copyrights. See REGISTER OF COPYRIGHTS.

registrar of deeds. See REGISTER OF DEEDS.

registration, n. 1. The act of recording or enrolling <the county clerk handles registration of voters>.

criminal registration. The requirement in some communities that any felon who spends any time in the community must register his or her name with the police.

special registration. Voter registration for a particular election only.

2. Securities. The complete process of preparing to sell a newly issued security to the public

<the security is currently in registration>. — **register, vb.**

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

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

registration statement. A document containing detailed information required by the SEC for the public sale of corporate securities. • The statement includes the prospectus to be supplied to prospective buyers. See PROSPECTUS.

registrum brevium (ri-jis-trəm bree-vee-əm). [Latin] *Hist.* The register of writs. — Abbr. *reg. brev.*

registrum judicale (ri-jis-trəm joo-di-kay-lee). [Latin] *Hist.* The register of judicial writs. — Abbr. *reg. jud.*

registrum originale (ri-jis-trəm ə-rij-ə-nay-lee). [Latin] *Hist.* The register of original writs. — Abbr. *reg. orig.*

registry. 1. REGISTER (2). **2. Maritime law.** The list or record of ships subject to a particular country's maritime regulations. • A ship is listed under the nationality of the flag it flies. See CERTIFICATE OF REGISTRY. Cf. REGISTER OF SHIPS; *enrollment of vessels* under ENROLLMENT.

reg. jud. abbr. REGISTRUM JUDICALE.

reg. lib. abbr. REGISTRARII LIBER.

regnal (reg-nəl), *adj.* Of or relating to a monarch's reign <Queen Elizabeth II is in her forty-seventh regnal year since her accession to the throne in 1952>.

regnal year. A year of a monarch's reign, marked from the date or anniversary of the monarch's accession. • Before 1962, British statutes were cited by the regnal years in which

they were enacted. Since 1962, British statutes have been cited by calendar year rather than regnal year. (A table of British regnal years is listed in Appendix F of this book.)

regnant (*reg-nənt*), *adj.* Exercising rule, authority, or influence; reigning <a queen regnant>.

reg. orig. *abbr.* REGISTRUM ORIGINALE.

reg. pl. *abbr.* REGULA PLACITANDI.

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

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

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

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

regressive tax. See *TAX*.

regula (*reg-yə-lə*). [Latin] A rule.

regula catoniana (*reg-yə-lə kay-toh-nee-ay-nə or kə-toh-*). [Latin “rule of Cato”] *Roman law.* The principle that the lapse of time will not cure something void at the outset. • The *regula catoniana*, named for the Roman legal scholar Cato, was usu. used to set aside a bequest in which the testator did not have the power or capacity to make the bequest.

regula generalis (*reg-yə-lə jen-ə-ray-lis*). [Latin] A general rule, esp. of a court. — *Abbr.* *reg. gen.*; r.g. Pl. *regulae generales*.

regula placitandi (*reg-yə-lə plas-ə-tan-dī*). [Latin] *Hist.* A rule of pleading. — *Abbr.* *reg. pl.*

regular army. See *ARMY*.

regular course of business. See *COURSE OF BUSINESS*.

regular election. See *general election* under *ELECTION*.

regular income. See *INCOME*.

regular life policy. See *life policy* under *INSURANCE POLICY*.

regular meeting. See *annual meeting* under *MEETING*.

regular process. See *PROCESS*.

regular session. See *SESSION*.

regular term. See *TERM* (5).

regular use. See *USE* (1).

regulation, *n.* **1.** The act or process of controlling by rule or restriction <the federal regulation of the airline industry>. **2.** *BYLAW* (1) <the CEO referred to the corporate regulation>. **3.** A rule or order, having legal force, issued by an administrative agency or a local government <Treasury regulations explain and interpret the Internal Revenue Code>. — Also termed (in sense 3) *agency regulation*; *subordinate legislation*; *delegated legislation*. — Often shortened to *reg*; *Reg*. — **regulate**, *vb.* — **regulatory**, *regulable*, *adj.* See *MERIT REGULATION*.

Regulation A. An SEC regulation that exempts stock offerings of up to \$5 million from certain registration requirements.

Regulation D. An SEC regulation that exempts certain stock offerings (such as those offered by private sale) from registration under the Securities Act of 1933.

Regulation J. A Federal Reserve Board regulation that governs the collection of checks by and the transfer of funds through member banks.

Regulation Q. A Federal Reserve Board regulation that sets interest-rate ceilings and regulates advertising of interest on savings accounts. • This regulation, which applies to all commercial banks, was created by the Banking Act of 1933.

Regulation T. A Federal Reserve Board regulation that limits the amount of credit that a securities broker or dealer may extend to a customer, and that sets initial margin requirements and payment rules for securities transactions. • The credit limit and margin rules usu. require the customer to provide between 40 and 60% of the purchase price.

Regulation U. A Federal Reserve Board regulation that limits the amount of credit that a bank may extend to a customer who buys or carries securities on margin.

Regulation X. A HUD regulation that implements the provisions of the Real Estate Settlement Procedures Act. See REAL ESTATE SETTLEMENT PROCEDURES ACT.

Regulation Z. A Federal Reserve Board regulation that implements the provisions of the federal Consumer Credit Protection Act for member banks. See CONSUMER CREDIT PROTECTION ACT.

regulatory agency. See AGENCY (3).

regulatory offense. See OFFENSE (1).

regulatory search. See *administrative search* under SEARCH.

rehabilitation, n. **1.** *Criminal law.* The process of seeking to improve a criminal's character and outlook so that he or she can function in society without committing other crimes <rehabilitation is a traditional theory of criminal punishment, along with deterrence and retribution>. Cf. DETERRENCE; RETRIBUTION (1). **2.** *Evidence.* The restoration of a witness's credibility after the witness has been impeached <the inconsistencies were explained away during the prosecution's rehabilitation of the witness>. **3.** *Bankruptcy.* The process of reorganizing a debtor's financial affairs — under Chapter 11, 12, or 13 of the Bankruptcy Code — so that the debtor may continue to exist as a financial entity, with creditors satisfying their claims from the debtor's future earnings <the corporation's rehabilitation was successful>. — Also termed *debtor rehabilitation*. Cf. LIQUIDATION (4). — **rehabilitate, vb.** — **rehabilitative, adj.**

rehabilitative alimony. See ALIMONY.

rehearing. A second or subsequent hearing of a case or an appeal, usu. held to consider an error or omission in the first hearing <the

appellant, dissatisfied with the appellate court's ruling, filed a petition for rehearing>. — Abbr. reh'g. Cf. REARGUMENT.

reh'g. *abbr.* REHEARING.

rei (*ree*-I). *pl.* REUS.

reif (*reef*). *Scots law.* Robbery.

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

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

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

reimbursement alimony. See ALIMONY.

reinscription, n. *Civil law.* A second or renewed recordation of a mortgage or other title document. — **reinscribe, vb.**

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

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

"The term 'reinsurance' has been used by courts, attorneys, and textwriters with so little discrimination that much confusion has arisen as to what that term actually connotes. Thus, it has so often been used in connection with transferred risks, assumed risks, consolidations and mergers, excess insurance, and in other connections that it now lacks a clean-cut field of operation. Reinsurance, to an insurance lawyer, means one thing only — the ceding by one insurance company to another of all or a portion of its risks for a stipulated portion of the premium, in which the liability of the reinsurer is solely to the reinsured, which is the ceding company, and in which contract the ceding company retains all contact with the

original insured, and handles all matters prior to and subsequent to loss." 13A John Alan Appleman & Jean Appleman, *Insurance Law and Practice* § 7681, at 479-80 (1976).

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

facultative reinsurance. Reinsurance of an individual risk at the option (the "faculty") of the reinsurer.

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

treaty reinsurance. Reinsurance under a broad agreement of all risks in a given class as soon as they are insured by the direct insurer.

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

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

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

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

reissuable note. See NOTE (1).

reissue. 1. An abstractor's certificate certifying to the correctness of an abstract. ● A reissue is an important precaution when the abstract comprises an original abstract brought down to a certain date and then several continuations or extensions showing matters that have occurred since the date of the original abstract. **2.** See *reissue patent* under PATENT (3).

reissue patent. See PATENT (3).

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

rejection. 1. A refusal to accept a contractual offer. **2.** A refusal to accept tendered goods as contractual performance. ● Under the UCC, a buyer's rejection of nonperforming goods must be made within a reasonable time after tender or delivery, and notice of the rejection must be given to the seller. — **reject, vb.** Cf. REPUDIATION; RESCISSION; REVOCATION.

rejoinder, n. *Common-law pleading.* The defendant's answer to the plaintiff's reply (or replication). — **rejoin, vb.**

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

related proceeding. Bankruptcy. A proceeding that involves a claim that will affect the administration of the debtor's estate (such as a tort action between the debtor and a third party), but that does not arise under bankruptcy law and could be adjudicated in a state court. ● A related proceeding must be adjudicated in federal district court unless the parties consent to bankruptcy-court jurisdiction or unless the district court refers the matter to the bankruptcy court or to state court. — Also termed *noncore proceeding*. Cf. CORE PROCEEDING.

relation back, n. 1. The doctrine that an act done at a later time is considered to have occurred at an earlier time. ● For example, in federal civil procedure, an amended pleading relates back, for purposes of the statute of limitations, to the time when the original pleading was filed. Fed. R. Civ. P. 15(c). **2.** A judicial application of that doctrine. — **relate back, vb.**

relative, n. A person connected with another by blood or affinity; a kinsman.

collateral relative. A relative who is not in the direct line of inheritance, such as a cousin.

relative-convenience doctrine. The principle that an injunction or other equitable relief may be denied if it would cause one party great

inconvenience but the other party little or no inconvenience.

relative fact. See FACT.

relative nullity. See NULLITY.

relative power. See POWER.

relative right. See RIGHT.

relator. **1.** The real party in interest in whose name a state or an attorney general brings a lawsuit. See EX REL. **2.** The applicant for a writ, esp. a writ of mandamus, prohibition, or quo warranto. **3.** A person who furnishes information on which a civil or criminal case is based; an informer.

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

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

release, n. **1.** Liberation from an obligation, duty, or demand; the act of giving up a right or claim to the person against whom it could have been enforced <the employee asked for a release from the noncomplete agreement>. — Also termed *discharge*; *surrender*. **2.** The relinquishment or concession of a right, title, or claim. **3.** A written discharge, acquittance, or receipt <Jones signed the release before accepting the cash from Hawkins>. **4.** A written authorization or permission for publication <the newspaper obtained a release from the witness before printing his picture on the front page>. **5.** The act of conveying an estate or right to another, or of legally disposing of it <the release of the easement on February 14>. **6.** A deed or document effecting a conveyance <the legal description in the release was defective>. See *deed of release* under DEED. **7.** The action of freeing or the fact of being freed from restraint or confinement <he became a model citizen after his release from prison>. **8.** A document giving formal discharge from custody <after the sheriff signed the release, the prisoner was free to go>. — **release, vb.**

conditional release. **1.** A discharge from an obligation based on some condition, the failure of which defeats the release. **2.** An early discharge of a prison inmate, who is then subject to the rules and regulations of parole.

partial release. A release of a portion of a creditor's claims against property; esp., a

mortgagee's release of specified parcels covered by a blanket mortgage.

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

releasee. **1.** One who is released, either physically or by contractual discharge. **2.** One to whom an estate is released.

release of mortgage. A written document that discharges a mortgage upon full payment by the borrower and that is publicly recorded to show that the borrower has full equity in the property.

release on recognizance. The pretrial release of an arrested person who promises, usu. in writing but without supplying a surety or posting bond, to appear for trial at a later date. — Also termed *release on own recognizance*. — Abbr. ROR.

release to uses. Conveyance of property, by deed of release, by one party to a second party for the use of the first party or a third party. See *deed of release* under DEED; STATUTE OF USES.

releasor. One who releases property or a claim to another. — Also spelled *releaser*.

relegatio (rel-ə-gay-shee-oh), *n.* [fr. Latin *relegare* "to send away"] *Roman law.* Temporary or permanent banishment of a citizen or condemned criminal without the full loss of the person's civil rights or property. Cf. DEPORTATIO.

"Relegatio. The expulsion of a citizen ordered either by an administrative act of a magistrate or by judgment in a criminal trial. In the latter case the *relegatio* was sometimes combined with additional punishments, such as confiscation of the whole or of a part of the property of the condemned person, loss of Roman citizenship, con-

finement in a certain place. A milder form of *relegatio* was the exclusion of the wrongdoer from residence in a specified territory. Illicit return was punished with the death penalty." Adolf Berger, *Encyclopedic Dictionary of Roman Law* 673 (1953).

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

relevance. The fact, quality, or state of being relevant; relation or pertinence to the issue at hand. — Also termed *relevancy*.

relevancy. See RELEVANCE.

relevant, *adj.* Logically connected and tending to prove or disprove a matter in issue; having appreciable probative value — that is, rationally tending to persuade people of the probability or possibility of some alleged fact. Cf. MATERIAL.

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

relevant art. See ART.

relevant evidence. See EVIDENCE.

relevant market. See MARKET.

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

detrimental reliance. Reliance by one party on the acts or representations of another, causing a worsening of the first party's position. ● Detrimental reliance may serve as a substitute for consideration and thus make a promise enforceable as a contract. See *promissory estoppel* under ESTOPPEL.

reliance damages. See DAMAGES.

reliance interest. See INTEREST (2).

reliance-loss damages. See DAMAGES.

relict (**rel**-ikt). A widow.

relicta verificatione (ri-lik-tə ver-ə-fi-kay-shee-oh-nee). [Latin "his pleading being abandoned"] *Hist.* A confession of judgment accom-

panied by a withdrawal of the plea. See COGNOVIT ACTIONEM.

reliction (ri-lik-shən). **1.** A process by which a river or stream shifts its location, causing the recession of water from its bank. **2.** The alteration of a boundary line because of the gradual removal of land by a river or stream. See ACCRETION; DERELICTION.

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

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

2. Aid or assistance given to those in need, esp., financial aid provided by the state. **3.** The redress or benefit, esp. equitable in nature (such as an injunction or specific performance), that a party asks of a court. — Also termed *remedy*. Cf. REMEDY.

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

alternative relief. Judicial relief that is mutually exclusive with another form of judicial relief. ● In pleading, a party may request alternative relief, as by asking for both specific performance and damages. Fed. R. Civ. P. 8(a). Cf. ELECTION OF REMEDIES.

coercive relief. Active judicial relief, either legal or equitable, that the government will enforce.

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

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

religion. A system of faith and worship usu. involving belief in a supreme being and usu. containing a moral or ethical code; esp., such a system recognized and practiced by a particular church, sect, or denomination. ● In construing the protections under the Establishment Clause and the Free Exercise Clause, courts

have interpreted the term *religion* quite broadly to include a wide variety of theistic and nontheistic beliefs.

religion, freedom of. See FREEDOM OF RELIGION.

Religion Clause. In the Bill of Rights, the provision stating that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." U.S. Const. amend. I.

religious corporation. See CORPORATION.

religious liberty. See LIBERTY.

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

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

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

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

relocation. 1. Removal and establishment of someone or something in a new place. **2. Mining law.** Appropriation of a new tract of land for a mining claim, as by an owner who wishes to change the boundaries of the original tract or by a stranger who wishes to claim an abandoned or forfeited tract. **3. Civil law.** RECONDUCTION (1). Cf. TACIT RELOCATION.

rem. See IN REM.

remainder. Property. 1. A future interest arising in a third person — that is, someone other than the creator of the estate or the creator's heirs — who is intended to take after the natural termination of the preceding estate. ● For example, if a grant is "to A for life, and then to B," B's future interest is a remainder. Cf. EXECUTORY INTEREST; REVERSION; POSSIBILITY OF REVERTER.

"Whether a remainder is vested or contingent depends upon the language employed. If the conditional element is incorporated into the description of, or the gift to the remainder-man, then the remainder is contingent; but if, after words giving a vested interest, a clause is added divesting it, the remainder is vested. Thus, on a devise to A. for life, remainder to his children, but if any child dies in the lifetime of A. his share to go to those who survive,

the share of each child is vested, subject to be divested by his death. But on a devise to A. for life, remainder to such of his children as survive him, the remainder is contingent." John Chipman Gray, *The Rule Against Perpetuities* 66 (1886).

2. The property in a decedent's estate that is not otherwise specifically devised or bequeathed in a will.

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

accelerated remainder. A remainder that has passed to the remainderman, as when the gift to the preceding beneficiary fails.

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

charitable remainder. A remainder, usu. from a life estate, that is given to a charity; for example, "to Jane for life, and then to the American Red Cross."

contingent remainder. A remainder that is either given to an unascertained person or made subject to a condition precedent. ● An example is "to A for life, and then, if B has married before A dies, to B." — Also termed *executory remainder*; *remainder subject to a condition precedent*.

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

cross-remainder. A future interest that results when particular estates are given to two or more persons in different parcels of land, or in the same land in undivided shares, and the remainders of all the estates are made to vest in the survivor or survivors. ● Two examples of devises giving rise to cross-remainders are (1) "to A and B for life, with the remainder to the survivor and her heirs," and (2) "Blackacre to A and Whiteacre to B, with the remainder of A's estate to B on A's failure of issue, and the remainder of B's estate to A on B's failure of issue." ● If no tenants or issue survive, the remainder vests in a third

party (sometimes known as the *ulterior remainderman*). Each tenant in common has a reciprocal, or *cross*, remainder in the share of the others. This type of remainder could not be created by deed unless expressly stated. It could, however, be implied in a will.

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

defeasible remainder. A vested remainder that will be eliminated if a condition subsequent occurs. • An example is "to A for life, and then to B, but if B ever sells liquor on the land, then to C." — Also termed *remainder subject to divestment*.

executed remainder. See *vested remainder*.

executory remainder. See *contingent remainder*.

indefeasible remainder. A vested remainder that is not subject to a condition subsequent. — Also termed *indefeasibly vested remainder*.

remainder subject to a condition precedent. See *contingent remainder*.

remainder subject to divestment. See *defeasible remainder*.

remainder subject to open. A vested remainder that is given to one person but that may later have to be shared with others. • An example is "to A for life, and then equally to all of B's children." — Also termed *remainder subject to partial divestment*.

vested remainder. A remainder that is given to an ascertained person and that is not subject to a condition precedent. • An example is "to A for life, and then to B." — Also termed *executed remainder*.

remainder bequest. See *residuary bequest* under BEQUEST.

remainderer. See REMAINDERMAN.

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

remainderman. A person who holds or is entitled to receive a remainder. — Also termed *remainderer; remainderperson; remainor*.

remainder subject to a condition precedent. See *contingent remainder* under REMAINDER.

remainder subject to divestment. See *defeasible remainder* under REMAINDER.

remainder subject to open. See REMAINDER.

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

remainor. See REMAINDERMAN.

remake rights. *Copyright.* The rights to produce one or more additional movies or screenplays based on what is substantially the same story as is contained in the original movie or screenplay for which the rights have been granted.

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

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

sixth-sentence remand. In a claim for social-security benefits, a court's decision that the claim should be reheard by the Commissioner of Social Security because new evidence is available, which was not available before, that might change the outcome of the proceeding. • This type of remand is called a sixth-sentence remand because it is based on the sixth sentence of 42 USCA § 405(g): "The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action

by the Commissioner of Social Security, and it may at any time order additional evidence to be taken before the Commissioner of Social Security, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding" See *Melkonyan v. Sullivan*, 501 U.S. 89, 111 S.Ct. 2157 (1991).

remand (ri-mand), *vb.* **1.** To send (a case or claim) back to the court or tribunal from which it came for some further action <the appellate court reversed the trial court's opinion and remanded the case for new trial>. Cf. REMOVAL (2). **2.** To recommit (an accused person) to custody after a preliminary examination <the magistrate, after denying bail, remanded the defendant to custody>.

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

remanent pro defectu emptorum (rem-ə-nənt proh di-fek-t[y]oo emp-tor-əm). [Latin] *Hist.* Remains unsold for want of buyers. ● This language was used in a return of a writ of execution when the sheriff could not sell the seized property.

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

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

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

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

remedial action. *Environmental law.* An action intended to bring about or restore long-term environmental quality; esp., under CERCLA, a measure intended to permanently alleviate pollution when a hazardous substance has been released or might be released into the environment, so as to prevent or minimize any further

release of hazardous substances and thereby minimize the risk to public health or to the environment. 42 USCA § 9601(24); 40 CFR § 300.6. — Also termed *remedy*. Cf. CERCLA; REMOVAL ACTION.

remedial enforcement. See *secondary right* under RIGHT.

remedial law. **1.** A law providing a means to enforce rights or redress injuries. **2.** A law passed to correct or modify an existing law; esp., a law that gives a party a new or different remedy when the existing remedy, if any, is inadequate.

remedial liability. See LIABILITY.

remedial promise. See PROMISE.

remedial right. See RIGHT.

remedial statute. See STATUTE.

remedial trust. See *constructive trust* under TRUST.

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

remedy, *n.* **1.** The means of enforcing a right or preventing or redressing a wrong; legal or equitable relief. **2.** REMEDIAL ACTION. — **remedy**, *vb.* Cf. RELIEF.

"A remedy is anything a court can do for a litigant who has been wronged or is about to be wronged. The two most common remedies are judgments that plaintiffs are entitled to collect sums of money from defendants and orders to defendants to refrain from their wrongful conduct or to undo its consequences. The court decides under the substantive law whether the litigant has been wronged; it conducts its inquiry in accordance with the procedural law. The law of remedies falls somewhere between substance and procedure, distinct from both but overlapping with both." Douglas Laycock, *Modern American Remedies* 1 (1985).

adequate remedy at law. A legal remedy (such as an award of damages) that provides sufficient relief to the petitioning party, thus preventing the party from obtaining equitable relief.

administrative remedy. A nonjudicial remedy provided by an administrative agency. ● Ordinarily, if an administrative remedy is available, it must be exhausted before a court will hear the case. See EXHAUSTION OF REMEDIES.

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

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

equitable remedy. A nonmonetary remedy, such as an injunction or specific performance, obtained when monetary damages cannot adequately redress the injury. See IRREPARABLE-INJURY RULE.

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

extraordinary remedy. A remedy — such as a writ of mandamus or habeas corpus — not available to a party unless necessary to preserve a right that cannot be protected by a standard legal or equitable remedy.

judicial remedy. A remedy granted by a court; esp., a tort remedy that is either ordinary (as in an action for damages) or extraordinary (as in an equitable suit for an injunction).

legal remedy. A remedy available in a court of law, as distinguished from a remedy available only in equity. • After the merger of law and equity, this distinction became no longer legally relevant.

provisional remedy. 1. A restraining order or injunctive relief pending the disposition of an action; a temporary remedy, such as attachment, incidental to the primary action and available to a party while the action is pending. 2. An equitable proceeding before judgment to provide for the postjudgment safety and preservation of property.

remedy over. A remedy that arises from a right of indemnification or subrogation. • For example, if a city is liable for injuries caused by a defect in a street, the city has a “remedy over” against the person whose act or negligence caused the defect.

self-help remedy. See *extrajudicial remedy*.

specific remedy. A remedy for breach of contract whereby the injured party is awarded the very performance that was contractually promised, as when the court orders a defaulting seller of goods to deliver the specified goods to the buyer (as opposed to paying damages).

speedy remedy. A remedy (such as a restraining order) that, under the circumstances, can be pursued expeditiously before the aggrieved party has incurred substantial detriment.

substitutional remedy. A remedy for breach of contract intended to give the promisee something as a replacement for the promised performance, as when the court orders a defaulting seller of goods to pay the buyer damages (as opposed to delivering the goods).

remedy, mutuality of. See MUTUALITY OF REMEDY.

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

REMIC (rem-ik or ree-mik). *abbr.* REAL-ESTATE-MORTGAGE INVESTMENT CONDUIT.

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

remission. 1. A cancellation or extinguishment of all or part of a financial obligation; a release of a debt or claim.

conventional remission. *Civil law.* A remission expressly granted to a debtor by a creditor having capacity to alienate.

tacit remission. *Civil law.* A remission arising by operation of law, as when a creditor surrenders an original title to the debtor.

2. A pardon granted for an offense. 3. Relief from a forfeiture or penalty. 4. A diminution or abatement of the symptoms of a disease.

remit, *vb.* 1. To pardon or forgive <the wife could not remit her husband's infidelity>. 2. To abate or slacken; to mitigate <the receipt of money damages remitted the embarrassment of being fired>. 3. To refer (a matter for decision) to some authority, esp. to send back (a case) to a lower court <the appellate court remitted the case to the trial court for further factual determinations>. See REMAND. 4. To send or put back to a previous condition or position <a landlord's breach of a lease does not justify the tenant's refusal to pay rent; instead, the tenant is remitted to the right to recover damages>. 5. To transmit (as money) <upon receiving the demand letter, she promptly remitted the amount due>. — **remissible** (for senses 1–4), *adj.* — **remittable** (for sense 5), *adj.*

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

remittance advice. See ADVICE.

remittee. One to whom payment is sent.

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

remitting bank. See BANK.

remittit damna (ri-mit-it dam-nə). [Latin] *Hist.* An entry on the record by which a plaintiff declares that he or she remits part of the damages that have been awarded.

remittitur (ri-mit-i-tər). **1.** The process by which a court reduces or proposes to reduce the damages awarded in a jury verdict. **2.** A court's order reducing an award of damages <the defendant sought a remittitur of the \$100 million judgment>. Cf. ADDITUR.

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

remittor: See REMITTER (3).

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

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

remote, adj. **1.** Far removed or separated in time, space, or relation. **2.** Slight. **3.** *Property.* Beyond the 21 years after some life in being by which a devise must vest. See RULE AGAINST PERPETUITIES.

remote cause. See CAUSE (1).

remote damages. See *speculative damages* under DAMAGES.

remote possibility. See POSSIBILITY.

removal, n. **1.** The transfer or moving of a person or thing from one location, position, or residence to another. **2.** The transfer of an action from state to federal court. • In removing a case to federal court, a litigant must timely file the removal papers and must show a valid basis for federal-court jurisdiction. — **remove, vb.** Cf. REMAND (1).

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

removal action. *Environmental law.* An action, esp. under CERCLA, intended to bring about the short-term abatement and cleanup of pollution (as by removing and disposing of toxic materials). Cf. CERCLA; REMEDIAL ACTION.

removal bond. See BOND (2).

REMT. *abbr.* REAL-ESTATE MORTGAGE TRUST.

remuneration (ri-myoo-nə-ray-shən), *n.* **1.** Payment; compensation. **2.** The act of paying or compensating. — **remunerate, vb.** — **remunerative, adj.**

reencounter (ren-kown-tər). A hostile meeting or contest; a battle or combat. — Also spelled *rencontre* (ren-kon-tər).

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

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

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

rendition, n. **1.** The action of making, delivering, or giving out, such as a legal decision. **2.** The return of a fugitive from one state to the state where the fugitive is accused or convicted

of a crime. — Also termed *interstate rendition*. Cf. EXTRADITION.

rendition of judgment. The judge's oral or written ruling containing the judgment entered. Cf. ENTRY OF JUDGMENT.

rendition warrant. See WARRANT (1).

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

renegotiable-rate mortgage. See MORTGAGE.

renegotiation, n. **1.** The act or process of negotiating again or on different terms; a second or further negotiation. **2.** The reexamination and adjustment of a government contract to eliminate or recover excess profits by the contractor. — **renegotiate, vb.**

renewable term insurance. See INSURANCE.

renewal, n. **1.** The act of restoring or reestablishing. **2.** The re-creation of a legal relationship or the replacement of an old contract with a new contract, as opposed to the mere extension of a previous relationship or contract. — **renew, vb.** Cf. EXTENSION (1); REVIVAL (1).

renewal note. See NOTE (1).

renounce, vb. **1.** To give up or abandon formally (a right or interest); to disclaim <renounce an inheritance>. **2.** To refuse to follow or obey; to decline to recognize or observe <renounce one's allegiance>.

renovare (ren-ə-vair-ee), *vb.* [Latin] *Hist.* To renew.

rent, n. **1.** Consideration paid, usu. periodically, for the use or occupancy of property (esp. real property).

ceiling rent. The maximum rent that can be charged under a rent-control regulation.

double rent. Twice the amount of rent agreed to; specif., a penalty of twice the amount of rent against a tenant who holds possession of the leased property after the date provided in the tenant's notice to quit. ● The penalty was provided by the Distress for Rent Act, 1737, 11 Geo. 2., ch. 19, § 13.

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

economic rent. See ECONOMIC RENT.

ground rent. 1. Rent paid by a tenant under a long-term lease for the use of undeveloped land, usu. for the construction of a commercial building. See *ground lease* under LEASE. **2.** An inheritable interest, in rental income from land, reserved by a grantor who conveys the land in fee simple. ● This type of ground rent is found primarily in Maryland and Pennsylvania.

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

net rent. The rental price for property after payment of expenses, such as repairs, utilities, and taxes.

rack-rent. See RACK-RENT.

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

quit rent. See QUIT RENT.

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

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

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

rent seck. A rent reserved by deed but without any clause of distress. — Also spelled *rent-seck*. — Also termed *dry rent*.

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

3. Civil law. A contract by which one party conveys to another party a tract of land or other immovable property, to be held by the other party as owner and in perpetuity, in exchange for payment of an annual sum of

money or quantity of fruits. See FRUIT (3). — Also termed *rent of lands*. **4.** The difference between the actual return from a commodity or service and the cost of supplying it; the difference between revenue and opportunity cost. — **rent**, *vb.*

rentage. Rent or rental.

rent-a-judging. See PRIVATE JUDGING.

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

delay rental. *Oil & gas.* A periodic payment made by an oil-and-gas lessee to postpone exploration during the primary lease term. See DRILLING-DELAY-RENTAL CLAUSE.

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

rentcharge. See RENT (2).

rent control. A restriction imposed, usu. by municipal legislation, on the maximum rent that a landlord may charge for rental property, and often on a landlord's power of eviction.

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

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

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

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

rentee. *Rare.* A tenant.

rente foncière. See RENTE.

rente viagère. See RENTE.

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

rent of lands. See RENT (3).

rent seek. See RENT (2).

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

rent service. See RENT (2).

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

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

renunciation (ri-nən-see-ay-shən), *n.* **1.** The express or tacit abandonment of a right without transferring it to another. **2.** *Criminal law.* Complete and voluntary abandonment of criminal purpose — sometimes coupled with an attempt to thwart the activity's success — before a crime is committed. ● Renunciation can be an affirmative defense to attempt, conspiracy, and the like. Model Penal Code § 5.01(4). — Also termed *withdrawal*; *abandonment*. **3.** *Wills & estates.* The act of waiving a right under a will and claiming instead a statutory share. See RIGHT OF ELECTION. — **renounce**, *vb.* — **renunciative**, **renunciatory**, *adj.*

renvoi (ren-voy), *n.* [French "sending back"] **1.** The doctrine under which a court in resorting to foreign law adopts as well the foreign law's conflict-of-laws principles, which may in turn refer the court back to the law of the forum. **2.** The problem arising when one state's rule on conflict of laws refers a case to the law of another state, and that second state's conflict-of-law rule refers the case either back to the law of the first state or to a third state. See CONFLICT OF LAWS. **3.** RECONDUCTION (2).

REO. *abbr.* REAL ESTATE OWNED.

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

reorganization, *n.* **1.** *Bankruptcy.* A financial restructuring of a corporation, esp. in the repayment of debts, under a plan created by a trustee and approved by a court. See CHAPTER 11.

haircut reorganization. A restructuring of the indebtedness that remains after a creditor forgives a portion of the debtor's obligation.

2. Tax. A restructuring of a corporation, as by a merger or recapitalization, in order to improve its tax treatment under the Internal Revenue Code. • The Code classifies the various types of reorganizations with different letters. IRC (26 USCA) § 368(a)(1). Cf. RECAPITALIZATION.

A reorganization. A reorganization that involves a merger or consolidation under a specific state statute.

B reorganization. A reorganization in which one corporation exchanges its voting shares for another corporation's voting shares.

C reorganization. A reorganization in which one corporation exchanges its voting shares for substantially all the assets of another corporation.

D reorganization. A reorganization in which the corporation transfers some or all of its assets to another corporation that is controlled by the transferor or its shareholders, and then the stock of the transferee corporation is distributed.

E reorganization. A reorganization that involves a recapitalization.

F reorganization. A reorganization that involves a mere change in the identity, form, or place of organization of a corporation.

G reorganization. A reorganization that involves a transfer of all or part of the corporation's assets to another corporation in a bankruptcy or similar proceeding.

reorganization bond. See *adjustment bond* under BOND (3).

reorganization plan. *Bankruptcy.* A plan of restructuring submitted by a corporation for approval by the court in a Chapter 11 case. See CHAPTER 11.

rep. abbr. **1.** REPORT. **2.** REPORTER. **3.** REPRESENTATIVE. **4.** REPUBLIC.

reparable injury. See INJURY.

reparation (rep-ə-ray-shən). **1.** The act of making amends for a wrong. **2.** (*usu. pl.*) Compensation for an injury or wrong, esp. for wartime damages or breach of an international obligation.

reparative injunction. See INJUNCTION.

repeal, n. Abrogation of an existing law by legislative act. — **repeal, vb.**

express repeal. Repeal effected by specific declaration in a new statute.

implied repeal. Repeal effected by irreconcilable conflict between an old law and a new law. — Also termed *repeal by implication*.

repealer. 1. A legislative act abrogating an earlier law. **2.** One who repeals.

repealing clause. A statutory provision that repeals an earlier statute.

repeater. See RECIDIVIST.

repeat offender. See OFFENDER.

repetition. *Civil law.* A demand or action for restitution or repayment. See SOLUTIO INDEBITI.

repetitum namium (ri-pet-ə-təm nay-mee-əm). [Law Latin] *Hist.* A second, repeated, or reciprocal distress; WITHERNAM.

repetundae (rep-ə-tən-dee). [Latin] *Roman law.*

1. Money or things that can be reclaimed by a person who was forced to give them to a public official as a bribe. **2.** The illegal act of forcing someone to give money or things as a bribe; extortion.

replacement cost. See COST (1).

replacement-cost depreciation method. See DEPRECIATION METHOD.

replacement insurance. See INSURANCE.

replead, vb. 1. To plead again or anew; to file a new pleading, esp. to correct a defect in an earlier pleading. **2.** To make a repleader.

repleader (ree-plee-dər). *Common-law pleading.* A court order or judgment — issued on the motion of a party who suffered an adverse verdict — requiring the parties to file new pleadings because of some defect in the original pleadings. — Also termed *judgment of repleader*.

replegiare (ri-plee-jee-air-ee), *vb.* [Law Latin] *Hist.* To take back on pledge or surety; to replevy.

repleviable (ri-plev-ee-ə-bəl), *adj.* Capable of being replevied; recoverable by replevin <re-

pleviable property>. — Also spelled *replevisable* (ri-plev-ə-sə-bəl). Cf. IRREPLEVIABLE.

replevin (ri-plev-in), *n.* **1.** An action for the repossession of personal property wrongfully taken or detained by the defendant, whereby the plaintiff gives security for and holds the property until the court decides who owns it. **2.** A writ obtained from a court authorizing the retaking of personal property wrongfully taken or detained. — Also termed (in sense 2) *writ of replevin*. Cf. DETINUE; TROVER.

“*Replevin* is a remedy ground and granted upon a distress, being a re-deliverance of the thing distrained to remain with the first possessor, on security or pledges given by him to try the right with the distrainer, and to answer him in a course of law.” *The Pocket Lawyer and Family Conveyancer* 105 (3d ed. 1833).

“The action of replevin lies, where specific personal property has been wrongfully taken and is wrongfully detained, to recover possession of the property, together with damages for its detention. To support the action it is necessary: (a) That the property shall be personal. (b) That the plaintiff, at the time of suit, shall be entitled to the immediate possession. (c) That (at common law) the defendant shall have wrongfully taken the property (replevin in the cepit). But, by statute in most states, the action will now also lie where the property is wrongfully detained, though it was lawfully obtained in the first instance (replevin in the detinet). (d) That the property shall be wrongfully detained by the defendant at the time of suit.” Benjamin J. Shipman, *Handbook of Common-Law Pleading* § 49, at 120 (Henry Winthrop Ballantine ed., 3d ed. 1923).

personal replevin. At common law, an action to replevy a person out of prison or out of another’s custody. • Personal replevin has been largely superseded by the writ of habeas corpus as a means of investigating the legality of an imprisonment. See HABEAS CORPUS.

replevin in cepit (in see-pit). An action for the repossession of property that is both wrongfully taken and wrongfully detained.

replevin in detinet (in det-i-net). An action for the repossession of property that is rightfully taken but wrongfully detained.

replevin, *vb.* *Archaic.* REPLEVY.

replevin bond. See BOND (2).

replevisable. See REPLEVIABLE.

replevisor (ri-plev-ə-sər). The plaintiff in a replevin action.

replevy (ri-plev-ee), *n.* *Archaic.* REPLEVIN.

replevy, *vb.* **1.** To recover possession of (goods) by a writ of replevin. **2.** To recover (goods) by replevin. **3.** *Archaic.* To bail (a prisoner).

replevy bond. See *replevin bond* under BOND (2).

repliant (ri-plit-ənt). A party who makes a replication (i.e., a common-law reply). — Also spelled *replicant*.

replicare (rep-lə-kair-ee), *vb.* [Latin] *Hist.* To reply; to answer a defendant’s plea.

replicatio (rep-lə-kay-shee-oh), *n.* [Latin] *Hist.* The plaintiff’s answer to the defendant’s exception or plea; a replication.

replication (rep-lə-kay-shən). A plaintiff’s or complainant’s reply to a defendant’s plea or answer; REPLY (2).

anticipatory replication. *Equity pleading.* The denial in an original bill of defensive matters that the defendant might rely on. • A defendant who relies on the anticipated defense must traverse the anticipatory matter in addition to setting up the defense.

general replication. *Equity pleading.* A replication that consists of a general denial of the defendant’s plea or answer and an assertion of the truth and sufficiency of the bill.

replication de injuria. *Common-law pleading.* A traverse occurring only in the replication whereby the plaintiff is permitted to traverse the whole substance of a plea consisting merely of legal excuse, when the matter does not involve a title or interest in land, authority of law, authority of fact derived from the opposing party, or any matter of record. — Also termed *replication de injuria sua propria, absque tali causa*.

replication per fraudem. *Common-law pleading.* A replication asserting that the discharge pleaded by the defendant was obtained by fraud.

special replication. *Equity pleading.* A replication that puts in issue a new fact to counter a new matter raised in the defendant’s plea or answer.

reply, *n.* **1.** *Civil procedure.* In federal practice, the plaintiff’s response to the defendant’s counterclaim (or, by court order, to the defendant’s or a third party’s answer). Fed. R. Civ. P. 7(a). **2.** *Common-law pleading.* The plaintiff’s response to the defendant’s plea or answer. • The reply is the plaintiff’s second pleading, and it is

followed by the defendant's rejoinder. — Also termed (in sense 2) *replication*. — **reply**, *vb.*

reply brief. See BRIEF.

repo (*ree-poh*). **1.** REPOSSESSION. **2.** REPURCHASE AGREEMENT.

report, *n.* **1.** A formal oral or written presentation of facts <according to the treasurer's report, there is \$300 in the bank>.

insider report. A monthly report that must be filed with the SEC when more than 10% of a company's stock is traded.

2. A written account of a court proceeding and judicial decision <the law clerk sent the court's report to counsel for both sides>.

official report. (*usu. pl.*) The governmentally approved set of reported cases within a given jurisdiction.

"[I]t may justly be said that all reports are in a sense 'official,' or that to use the term 'official reports' as referring to any particular series of reports is a misnomer, for it is certainly misleading. The mere fact that each state authorizes or requires publication of reports of its Supreme Court decisions, and, to insure such publication, agrees to purchase a stated number of each volume of the reports, cannot be said to give such a series pre-eminence as an 'official' publication." William M. Lile et al., *Brief Making and the Use of Law Books* 33 (3d ed. 1914).

3. (*usu. pl.*) A published volume of judicial decisions by a particular court or group of courts <U.S. Reports>. • Generally, these decisions are first printed in temporary paperback volumes, and then printed in hardbound reporter volumes. Law reports may be either official (published by a government entity) or unofficial (published by a private publisher). Court citations frequently include the names of both the official and unofficial reports. — Also termed *reporter*; *law report*; *law reporter*. Cf. ADVANCE SHEETS. **4.** (*usu. pl.*) A collection of administrative decisions by one or more administrative agencies. — Abbr. *rep.* — **report**, *vb.*

reporter. **1.** A person responsible for making and publishing a report; esp., a lawyer-consultant who prepares drafts of official or semi-official writings such as court rules or Restatements <the reporter to the Advisory Committee on Bankruptcy Rules explained the various amendments>. **2.** REPORTER OF DECISIONS. **3.** REPORT (3) <Supreme Court Reporter>. — Abbr. *rep.*; *rptr.*

"It may not come amiss to remark that the National Report System is usually spoken of as the 'Reporters,'

and one of the component parts of that system is in like manner spoken of as a 'Reporter.' Wherever, in this or the succeeding chapters of this work, the word is used with a capital, it refers to one or more of the parts of the National Reporter System. When the word 'reporter' is used without capitalization, it refers to the person who reports or edits the cases in any series of reports to which reference is being made." William M. Lile et al., *Brief Making and the Use of Law Books* 37 (3d ed. 1914).

reporter of decisions. The person responsible for publishing a court's opinions. • The reporter of decisions often has duties that include verifying citations, correcting spelling and punctuation, and suggesting minor editorial improvements before judicial opinions are released or published. — Often shortened to *reporter*. — Also termed *court reporter*.

reporter's privilege. See *journalist's privilege* (1) under PRIVILEGE (3).

reporter's record. See TRANSCRIPT.

reporter's syllabus. See HEADNOTE.

reporting company. A company that, because it issues publicly traded securities, must comply with the reporting requirements of the Securities Exchange Act of 1934.

report of proceedings. See TRANSCRIPT.

reports, *n.* See REPORT.

Reports, The. A series of 13 volumes of caselaw published in the 17th century by Sir Edward Coke.

repose (*ri-pohz*), *n.* **1.** Cessation of activity; temporary rest. **2.** A statutory period after which an action cannot be brought in court, even if it expires before the plaintiff suffers any injury. See STATUTE OF REPOSE.

repository (*ri-poz-ə-tor-ee*). A place where something is deposited or stored; a warehouse or storehouse.

repossession, *n.* The act or an instance of re-taking property; esp., a seller's re-taking of goods sold on credit when the buyer has failed to pay for them. — Often shortened to *repo*. — **repossess**, *vb.* Cf. FORECLOSURE.

representation, *n.* **1.** A presentation of fact — either by words or by conduct — made to induce someone to act, esp. to enter into a contract <the buyer relied on the seller's repre-

sensation that the roof did not leak>. Cf. MISREPRESENTATION.

"Representation . . . may introduce terms into a contract and affect performance: or it may induce a contract and so affect the intention of one of the parties, and the formation of the contract. . . . At common law, . . . if a representation did not afterwards become a substantive part of the contract, its untruth (save in certain excepted cases and apart always from fraud) was immaterial. But if it did, it might be one of two things: (1) it might be regarded by the parties as a vital term going to the root of the contract (when it is usually called a 'condition'); and in this case its untruth entitles the injured party to repudiate the whole contract; or (2) it might be a term in the nature only of an independent subsidiary promise (when it is usually called a 'warranty'), which is indeed a part of the contract, but does not go to the root of it; in this case its untruth only gives rise to an action *ex contractu* for damages, and does *not* entitle the injured party to repudiate the whole contract." William R. Anson, *Principles of the Law of Contract* 218, 222 (Arthur L. Corbin ed., 3d Am. ed. 1919).

affirmative representation. A representation asserting the existence of certain facts pertaining to a given subject matter.

false representation. See MISREPRESENTATION.

material representation. A representation that relates directly to the matter in issue or that actually causes an event to occur (such as a party's relying on the representation in entering into a contract). • Material representation is a necessary element of an action for fraud.

promissory representation. A representation about what one will do in the future; esp., a representation made by an insured about what will happen during the time of coverage, stated as a matter of expectation and amounting to an enforceable promise.

2. The act or an instance of standing for or acting on behalf of another, esp. by a lawyer on behalf of a client <Clarence Darrow's representation of Mr. Scopes>. 3. The fact of a litigant's having such a close alignment of interests with another person that the other is considered as having been present in the litigation <the named plaintiff provided adequate representation for the absent class members>. See ADEQUATE REPRESENTATION. 4. The assumption by an heir of the rights and obligations of his or her predecessor <each child takes a share by representation>. See PER STIRPES. — **represent**, *vb*.

representation, estoppel by. See *estoppel by representation* under ESTOPPEL.

representation election. See ELECTION.

representative, n. 1. One who stands for or acts on behalf of another <the owner was the football team's representative at the labor negotiations>. See AGENT.

accredited representative. A person with designated authority to act on behalf of another person, group, or organization, usu. by being granted that authority by law or by the rules of the group or organization <as an officer of the union, she was the accredited representative of the employees in the wage dispute>.

class representative. A person who sues on behalf of a group of plaintiffs in a class action. — Also termed *named plaintiff*. See CLASS ACTION.

independent personal representative. See *personal representative*.

lawful representative. 1. A legal heir. 2. An executor or administrator. 3. Any other legal representative.

legal-personal representative. 1. When used by a testator referring to personal property, an executor or administrator. 2. When used by a testator referring to real property, one to whom the real estate passes immediately upon the testator's death. 3. When used concerning the death of a seaman, the public administrator, executor, or appointed administrator in the seaman's state of residence.

personal representative. A person who manages the legal affairs of another because of incapacity or death, such as the executor of an estate. — Also termed *independent personal representative*; *legal representative*.

registered representative. A person approved by the SEC and stock exchanges to sell securities to the public. — Also termed *customer's man*; *customer's person*.

2. A member of a legislature, esp. of the lower house <one senator and one representative attended the rally>. — Abbr. *rep*.

representative action. 1. CLASS ACTION. 2. DERIVATIVE ACTION (1).

representative capacity. The position of one standing or acting for another, esp. through delegated authority <an agent acting in a representative capacity for the principal>.

representee. One to whom a representation is made.

"First, where the representor can show that he was not negligent, he will not be liable under the 1967 Act; and secondly, where the representee wants to claim damages

at the contractual rate, for loss of his bargain, it may be that the Misrepresentation Act will not suffice." P.S. Atiyah, *An Introduction to the Law of Contract* 165 (3d ed. 1981).

representor. One who makes a representation.

"[I]t is arguable that even where a contracting party does not intend to guarantee the accuracy of what he says, the other party is at least entitled to assume that due care has been taken by the representor." P.S. Atiyah, *An Introduction to the Law of Contract* 309 (3d ed. 1981).

repressive tax. See *sin tax* under TAX.

reprieve (ri-preev), *n.* Temporary postponement of the execution of a criminal sentence, esp. a death sentence. — **reprieve**, *vb.* Cf. COMMUTATION (2); PARDON.

"The term *reprieve* is derived from *repandre*, to keep back, and signifies the withdrawing of the sentence for an interval of time, and operates in delay of execution." 1 Joseph Chitty, *A Practical Treatise on the Criminal Law* 757 (2d ed. 1826).

reprimand, *n.* In professional responsibility, a form of disciplinary action — imposed after trial or formal charges — that declares the lawyer's conduct improper but does not limit his or her right to practice law. — **reprimand**, *vb.*

private reprimand. A reprimand that is not published but instead communicated only to the lawyer, or that is published without identifying the lawyer by name.

public reprimand. A reprimand that is published, usu. in a bar journal or legal newspaper.

reprisal (ri-pri-zəl). 1. (*often pl.*) *Int'l law.* The use of force, short of war, against another country to redress an injury caused by that country.

"'Reprisals' is a word with a long history, and modern writers are not agreed on the meaning which should be given to it today. Literally and historically it denotes the seizing of property or persons by way of retaliation Reprisals when they are taken today are taken by a state, but some writers would still limit the word to acts of taking or withholding the property of a foreign state or its nationals, for example by an embargo, whilst others would abandon the historical associations and use it to denote any kind of coercive action not amounting to war whereby a state attempts to secure satisfaction from another for some wrong which the latter has committed against it." J.L. Brierly, *The Law of Nations* 321-22 (5th ed. 1955).

general reprisal. A reprisal by which a nation directs all its military officers and citizens to redress an injury caused by another

nation. • An example is a command to seize the property of the offending nation wherever it is found.

negative reprisal. A reprisal by which a nation refuses to perform an obligation to another nation, such as the fulfillment of a treaty.

positive reprisal. A reprisal by which a nation forcibly seizes another nation's property or persons.

special reprisal. A reprisal by which a nation authorizes an aggrieved private citizen to redress an injury caused by another nation. • An example is an authorization for a private citizen to seize a particular vessel of the offending nation. See LETTERS OF MARQUE.

2. (*often pl.*) *Int'l law.* An act of forceful retaliation for injury or attack by another country; formerly, in war, the killing of prisoners in response to an enemy's war crimes (now unlawful). Cf. RETORSION. 3. Any act or instance of retaliation, as by an employer against a complaining employee.

reprise (ri-priz), *n.* An annual deduction, duty, or payment out of a manor or estate, such as an annuity.

reprobation (rep-rə-bay-shən). The act of raising an objection or exception, as to the competency of a witness or the sufficiency of evidence. — **reprobate** (rep-rə-bayt), *vb.* — **reprobatory** (rep-rə-bay-shə-ner-ee), **reprobative** (rep-rə-bay-tiv), *adj.*

reprobator (rep-rə-bay-tər). *Scots law. Hist.* A proceeding to disqualify a witness or to invalidate the testimony of an objectionable witness. — Also termed *action of reprobator*.

reproduction right. A copyright holder's exclusive right to make copies or phonorecords of the protected work. • Unauthorized copying constitutes infringement.

reproductive rights. A person's rights relating to the control of his or her procreative activities; specif., the cluster of civil liberties relating to pregnancy, abortion, and sterilization, esp. the personal bodily rights of women in their decision whether to become pregnant or bear a child. • The phrase includes the idea of being able to make reproductive decisions free from discrimination, coercion, or violence. Human-rights scholars increasingly consider reproductive rights to be protected by international human-rights law.

republic, *n.* A system of government in which the people hold sovereign power and elect representatives who exercise that power. ● It contrasts on the one hand with a pure democracy, in which the people or community as an organized whole wield the sovereign power of government, and on the other with the rule of one person (such as a king, emperor, czar, or sultan). — Abbr. rep. — **republican**, *adj.* Cf. DEMOCRACY.

republishment, *n.* **1.** The act or an instance of publishing again or anew. **2.** *Wills & estates.* Reestablishment of the validity of a previously revoked will by repeating the formalities of execution or by using a codicil. ● The result is to make the old will effective from the date of republishment. — Also termed (in sense 2) *revival*. — **republish**, *vb.* Cf. REVIVAL (2).

repudiate, *vb.* **1.** To reject or renounce (a duty or obligation); esp., to indicate an intention not to perform (a contract). **2.** *Hist.* To divorce or disown (one's wife).

repudiatee (ri-pyoo-dee-ə-tee). A party to a contract that has been repudiated by the other party.

repudiation (ri-pyoo-dee-ay-shən), *n.* A contracting party's words or actions that indicate an intention not to perform the contract in the future; a threatened breach of contract. — **repudiatory** (ri-pyoo-dee-ə-tor-ee), **repudiable** (ri-pyoo-dee-ə-bəl), *adj.* Cf. REJECTION; RESCISSION.

"A repudiation is (a) a statement by the obligor to the obligee indicating that the obligor will commit a breach that would of itself give the obligee a claim for damages for total breach under § 243, or (b) a voluntary affirmative act which renders the obligor unable or apparently unable to perform without such a breach." Restatement (Second) of Contracts § 250 (1981).

"Unfortunately, the terminology adopted by lawyers in this field has been neither uniform nor consistent, owing primarily to the historical difference between common law and equity, each originating in a different Court. Thus, whereas common lawyers tend to talk of repudiating a contract, equity lawyers talk of rescinding or setting aside a contract. Further inconsistency arises from the special terminology used in relation to certain special contracts. For instance, in a contract of sale of goods, we talk of the buyer rejecting the goods rather than repudiating the contract, although this usually amounts to the same thing. Further confusion arises from the fact that lawyers use the word 'repudiation' indiscriminately to mean rightful and wrongful repudiation, and it may not always be clear, at any rate to the beginner, which they mean. However, the main difficulty is the divergence between common law and equity, and this divergence is so deep-rooted that lawyers still feel that repudiation and

rescission are different things. Thus most books on the law of Contract discuss the right to repudiate the contract for breach of condition in a section on Remedies, while they treat of the right to rescind a contract in the section on Misrepresentation. Indeed, so different are repudiation and rescission believed to be, that serious confusion is caused in the law of sale of goods by the fact that the Sale of Goods Act regulates the former but not the latter." P.S. Atiyah, *An Introduction to the Law of Contract* 294 (3d ed. 1981).

anticipatory repudiation. Repudiation of a contractual duty before the time for performance, giving the injured party an immediate right to damages for total breach, as well as discharging the injured party's remaining duties of performance. ● This type of repudiation occurs when the promisor unequivocally disavows any intention to perform when the time for performance comes. Once the repudiation occurs, the nonrepudiating party has three options: (1) treat the repudiation as an immediate breach and sue for damages; (2) ignore the repudiation, urge the repudiator to perform, wait for the specified time of performance, and sue if the repudiating party does not perform; and (3) cancel the contract. — Also termed *renunciation*. See *anticipatory breach* under BREACH OF CONTRACT.

The first Restatement lists three actions that constitute anticipatory repudiation: "(a) a positive statement to the promisee or other person having a right under the contract, indicating that the promisor will not or cannot substantially perform his contractual duties; (b) transferring or contracting to transfer to a third person an interest in specific land, goods, or in any other thing essential for the substantial performance of his contractual duties; (c) any voluntary affirmative act which renders substantial performance of his contractual duties impossible, or apparently impossible." Restatement of Contracts § 318 (1932).

total repudiation. An unconditional refusal by a party to perform the acts required by a contract. ● This type of repudiation justifies the other party in refraining from performance.

repudiator (ri-pyoo-dee-ay-tər). One who repudiates; esp., a party who repudiates a contract.

repugnancy (ri-pəg-nən-see). An inconsistency or contradiction between two or more parts of a legal instrument (such as a contract or statute).

repugnant (ri-pəg-nənt), *adj.* Inconsistent or irreconcilable with; contrary or contradictory to <the court's interpretation was repugnant to the express wording of the statute>.

repugnant verdict. See VERDICT.

repurchase, *n.* The act or an instance of buying something back or again; esp., a corporation's buying back of some or all of its stock at market price. — **repurchase**, *vb.* See REDEMPTION.

repurchase agreement. A short-term loan agreement by which one party sells a security to another party but promises to buy back the security on a specified date at a specified price. — Often shortened to *repo*.

repurchase price. See *redemption price* under PRICE.

reputation, *n.* The esteem in which a person is held by others. • Evidence of reputation may be introduced as proof of character whenever character evidence is admissible. Fed. R. Evid. 405. — **reputational**, *adj.*

reputational evidence. See *reputation evidence* under EVIDENCE.

reputation evidence. See EVIDENCE.

reputed manor. See MANOR.

request for admission. *Civil procedure.* In pretrial discovery, a party's written factual statement served on another party who must admit, deny, or object to the substance of the statement. • Ordinarily, many requests for admission appear in one document. The admitted statements — along with any statements not denied or objected to — will be treated by the court as established, and therefore do not have to be proved at trial. Fed. R. Civ. P. 36. — Abbr. RFA. — Also termed *request for admissions*; *request to admit*.

request for instructions. *Procedure.* During trial, a party's written request that the court instruct the jury on the law as set forth in the request. Fed. R. Civ. P. 51. — Abbr. RFI. — Also termed *request to charge*.

request for production. *Procedure.* In pretrial discovery, a party's written request that another party provide specified documents or other tangible things for inspection and copying. Fed. R. Civ. P. 34. — Abbr. RFP. — Also termed *notice to produce*; *demand for document inspection*.

request to admit. See REQUEST FOR ADMISSION.

request to charge. See REQUEST FOR INSTRUCTIONS.

required-records doctrine. The principle that the privilege against self-incrimination does not apply when one is being compelled to produce business records that are kept in accordance with government regulations and that involve public aspects. • Some courts have held that certain medical records and tax forms fall within this doctrine and are thus not protected by the privilege against self-incrimination.

required reserve. See RESERVE.

requirements contract. See CONTRACT.

requisition (rek-wə-zish-ən), *n.* **1.** An authoritative, formal demand <a state governor's requisition for another state's surrender of a fugitive>. **2.** A governmental seizure of property <the state's requisition of the shopping center during the weather emergency>. See TAKING. — **requisition**, *vb.*

requisitionist. One who makes a formal demand (as for the performance of an obligation or the return of a fugitive). See REQUISITION (1).

requisitory letter. See LETTER OF REQUEST.

rere-county (reer-kown-tee). *Hist.* A subsidiary English county court held by the sheriff on the day after the regular county court. — Also spelled *rere county*; *rier county*.

res (rays or reez or rez), *n.* [Latin "thing"] **1.** An object, interest, or status, as opposed to a person <jurisdiction of the res — the real property in Colorado>. **2.** The subject matter of a trust; CORPUS (2) <the stock certificate is the res of the trust>. Pl. **res.**

res accessoria (rays ak-ses-or-ee-ə). [Latin] *Civil law.* An accessory thing; a thing that is related to a principal thing.

res adjudicata (rays ə-joo-di-kay-tə or -kah-tə). See RES JUDICATA.

resale, *n.* **1.** The act of selling goods or property — previously sold to a buyer who breached the sales contract — to someone else. UCC § 2-706. **2.** A retailer's selling of goods, previously purchased from a manufacturer or wholesaler, to consumers. — **resell**, *vb.*

resale-price maintenance. A form of price-fixing in which a manufacturer forces or persuades several different retailers to sell the manufacturer's product at the same price, thus preventing competition. • Resale-price maintenance is per se illegal under antitrust law. But a manufacturer is permitted to suggest a retail price as long as it does not compel retailers to sell at that price. See *vertical price-fixing* under PRICE-FIXING.

res caduca (rays kə-d[y]oo-kə). [Latin] *Civil law*. A fallen thing; an escheat.

resceit (ri-seet). *Hist.* The admittance of an interested third party to plead in a case between two others; intervention.

rescind (ri-sind), *vb.* **1.** To abrogate or cancel (a contract) unilaterally or by agreement. **2.** To make void; to repeal or annul <rescind the legislation>. — **rescindable**, *adj.*

rescissio (ri-sis[h]-ee-oh). [Latin] *Civil law*. Annulment or voidance of something; rescission.

rescission (ri-sizh-ən), *n.* **1.** A party's unilateral unmaking of a contract for a legally sufficient reason, such as the other party's material breach. • Rescission is generally available as a remedy or defense for a nondefaulting party and restores the parties to their precontractual positions. **2.** An agreement by contracting parties to discharge all remaining duties of performance and terminate the contract. — Also termed (in sense 2) *agreement of rescission*; *mutual rescission*; *abandonment*. — Also spelled *recision*; *recission*. — **rescissory** (ri-sis-ə-ree or ri-siz-), *adj.* Cf. REJECTION; REPUDIATION.

"The [UCC] takes cognizance of the fact that the term 'rescission' is often used by lawyers, courts and businessmen in many different senses; for example, termination of a contract by virtue of an option to terminate in the agreement, cancellation for breach and avoidance on the grounds of infancy or fraud. In the interests of clarity of thought — as the consequences of each of these forms of discharge may vary — the Commercial Code carefully distinguishes three circumstances. 'Rescission' is utilized as a term of art to refer to a mutual agreement to discharge contractual duties. 'Termination' refers to the discharge of duties by the exercise of a power granted by the agreement. 'Cancellation' refers to the putting an end to the contract by reason of a breach by the other party. Section 2-720, however, takes into account that the parties do not necessarily use these terms in this way." John D. Calamari & Joseph M. Perillo, *The Law of Contracts* § 21-2, at 864-65 (3d ed. 1987).

equitable rescission. Rescission that is decreed by a court of equity.

legal rescission. Rescission that is effected by the agreement of the parties.

rescissory damages. See DAMAGES.

res communes (rays kə-myoo-nee). [Latin "common things"] *Civil law*. Things common to all; things that cannot be owned or appropriated, such as light, air, and the sea.

res controversa (rays kon-trə-vər-sə). [Latin] *Civil law*. A matter in controversy; a point in question.

res coronae (rays kə-roh-nee). [Latin] *Hist.* Things of the Crown, such as ancient manors, homages of the king, and liberties.

res corporales (rays kor-pə-ray-leez). [Latin] *Civil law*. Corporeal things; tangible things that are perceptible to the senses.

rescous (res-kəs). **1.** RESCUE (2). **2.** RESCUE (3).

rescript (ree-skript), *n.* **1.** A judge's written order to a court clerk explaining how to dispose of a case. **2.** An appellate court's written decision, usu. unsigned, that is sent down to the trial court. **3.** A Roman emperor's or a Pope's written answer to a legal inquiry or petition. Cf. PRECES. **4.** A duplicate or counterpart; a rewriting.

rescue, *n.* **1.** The act or an instance of saving or freeing someone from danger or captivity. **2.** The forcible and unlawful freeing of a person from arrest or imprisonment. — Also termed *rescous*.

"A *rescue* signifies a forcible setting at liberty, against law, of a person duly arrested. It is necessary, that the rescuer should have knowledge that the person whom he sets at liberty has been apprehended for a criminal offence, if he be in the custody of a private person; but if he be under the care of an officer, then he is to take notice of it at his peril." 1 Joseph Chitty, *A Practical Treatise on the Criminal Law* 62 (2d ed. 1826).

3. The forcible retaking by the owner of goods that have been lawfully distrained. — Also termed *rescous*. Cf. REPOSSESSION. **4.** *Int'l law*. The retaking of a prize by persons captured with it, so that the property is legally restored to its original owner. See POSTLIMINIUM (2). — **rescue**, *vb.*

rescue clause. See SUE-AND-LABOR CLAUSE.

rescue doctrine. *Torts.* The principle that a tortfeasor who negligently endangered a person

is liable for injuries to someone who reasonably attempted to rescue the person in danger. • The rationale for this doctrine is that an attempted rescue of someone in danger is always foreseeable. Thus, if the tortfeasor is negligent toward the rescuer, the tortfeasor is also negligent toward the rescuer. Cf. EMERGENCY DOCTRINE; GOOD SAMARITAN DOCTRINE.

rescussu. See DE RESCUSSU.

res derelicta (rays der-ə-lik-tə). [Latin] A thing thrown away or forsaken by its owner; abandoned property.

res dominans (rays dom-ə-nanz). [Latin] The dominant property entitled to enjoy a servitude. See *dominant estate* under ESTATE.

research and development. An effort (as by a company or business enterprise) to create or improve products or services, esp. by discovering new technology or advancing existing technology. — Abbr. R and D; R & D.

reseiser (ri-see-zər). *Hist.* The taking of lands by the monarch in a case in which a general livery or ouster le main was previously misused.

resentencing, n. The act or an instance of imposing a new or revised criminal sentence. — **resentence, vb.**

reservation. 1. The creation of a new right or interest (such as an easement), by and for the grantor, in real property being granted to another. Cf. EXCEPTION (3).

implied reservation. An implied easement that reserves in a landowner an easement across a portion of sold land, such as a right-of-way over land lying between the seller's home and the only exit. • An implied reservation arises only if the seller could have expressly reserved an easement, but for some reason failed to do so. See *implied easement* under EASEMENT.

"If the implied easement is in favor of the conveyee and is appurtenant to the tract conveyed, it is called an implied grant; if the implied easement is in favor of the conveyor and is appurtenant to the tract retained, it is called an implied reservation." Ralph E. Boyer et al., *The Law of Property* 311 (4th ed. 1991).

2. The establishment of a limiting condition or qualification; esp., a nation's formal declaration, upon signing or ratifying a treaty, that its willingness to become a party to the treaty is conditioned on certain additional terms that

will limit the effect of the treaty in some way.

3. A tract of public land set aside for a special purpose; esp., a tract of land set aside for use by an American Indian tribe. — Also termed (in sense 3) *reserve*.

reservation of rights. See NONWAIVER AGREEMENT.

reserve, n. 1. Something retained or stored for future use; esp., a fund of money set aside by a bank or an insurance company to cover future liabilities.

amortization reserve. An account created for bookkeeping purposes to extinguish an obligation gradually over time.

bad-debt reserve. A reserve to cover losses on uncollectible accounts receivable.

legal reserve. The minimum amount of liquid assets that a bank or an insurance company must maintain by law to meet depositors' or claimants' demands.

loss reserve. 1. An insurance company's reserve that represents the estimated value of future payments, as for losses incurred but not yet reported. **2.** A bank's reserve set aside to cover possible losses, as from defaulting loans.

mean reserve. In insurance, the average of the beginning reserve (after the premium has been paid for the policy year) and the ending reserve of the policy year.

policy reserve. An insurance company's reserve that represents the difference between net premiums and expected claims for a given year. • This type of reserve is kept esp. by life-insurance companies.

required reserve. The minimum amount of money, as required by the Federal Reserve Board, that a bank must hold in the form of vault cash and deposits with regional Federal Reserve Banks.

sinking-fund reserve. A reserve used to pay long-term debt. See *sinking fund* under FUND (1).

unearned-premium reserve. An insurance company's reserve that represents premiums that have been received in advance but not yet applied to policy coverage. • If a policyholder cancels coverage before the policy expires but has already paid a premium for the full policy period, the insurance company refunds the policyholder out of this reserve.

2. RESERVATION (3). 3. See *net value* under VALUE. — **reserve, vb.**

reserve account. See *impound account* under ACCOUNT.

reserve bank. See *member bank* under BANK.

Reserve Board. See FEDERAL RESERVE BOARD OF GOVERNORS.

reserve clause. A clause in a professional athlete's contract restricting the athlete's right to change teams, even after the contract expires. ● Reserve clauses are uncommon in modern professional sports. Cf. FREE AGENCY.

reserved easement. See EASEMENT.

reserved point of law. See POINT OF LAW.

reserved power. See POWER.

Reserved Power Clause. See TENTH AMENDMENT.

reserved surplus. See *appropriated surplus* under SURPLUS.

reserve price. See PRICE.

reserve ratio. The Federal Reserve Board's measurement of a member bank's required reserves. See *required reserve* under RESERVE.

primary reserve ratio. The ratio between a bank's required reserves (cash in vault plus deposits with Federal Reserve Banks) and its demand and time deposits.

secondary reserve ratio. The ratio between a bank's government securities and its demand and time deposits.

reset, n. Scots law. 1. The act or an instance of receiving stolen goods with the intent of depriving the owner of them. 2. *Archaic.* The harboring or sheltering of a criminal or outlaw. — **reset, vb.**

resettlement, n. 1. The settlement of one or more persons in a new or former place. 2. The reopening of an order or decree for the purpose of correcting a mistake or adding an omission.

res fungibiles (rays fən-jīb-ə-leez). [Latin] *Civil law.* Fungible things; things that are commercially interchangeable.

res gestae (rays jes-tee also jes-tī), *n. pl.* [Latin "things done"] The events at issue, or other events contemporaneous with them. ● In evi-

dence law, words and statements about the *res gestae* are usu. admissible under a hearsay exception (such as present sense impression or excited utterance). Where the Federal Rules of Evidence or state rules fashioned after them are in effect, the use of *res gestae* is now out of place. See Fed. R. Evid. 803(1), (2). — Also termed *res gesta*.

"The Latin expression 'res gestae' or 'res gesta,' literally 'things done' or 'thing transacted,' has long served as a catchword . . . [T]he phrase has frequently served both to let in utterances which in strictness were not admissible and to exclude utterances which might well have been admitted. And frequently also its indefiniteness has served as a basis for rulings where it was easier for the judge to invoke this imposing catchword than to think through the real question involved. The phrase is antiquated. By modern judges it is being gradually discarded. It is superfluous, and serves only to obscure the logic of the rules. It should be left to oblivion." John H. Wigmore, *A Students' Textbook of the Law of Evidence* 279 (1935).

"The *res gestae* embraces not only the actual facts of the transaction and the circumstances surrounding it, but the matters immediately antecedent to and having a direct causal connection with it, as well as acts immediately following it and so closely connected with it as to form in reality a part of the occurrence." *State v. Fouquette*, 221 P.2d 404, 416-17 (Nev. 1950).

res gestae witness. See WITNESS.

res habiles (rays hab-ə-leez). [Latin] *Civil law.* Things that may be acquired by prescription.

resiance (rez-ee-ənts). *Archaic.* Residence; abode.

resiant (rez-ee-ənt), *adj. Archaic.* Continually dwelling or abiding in a place; resident.

resiant, n. Archaic. A resident.

residence. 1. The act or fact of living in a given place for some time <a year's residence in New Jersey>. 2. The place where one actually lives, as distinguished from a domicile <she made her residence in Oregon>. ● *Residence* usu. just means bodily presence as an inhabitant in a given place; *domicile* usu. requires bodily presence plus an intention to make the place one's home. A person thus may have more than one residence at a time but only one domicile. Sometimes, though, the two terms are used synonymously. Cf. DOMICILE. 3. The place where a corporation or other enterprise does business or is registered to do business <Pantheon Inc.'s principal residence is in Delaware>. 4. A house or other fixed abode; a dwelling <a three-story residence>.

residency. **1.** A place of residence, esp. an official one <the diplomat's residency>. **2.** The fact or condition of living in a given place <one year's residency to be eligible for in-state tuition>.

resident, n. A person who has a residence in a particular place. ● A resident is not necessarily either a citizen or a domiciliary. Cf. CITIZEN; DOMICILIARY.

resident agent. See *registered agent* under AGENT.

resident alien. See ALIEN.

residential cluster. *Land-use planning.* An area of land developed as a unit with group housing and open common space. Cf. PLANNED-UNIT DEVELOPMENT.

residential community treatment center. See HALFWAY HOUSE.

residua (ri-zij-oo-ə). *pl.* RESIDUUM.

residual, adj. Of, relating to, or constituting a residue; remaining; leftover <a residual claim> <a residual functional disability>.

residual, n. **1.** A leftover quantity; a remainder. **2.** (*often pl.*) A disability remaining after an illness, injury, or operation. **3.** (*usu. pl.*) A fee paid to a composer or performer for each repeated broadcast (esp. on television) of a film, program, or commercial.

residual estate. See *residuary estate* under ESTATE.

residual value. See *salvage value* under VALUE.

residuary (ri-zij-oo-er-ee), *adj.* Of, relating to, or constituting a residue; residual <a residuary gift>.

residuary, n. *Wills & estates.* **1.** See *residuary estate* under ESTATE. **2.** See *residuary legatee* under LEGATEE.

residuary bequest. See BEQUEST.

residuary clause. *Wills & estates.* A testamentary clause that disposes of any estate property remaining after the satisfaction of specific bequests and devises.

residuary devise. See DEVISE.

residuary devisee. See DEVISEE.

residuary estate. See ESTATE.

residuary legacy. See LEGACY.

residuary legatee. See LEGATEE.

residue. **1.** Something that is left over after a part is removed or disposed of; a remainder. **2.** See *residuary estate* under ESTATE.

residuum (ri-zij-oo-əm). **1.** That which remains; a residue. **2.** See *residuary estate* under ESTATE. *Pl. residua* (ri-zij-oo-ə).

residuum rule. *Administrative law.* The principle that an agency decision based partly on hearsay evidence will be upheld on judicial review only if the decision is founded on at least some competent evidence. ● The residuum rule has generally been rejected by federal and state courts.

resignation, n. **1.** The act or an instance of surrendering or relinquishing an office, right, or claim. **2.** A formal notification of relinquishing an office or position. — **resign, vb.**

res immobiles (rays i-moh-bə-leez). [Latin] *Civil law.* Immovable things; chattels real. See IMMOBILIA.

res incorporales (rays in-kor-pə-ray-leez). [Latin] *Civil law.* Incorporeal things; intangible things that are not perceptible to the senses. See *incorporeal thing* under THING.

res integra (rays in-tə-grə *also* in-tæg-rə). [Latin "an entire thing"] See RES NOVA.

res inter alios acta (rays in-tər ay-lee-ohs aktə). [Latin "a thing done between others"] **1.** *Contracts.* The common-law doctrine holding that a contract cannot unfavorably affect the rights of a person who is not a party to the contract. **2.** *Evidence.* The rule prohibiting the admission of collateral facts into evidence.

res ipsa loquitur (rays ip-sə loh-kwə-tər). [Latin "the thing speaks for itself"] **1.** *Torts.* The doctrine providing that, in some circumstances, the mere fact of an accident's occurrence raises an inference of negligence so as to establish a prima facie case. — Often shortened to *res ipsa*. — Also termed *resipsy*.

"The phrase 'res ipsa loquitur' is a symbol for the rule that the fact of the occurrence of an injury, taken with the surrounding circumstances, may permit an inference or raise a presumption of negligence, or make out a plaintiff's prima facie case, and present a question of fact for defendant to meet with an explanation. It is merely a short way of saying that the circumstances attendant on the accident are of such a nature as to justify a jury, in light of common sense and past experience, in inferring that the accident was probably the result of the defendant's negligence, in the absence of explanation or other evidence which the jury believes." Stuart M. Speiser, *The Negligence Case: Res Ipsa Loquitur* § 1:2, at 5-6 (1972).

"It is said that *res ipsa loquitur* does not apply if the cause of the harm is known. This is a dark saying. The application of the principle nearly always presupposes that some part of the causal process is known, but what is lacking is evidence of its connection with the defendant's act or omission. When the fact of control is used to justify the inference that defendant's negligence was responsible it must of course be shown that the thing in his control in fact caused the harm. In a sense, therefore, the cause of the harm must be known before the maxim can apply." H.L.A. Hart & Tony Honoré, *Causation in the Law* 419-20 (2d ed. 1985).

"Res ipsa loquitur is an appropriate form of circumstantial evidence enabling the plaintiff in particular cases to establish the defendant's likely negligence. Hence the *res ipsa loquitur* doctrine, properly applied, does not entail any covert form of strict liability. . . . The doctrine implies that the court does not know, and cannot find out, what actually happened in the individual case. Instead, the finding of likely negligence is derived from knowledge of the causes of the type or category of accidents involved." Restatement (Third) of Torts § 15 cmt. a (Discussion Draft 1999).

2. Criminal law. A test used to determine whether a defendant has gone beyond preparation and committed an attempt, based on whether the defendant's act itself indicated to an observer what the defendant intended to do. — Also termed (in sense 2) *equivocality*.

resisting arrest. The crime of obstructing or opposing a police officer who is making an arrest. — Also termed *resisting lawful arrest*.

resisting unlawful arrest. The act of opposing a police officer who is making an unlawful arrest. • Most jurisdictions have accepted the Model Penal Code position prohibiting the use of force to resist an unlawful arrest when the person arrested knows that a police officer is making the arrest. But some jurisdictions allow an arrestee to use nondeadly force to prevent the arrest.

res judicata (rays joo-di-kay-tə or -kah-tə). [Latin "a thing adjudicated"] **1.** An issue that has been definitively settled by judicial decision. **2.** An affirmative defense barring the same parties from litigating a second lawsuit

on the same claim, or any other claim arising from the same transaction or series of transactions and that could have been — but was not — raised in the first suit. • The three essential elements are (1) an earlier decision on the issue, (2) a final judgment on the merits, and (3) the involvement of the same parties, or parties in privity with the original parties. Restatement (Second) of Judgments §§ 17, 24 (1982). — Also termed *res adjudicata*; *claim preclusion*. Cf. COLLATERAL ESTOPPEL.

"'Res judicata' has been used in this section as a general term referring to all of the ways in which one judgment will have a binding effect on another. That usage is and doubtless will continue to be common, but it lumps under a single name two quite different effects of judgments. The first is the effect of foreclosing any litigation of matters that never have been litigated, because of the determination that they should have been advanced in an earlier suit. The second is the effect of foreclosing relitigation of matters that have once been litigated and decided. The first of these, preclusion of matters that were never litigated, has gone under the name, 'true res judicata,' or the names, 'merger' and 'bar.' The second doctrine, preclusion of matters that have once been decided, has usually been called 'collateral estoppel.' Professor Allan Vestal has long argued for the use of the names 'claim preclusion' and 'issue preclusion' for these two doctrines [Vestal, *Rationale of Preclusion*, 9 St. Louis U. L.J. 29 (1964)], and this usage is increasingly employed by the courts as it is by Restatement Second of Judgments." Charles Alan Wright, *The Law of Federal Courts* § 100A, at 722-23 (5th ed. 1994).

res litigiosae (rays li-tij-ee-oh-see). [Latin] *Civil law*. Things that are in litigation; property or rights that are the subject of a pending action.

res mancipi (rays man-sə-pi). [Latin "things of mancipium"] *Roman law*. Property that can be transferred only by a formal ceremony of mancipation. — Also termed *mancipi res*; *things mancipi*. See MANCIPATION.

res mobiles (rays moh-bə-leez). [Latin] *Civil law*. Movable things; chattels personal.

res nec mancipi (rays nek man-sə-pi). [Latin "things not of mancipium"] *Roman law*. Property that can be transferred without a formal ceremony of mancipation. — Also termed *things nec mancipi*.

res nova (rays noh-və). [Latin "new thing"] **1.** An undecided question of law. **2.** A case of first impression. — Also termed *res integra*. See case of *first impression* under CASE.

res nullius (rays nə-ll-əs). [Latin "thing of no one"] A thing that can belong to no one; an ownerless chattel.

resolution. 1. A formal expression of an opinion, intention, or decision by an official body or assembly (esp. a legislature).

concurrent resolution. A resolution passed by one house and agreed to by the other. • It expresses the legislature's opinion on a subject but does not have the force of law.

joint resolution. A legislative resolution passed by both houses. • It has the force of law and is subject to executive veto.

simple resolution. A resolution passed by one house only. • It expresses the opinion or affects the internal affairs of the passing house, but it does not have the force of law.

2. Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment.

shareholder resolution. A resolution by shareholders, usu. to ratify the actions of the board of directors.

3. A document containing such an expression or authorization.

Resolution Trust Corporation. A federal agency established to act as a receiver for insolvent federal savings-and-loan associations and to transfer or liquidate those associations' assets. • The agency was created when the Federal Savings and Loan Insurance Corporation was abolished in 1989. — Abbr. RTC. See FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.

resolutive condition. See *resolutive condition* under CONDITION (2).

resolutive (ri-zahl-yə-tor-ee), *adj.* Operating or serving to annul, dissolve, or terminate <a resolutive clause>.

resolutive condition. See CONDITION (2).

resort, *n.* Something that one turns to for aid or refuge <the court of last resort>. — **resort**, *vb.*

RESPA (res-pə). *abbr.* REAL ESTATE SETTLEMENT PROCEDURES ACT.

respite (res-pit), *n.* 1. A period of temporary delay; an extension of time. 2. A temporary suspension of a death sentence; a reprieve. 3. A delay granted to a jury or court for further consideration of a verdict or appeal. 4. *Civil law.* An agreement between a debtor and sever-

al creditors for an extension of time to repay the various debts. — **respite**, *vb.*

forced respite. A respite in which some of the creditors are compelled by a court to give the same extension of time that the other creditors have agreed to.

voluntary respite. A respite in which all the creditors agree to the debtor's proposal for an extension of time.

respondeat ouster (ri-spon-dee-at ow-stər). [Latin "let him make further answer"] A judgment or order that a party who made a dilatory plea that has been denied must now plead on the merits.

"In case of felony, if the plea be held bad, the judgment is *respondeat ouster*; or rather, as the defendant generally pleads over to the felony, the jury are charged again, and that at the same time with the issue on the plea of *autrefois acquit*, to inquire of the second issue, and the trial proceeds as if no plea in bar had been pleaded." 1 Joseph Chitty, *A Practical Treatise on the Criminal Law* 461 (2d ed. 1826).

respondeat superior (ri-spon-dee-at soo-peer-ee-ər or sə-peer-ee-ər). [Law Latin "let the superior make answer"] *Torts.* The doctrine holding an employer or principal liable for the employee's or agent's wrongful acts committed within the scope of the employment or agency. — Also termed *master-servant rule*. See SCOPE OF EMPLOYMENT.

"Most courts have made little or no effort to explain the result, and have taken refuge in rather empty phrases, such as 'he who does a thing through another does it himself,' or the endlessly repeated formula of 'respondeat superior,' which in itself means nothing more than 'look to the man higher up.'" W. Page Keeton et al., *The Law of Torts* § 69, at 500 (5th ed. 1984).

respondent. 1. The party against whom an appeal is taken; APPELLEE. 2. The party against whom a motion or petition is filed. Cf. PETITIONER. 3. At common law, the defendant in an equity proceeding. 4. *Civil law.* One who answers for another or acts as another's security.

respondent bank. See BANK.

respondentia (ree-spon-den-shee-ə or res-pon-). [Law Latin fr. Latin *respondere* "to answer"] A loan secured by the cargo on one's ship rather than the ship itself. Cf. BOTTOMRY.

respondentia bond. See BOND (2).

respondere non debet (ri-spon-də-ree non deb-ət). [Latin] *Common-law pleading.* The prayer of a plea in which the defendant insists that he

or she does not have to answer — because of a privilege, for example.

responsalis (res-pon-say-lis). [Law Latin] **1.** *Hist.* One who appears and answers for another. **2.** *Eccles. law.* A proctor. See APOCRISARIUS.

responsa prudentium (ri-spon-sə proo-den-shee-əm). [Latin “the answers of the learned”] *Hist.* The opinions and judgments of eminent lawyers or jurists on questions of law addressed to them. • The *responsa prudentium* originally constituted part of the early Roman civil law. Roman citizens seeking legal advice, as well as magistrates and judges, often referred legal questions to leading jurists so as to obtain their opinions (*responsa*). The *responsa* of some leading jurists were collected, much in the manner of caselaw digests, and many of them passed into Justinian’s Digest. The phrase *responsa prudentium* gradually migrated to the common law, but today it is of primarily historical use. — Also spelled *responsa prudentum*.

“[T]he *judex*, or as we would now call him, the referee, might have no technical knowledge of law whatever. Under such conditions the unlearned judicial magistrates naturally looked for light and leading to the juriconsults who instructed them through their *responsa prudentium*, the technical name given to their opinions as experts, which were promptly recorded on tablets by their students or disciples.” Hannis Taylor, *The Science of Jurisprudence* 90–91 (1908).

“In [classical Latin] *responsa prudentium* is the usual form, but most of the legal sources . . . have *prudentum* following the example of Blackstone (1765).” *The Oxford English Dictionary* (2d ed. 1989).

responsibility, *n.* **1.** LIABILITY (1). **2.** *Criminal law.* A person’s mental fitness to answer in court for his or her actions. See COMPETENCY. **3.** *Criminal law.* Guilt. — Also termed (in senses 2 & 3) *criminal responsibility*. — **responsible**, *adj.*

“[As for] the ambiguities of the word ‘responsibility,’ . . . it is, I think, still important to distinguish two of the very different things this difficult word may mean. To say that someone is legally responsible for something often means only that under legal rules he is liable to be made either to suffer or to pay compensation in certain eventualities. The expression ‘he’ll pay for it’ covers both these things. In this the primary sense of the word, though a man is normally only responsible for his own actions or the harm he has done, he may be also responsible for the actions of other persons if legal rules so provide. Indeed in this sense a baby in arms or a totally insane person might be legally responsible — again, if the rules so provide; for the word simply means liable to be made to account or pay and we might call this sense of the word ‘legal accountability’. But the new idea — the programme of eliminating responsibility — is not, as some have feared, meant to eliminate legal accountability: persons who break the law are not just to be left free.

What is to be eliminated are enquiries as to whether a person who has done what the law forbids was responsible at the time he did it and responsible in this sense does not refer to the legal status of accountability. It means the capacity, so far as this is a matter of a man’s mind or will, which normal people have to control their actions and conform to law. In this sense of responsibility a man’s responsibility can be said to be ‘impaired.’” H.L.A. Hart, “Changing Conceptions of Responsibility,” in *Punishment and Responsibility* 186, 196–97 (1968).

responsible broker-dealer. See BROKER.

responsive, *adj.* Giving or constituting a response; answering <the witness’s testimony is not responsive to the question>.

responsive pleading. See PLEADING (1).

responsive verdict. See VERDICT.

res privatae (rays pri-vay-tee). [Latin “private things”] *Roman & civil law.* Things that can be owned by individuals.

res publicae (rays pəb-li-see). [Latin “public things”] *Roman & civil law.* Things that cannot be individually owned because they belong to the public, such as the sea, navigable waters, and highways.

res quotidianae (rays kwoh-tid-ee-ay-nee). [Latin] *Civil law.* Everyday matters; familiar points or questions.

res religiosae (rays ri-lij-ee-oh-see). [Latin] *Civil law.* Religious things; esp., burial places.

res sanctae (rays sangk-tee). [Latin “sacred thing”] *Roman law.* The walls of a city. • The Romans considered maintenance of city walls so important that damage to a city’s walls was a capital offense.

res serviens (rays sər-vee-enz). [Latin] The servient property subject to a servitude. See *servient estate* under ESTATE.

rest, *vb.* **1.** (Of a litigant) to voluntarily conclude presenting evidence in a trial <after the police officer’s testimony, the prosecution rested>. **2.** (Of a litigant) to voluntarily conclude presenting evidence in (a trial) <the defense rested its case after presenting just two witnesses>.

Restatement. One of several influential treatises, published by the American Law Institute, describing the law in a given area and guiding its development. • Although the Restatements

are frequently cited in cases and commentary, they are not binding on the courts. Restatements have been published in the following areas of law: Agency, Conflict of Laws, Contracts, Foreign Relations Law of the United States, Judgments, Law Governing Lawyers, Property, Restitution, Security, Suretyship and Guaranty, Torts, Trusts, and Unfair Competition. — Also termed *Restatement of the Law*.

"We speak of the work which the organization should undertake as a restatement; its object should not only be to help make certain much that is now uncertain and to simplify unnecessary complexities, but also to promote those changes which will tend better to adapt the laws to the needs of life. The character of the restatement which we have in mind can be best described by saying that it should be at once analytical, critical and constructive." Committee on the Establishment of a Permanent Organization for the Improvement of the Law (Elihu Root, chairman), *Report Proposing the Establishment of an American Law Institute*, 1 ALI Proc. 14 (1923).

restater. An author or reporter of a Restatement.

restaur (res-tor). **1.** The recourse that insurers (esp. marine underwriters) have against each other according to the date of their insurance. **2.** The recourse that marine insurers have against a ship's master if a loss occurs through the master's fault or negligence. **3.** The recourse that one has against a guarantor or other person under a duty to indemnify. — Also spelled *restor*.

restitutio in integrum (res-tə-t[y]oo-shee-oh in in-tə-grəm). [Law Latin] *Roman & civil law*. Restoration to the previous condition or the status quo. • In Roman law, a praetor could accomplish this by annulling a contract or transaction that was strictly legally valid but inequitable and by restoring the parties to their previous legal relationship. The phrase is still sometimes used in American law (esp. in Louisiana) when a court annuls a contract and orders restitution on equitable grounds.

restitution, n. **1.** Return or restoration of some specific thing to its rightful owner or status. **2.** Compensation for benefits derived from a wrong done to another. **3.** Compensation or reparation for the loss caused to another. • In senses 2 and 3, restitution is available in tort and contract law and is sometimes ordered as a condition of probation in criminal law. — **restitutionary, adj.**

"The term 'restitution' appears in early decisions, but general recognition probably began with the publication of the *Restatement of Restitution* [in 1937]. The term is not wholly apt since it suggests restoration to the suc-

cessful party of some benefit obtained from him. Usually this will be the case where relief is given, but by no means always. There are cases in which the successful party obtains restitution of something he did not have before, for example a benefit received by the defendant from a third person which justly should go to the plaintiff." 1 George E. Palmer, *The Law of Restitution* § 1.1, at 4 (1978).

"'Restitution' is an ambiguous term, sometimes referring to the disgorging of something which has been taken and at times referring to compensation for injury done. Often, the result under either meaning of the term would be the same. If the plaintiff has been defrauded into paying \$1,000 to the defendant, his loss and the defendant's gain coincide. Where they do not coincide, as where the plaintiff is out of pocket more than the defendant has gained and the defendant's conduct is tortious, the plaintiff will recover his loss in a quasi-contractual or equitable action for restitution. Unjust impoverishment as well as unjust enrichment is a ground for restitution. If the defendant is guilty of a non-tortious misrepresentation, the measure of recovery is not rigid but, as in other cases of restitution, such factors as relative fault, the agreed upon risks, and the fairness of alternative risk allocations not agreed upon and not attributable to the fault of either party need to be weighed." John D. Calamari & Joseph M. Perillo, *The Law of Contracts* § 9-23, at 376 (3d ed. 1987).

restitutionary redress. See REDRESS.

restitution damages. See DAMAGES.

restitutione extracti ab ecclesia (res-tə-t[y]oo-shee-oh-nee ek-strak-ti ab e-klee-z[h]ee-ə). [Latin] *Eccles. law*. A writ restoring someone who had been suspected or accused of a felony to the church.

restitutione temporalium (res-tə-t[y]oo-shee-oh-nee tem-pə-ray-lee-əm). [Latin] *Eccles. law*. A writ directing the sheriff to restore the temporalities of a diocese to a bishop. See TEMPORALITY (2).

restitutory interdict. See INTERDICT (1).

restor. See RESTAUR.

restraining order. **1.** A court order prohibiting or restricting a person from harassing, threatening, and sometimes even contacting or approaching another specified person. • This type of order is issued most commonly in cases of domestic violence. — Also termed *protection order*; *protective order*. **2.** TEMPORARY RESTRAINING ORDER.

restraint, n. **1.** Confinement, abridgment, or limitation <a restraint on the freedom of speech>. See PRIOR RESTRAINT. **2.** Prohibition

of action; holding back <the victim's family exercised no restraint — they told the suspect exactly what they thought of him>. **3. RESTRAINT OF TRADE.**

restraint of marriage. A condition (esp. in a gift or bequest) that nullifies the grant to which it applies if the grantee marries or remarries. ● Restraints of marriage are usu. void if they are general or unlimited in scope.

restraint of princes. *Archaic.* An embargo. ● The phrase still occasionally appears in marine-insurance contexts. — Also termed *restraint of princes and rulers; restraint of princes, rulers, and people.* See EMBARGO.

restraint of trade. *Antitrust.* An agreement between or combination of businesses intended to eliminate competition, create a monopoly, artificially raise prices, or otherwise adversely affect the free market. ● Restraints of trade are usu. illegal, but may be declared reasonable if they are in the best interests of both the parties and the public. — Often shortened to *restraint*. — Also termed *conspiracy in restraint of trade*. See PER SE RULE; RULE OF REASON.

horizontal restraint. A restraint of trade imposed by agreement between competitors at the same level of distribution. ● The restraint is horizontal not because it has horizontal effects, but because it is the product of a horizontal agreement. — Also termed *horizontal agreement*.

unreasonable restraint of trade. A restraint of trade that produces a significant anticompetitive effect and thus violates antitrust law.

vertical restraint. A restraint of trade imposed by agreement between firms at different levels of distribution (as between manufacturer and retailer).

restraint on alienation. 1. A restriction, usu. in a deed of conveyance, on a grantee's ability to sell or transfer real property; a provision that conveys an interest and that, even after the interest has become vested, prevents the owner from disposing of it at all or from disposing of it in particular ways or to particular persons. ● Restraints on alienation are generally unenforceable as against public policy favoring the free alienability of land. — Also termed *unreasonable restraint on alienation. 2.* A trust provision that prohibits or penalizes alienation of the trust corpus.

restricted interpretation. See *restrictive interpretation* under INTERPRETATION.

restricted security. See SECURITY.

restricted stock. See *restricted security* under SECURITY.

restricted surplus. See SURPLUS.

restriction. 1. A limitation or qualification. **2.** A limitation (esp. in a deed) placed on the use or enjoyment of property. See *restrictive covenant* under COVENANT (4). **3. Military law.** A deprivation of liberty involving moral and legal, rather than physical, restraint. ● A military restriction is imposed as punishment either by a commanding officer's nonjudicial punishment or by a summary, special, or general court-martial. Restriction is a lesser restraint because it permits the restricted person to perform full military duties. See *nonjudicial punishment* under PUNISHMENT.

restriction in lieu of arrest. A restriction in which a person is ordered to stay within specific geographical limits, such as a base or a ship, and is permitted to perform full military duties.

restrictive condition. See *negative condition* under CONDITION (2).

restrictive covenant. See COVENANT (4).

restrictive covenant in equity. See *restrictive covenant* under COVENANT (4).

restrictive indorsement. See INDORSEMENT.

restrictive interpretation. See INTERPRETATION.

restrictive principle of sovereign immunity. The doctrine by which a foreign nation's immunity does not apply to claims arising from the nation's private or commercial acts, but protects the nation only from claims arising from its public functions. See COMMERCIAL-ACTIVITY EXCEPTION; JURE GESTIONIS; JURE IMPERII.

"[T]he [Foreign Sovereign] Immunities Act codified the so-called 'restrictive' principle of sovereign immunity, as recognized in international law. Under this doctrine, the immunity of a foreign state in the courts of the United States is 'restricted' to claims involving the foreign state's public acts and does not extend to suits based on its commercial or private conduct." 14A Charles Alan Wright et al., *Federal Practice and Procedure* § 3662, at 161-62 (3d ed. 1998).

resulting power. See POWER.

resulting trust. See TRUST.

resulting use. See USE (4).

resummons. A second or renewed summons to a party or witness already summoned. See SUMMONS.

resumption. **1.** The taking back of property previously given up or lost. **2. Hist.** The retaking by the Crown or other authority of lands or rights previously given to another (as because of false suggestion or other error).

res universitatis (rays yoo-nə-vər-sə-tay-tis). [Latin] *Civil law.* Things belonging to a community (such as a municipality) and free to be used by all its members, such as public buildings and streets.

resurrender, n. Hist. The return of a copyhold estate to a mortgagor by the mortgagee after the debt has been repaid. See SURRENDER OF COPYHOLD.

retail, n. The sale of goods or commodities to ultimate consumers, as opposed to the sale for further distribution or processing. — **retail, vb.** — **retail, adj.** Cf. WHOLESALE.

retailer, n. A person or entity engaged in the business of selling personal property to the public or to consumers, as opposed to selling to those who intend to resell the items.

retail installment contract. See CONTRACT.

retail installment contract and security agreement. See *retail installment contract* under CONTRACT.

retail installment sale. See INSTALLMENT SALE.

retail sales tax. See *sales tax* under TAX.

retainage (ri-tayn-ij). A percentage of what a landowner pays a contractor, withheld until the construction has been satisfactorily completed and all mechanic's liens are released or have expired.

retained earnings. See EARNINGS.

retainer, n. 1. A client's authorization for a lawyer to act in a case <the attorney needed an

express retainer before making a settlement offer>. **2.** A fee paid to a lawyer to secure legal representation <he requires a \$100,000 retainer>. — Also termed *retaining fee*. — **retain, vb.** Cf. ATTORNEY'S FEES.

general retainer. A retainer for a specific length of time rather than for a specific project.

special retainer. A retainer for a specific case or project.

retaining fee. See RETAINER (2).

retaining lien. See LIEN.

retaliatory discharge. See DISCHARGE (7).

retaliatory eviction. See EVICTION.

retaliatory law. A state law restraining another state's businesses — as by levying taxes — in response to similar restraints imposed by the second state on the first state's businesses.

retaliatory tariff. See TARIFF (2).

retallia (ri-tal-ee-ə). [Law Latin] *Hist.* The sale of goods or commodities in small quantities; retail.

retenementum (ri-ten-ə-men-təm). *Hist.* A withholding; restraint or detainment.

retinue. A group of persons who are retained to follow and attend to a sovereign, noble, or other distinguished person.

retired stock. See *treasury stock* under STOCK.

retirement, n. 1. Voluntary termination of one's own employment or career, esp. upon reaching a certain age <she traveled around the world after her retirement>. **2.** Withdrawal from action or for privacy <Carol's retirement to her house by the lake>. **3.** Withdrawal from circulation; payment of a debt <retirement of a series of bonds>. See REDEMPTION. — **retire, vb.**

retirement annuity. See ANNUITY.

retirement-income insurance. See INSURANCE.

retirement plan. See EMPLOYEE BENEFIT PLAN.

retorna brevium (ri-tor-nə bree-vee-əm). [Law Latin] *Hist.* The return of a writ. ● This was the indorsement on a writ by a sheriff or other officer, reporting on the writ's execution.

retorno habendo. See DE RETORNO HABENDO.

retorsion (ri-tor-shən). *Int'l law.* An act of lawful retaliation in kind for another nation's unfriendly or unfair act. ● Examples of retorsion include suspending diplomatic relations, expelling foreign nationals, and restricting travel rights. — Also spelled *retortion*. Cf. REPRISAL (2).

retraction, n. **1.** The act of taking or drawing back <retraction of anticipatory repudiation before breach of contract>. **2.** The act of recanting; a statement in recantation <retraction of a defamatory remark>. **3.** *Wills & estates.* A withdrawal of a renunciation <because of her retraction, she took property under her uncle's will>. See RENUNCIATION (3). — **retract, vb.**

retraxit (ri-trak-sit). [Latin "he has withdrawn"] A plaintiff's voluntary withdrawal of a lawsuit in court so that the plaintiff forfeits the right of action. ● In modern practice, retraxit is called *voluntary dismissal* or *dismissal with prejudice*. See *judgment of retraxit* under JUDGMENT.

retreat rule. *Criminal law.* The doctrine holding that the victim of a murderous assault must choose a safe retreat instead of resorting to deadly force in self-defense, unless (1) the victim is at home or in his or her place of business (the so-called *castle doctrine*), or (2) the assailant is a person whom the victim is trying to arrest. ● A minority of American jurisdictions have adopted this rule. Cf. NO-RETREAT RULE.

retrial, n. A new trial of an action that has already been tried. — **retry, vb.** See TRIAL DE NOVO.

retribution, n. **1.** *Criminal law.* Punishment imposed as repayment or revenge for the offense committed; requital. Cf. DETERRENCE; REHABILITATION (1). **2.** Something justly deserved; repayment; reward. — **retribute, vb.** — **retributive, adj.**

retributive danger. See DANGER.

retributive punishment. See PUNISHMENT.

retributivism (ri-trib-yə-tə-viz-əm). The legal theory by which criminal punishment is justified, as long as the offender is morally accountable, regardless of whether deterrence or other good consequences would result. ● According to retributivism, a criminal is thought to have a debt to pay to society, which is paid by punishment. The punishment is also sometimes said to be society's act of paying back the criminal for the wrong done. Opponents of retributivism sometimes refer to it as "vindictive theory." Cf. *hedonistic utilitarianism* under UTILITARIANISM; UTILITARIAN-DETERRENCE THEORY.

maximalist retributivism. The classical form of retributivism, espoused by scholars such as Immanuel Kant, under which it is argued that society has a duty, not just a right, to punish a criminal who is guilty and culpable, that is, someone who has no justification or excuse for the illegal act.

minimalist retributivism. The more contemporary form of retributivism, which maintains that no one should be punished in the absence of guilt and culpability (that is, unless punishment is deserved), and that a judge may absolve the offender from punishment, wholly or partially, when doing so would further societal goals such as rehabilitation or deterrence.

retroactive, adj. (Of a statute, ruling, etc.) extending in scope or effect to matters that have occurred in the past. — Also termed *retrospective*. Cf. PROSPECTIVE (1). — **retroactivity, n.**

"'Retroactivity' is a term often used by lawyers but rarely defined. On analysis it soon becomes apparent, moreover, that it is used to cover at least two distinct concepts. The first, which may be called 'true retroactivity,' consists in the application of a new rule of law to an act or transaction which was completed before the rule was promulgated. The second concept, which will be referred to as 'quasi-retroactivity,' occurs when a new rule of law is applied to an act or transaction in the process of completion. . . . [T]he foundation of these concepts is the distinction between completed and pending transactions . . ." T.C. Hartley, *The Foundations of European Community Law* 129 (1981).

retroactive law. A legislative act that looks backward or contemplates the past, affecting acts or facts that existed before the act came into effect. ● A retroactive law is not unconstitutional unless it (1) is in the nature of an *ex post facto* law or a bill of attainder, (2) impairs the obligation of contracts, (3) divests vested rights, or (4) is constitutionally forbidden. — Also termed *retrospective law*.

retrocession. 1. The act of ceding something back (such as a territory or jurisdiction). **2.** The

return of a title or other interest in property back to its former or rightful owner. **3.** The process of transferring all or part of a reinsured risk to another reinsurance company; reinsurance of reinsurance. • Subsequent retrocessions are referred to as *first retrocession*, *second retrocession*, and so on. **4.** The amount of risk that is so transferred.

retrocessionaire. *Reinsurance.* A reinsurer of a reinsurer. See RETROCESSION.

retrocessional agreement. An agreement providing for reinsurance of reinsurance.

retrospectant evidence. See EVIDENCE.

retrospective, adj. See RETROACTIVE.

retrospective law. See RETROACTIVE LAW.

retrospective statute. See STATUTE.

return, n. **1.** A court officer's bringing back of an instrument to the court that issued it; RETURN OF WRIT <a sheriff's return of citation>. **2.** A court officer's indorsement on an instrument brought back to the court, reporting what the officer did or found <a return of *nulla bona*>. See FALSE RETURN (1). **3.** TAX RETURN <file your return before April 15>. **4.** (*usu. pl.*) An official report of voting results <election returns>. **5.** Yield or profit <return on an investment>. See RATE OF RETURN. — **return, vb.**

capital return. *Tax.* Revenue that represents the repayment of cost or capital and thus is not taxable as income.

fair return on investment. The usual or reasonable profit in a business, esp. a public utility.

net return. The profit on an investment after deducting all investment expenses.

return date. See *return day* under DAY.

return day. See DAY.

returning board. An official body or commission that canvasses election returns.

return of service. See PROOF OF SERVICE.

return of writ. The sheriff's bringing back a writ to the court that issued it, with a short written account (*usu.* on the back) of the man-

ner in which the writ was executed. — Often shortened to *return*. See RETURN (1).

re-up, vb. **1.** To reenlist in one of the armed forces <the soldier re-upped the day after being discharged>. **2.** To sign an extension to a contract, esp. an employment agreement <the star athlete re-upped in a three-year deal worth \$12 million>.

reus (ree-əs). [Latin] *Roman & civil law.* **1.** A defendant. Cf. ACTOR (3). **2.** A party to a suit, whether plaintiff or defendant. **3.** A party to a contract or transaction. Pl. *rei*.

revalidation. See REPUBLICATION.

revaluation, n. An increase in the value of one currency in relation to another currency. — **revalue, vb.** Cf. DEVALUATION.

revaluation surplus. See SURPLUS.

rev'd. abbr. Reversed.

reve (reev). *Hist.* The bailiff of a franchise or manor.

revendication, n. **1.** The recovery or claiming back of something by a formal claim or demand. **2.** *Civil law.* An action to recover rights in and possession of property that is wrongfully held by another. • This is analogous to the common-law replevin. — **revendicate, vb.**

revenue. Gross income or receipts.

general revenue. The income stream from which a state or municipality pays its obligations unless a law calls for payment from a special fund. See *general fund* under FUND (1).

land revenue. Revenue derived from lands owned by the Crown in Great Britain. • Crown lands have been so largely granted away to subjects that they are now transferred within very narrow limits. See *Crown land* under LAND.

marginal revenue. The amount of revenue earned from the sale of one additional unit.

revenue agent's report. A report indicating any adjustments made to a tax return as a result of an IRS audit. • After an audit, this report is mailed to the taxpayer along with a 30-day letter. — Abbr. RAR. See 30-DAY LETTER.

revenue bill. See BILL (3).

revenue bond. See BOND (3).

Revenue Procedure. An official statement by the IRS regarding the administration and procedures of the tax laws. — Abbr. Rev. Proc.

Revenue Ruling. An official interpretation by the IRS of the proper application of the tax law to a specific transaction. ● Revenue Rulings carry some authoritative weight and may be relied on by the taxpayer who requested the ruling. — Abbr. Rev. Rul.

revenue stamp. A stamp used as evidence that a tax has been paid.

revenue tariff. See TARIFF (2).

reversal, n. 1. An appellate court's overturning of a lower court's decision. 2. *Securities.* A change in a security's near-term market-price trend. — **reverse, vb.**

reverse annuity mortgage. See MORTGAGE.

reverse bonus. See *reverse contingent fee* under CONTINGENT FEE.

reverse-confusion doctrine. *Intellectual property.* The rule that it is unfair competition if the defendant's use of a title that is confusingly similar to the one used by the plaintiff leads the public to believe that the plaintiff's work is the same as the defendant's, or that it is derived from or associated in some manner with the defendant. ● Under the conventional passing-off form of unfair competition, similarity of titles leads the public to believe that the defendant's work is the same as the plaintiff's work, or is in some manner derived from the plaintiff. But in reverse confusion, the unfair competition results from the confusion created about the origin of the plaintiff's work.

reverse contingent fee. See CONTINGENT FEE.

reverse discrimination. See DISCRIMINATION.

reverse doctrine of equivalents. See DOCTRINE OF EQUIVALENTS.

reverse FOIA suit (foy-ə). A lawsuit by the owner of a trade secret to prevent an agency from releasing that secret to the general public. See FREEDOM OF INFORMATION ACT.

reverse spot zoning. See ZONING.

reverse stock split. See STOCK SPLIT.

reverse subsidiary merger. See *reverse triangular merger* under MERGER.

reverse triangular merger. See MERGER.

reversible error. See ERROR (2).

reversio (ri-vər-shee-oh). [Law Latin] *Hist.* The returning of land to the grantor.

reversion, n. 1. A future interest in land arising by operation of law whenever an estate owner grants to another a particular estate, such as a life estate or a term of years, but does not dispose of the entire interest. ● A reversion occurs automatically upon termination of the prior estate, as when a life tenant dies. — Also termed *reversionary estate; estate in reversion; equitable reversion.* 2. Loosely, REMAINDER. — **revert, vb.** — **reversionary, adj.** Cf. POSSIBILITY OF REVERTER; REMAINDER.

reversioner. 1. One who possesses the reversion to an estate; the grantor or heir in reversion. 2. Broadly, one who has a lawful interest in land but not the present possession of it.

reverter. See POSSIBILITY OF REVERTER.

reverter guarantee. *Real estate.* A mortgage clause protecting the mortgagee against a loss occasioned by the occurrence of a terminating event under a possibility of reverter. See POSSIBILITY OF REVERTER.

revest, vb. To vest again or anew <revesting of title in the former owner>.

rev'g. abbr. Reversing.

review, n. Consideration, inspection, or reexamination of a subject or thing. — **review, vb.**

administrative review. 1. Judicial review of an administrative proceeding. 2. Review of an administrative proceeding within the agency itself.

appellate review. Examination of a lower court's decision by a higher court, which can affirm, reverse, or modify the decision.

discretionary review. The form of appellate review that is not a matter of right but that occurs only with the appellate court's permission. See CERTIORARI.

judicial review. See JUDICIAL REVIEW.

reviewable issue. See *appealable decision* under DECISION.

revised statutes. See STATUTE.

revision, n. **1.** A reexamination or careful review for correction or improvement. **2.** *Military law.* The reconvening of a general or special court-martial to revise its action or to correct the record because of an improper or inconsistent action concerning the findings or the sentence. • A revision can occur only if it will not materially prejudice the accused.

revival, n. **1.** Restoration to current use or operation; esp., the act of restoring the validity or legal force of an expired contract or dormant judgment. — Also termed (for a dormant judgment) *revival of judgment*. Cf. RENEWAL (2). **2.** *Wills & estates.* The reestablishment of the validity of a revoked will by revoking the will that invalidated the original will. Cf. REPUBLICATION. — **revive, vb.**

revival statute. See STATUTE.

revivor. A proceeding to revive an action ended because of either the death of one of the parties or some other circumstance.

revocable (rev-ə-kə-bəl), adj. Capable of being canceled or withdrawn <a revocable transfer>.

revocable guaranty. See GUARANTY.

revocable letter of credit. See LETTER OF CREDIT.

revocable trust. See TRUST.

revocation (rev-ə-kay-shən), n. **1.** An annulment, cancellation, or reversal, usu. of an act or power. **2.** *Contracts.* Withdrawal of an offer by the offeror. **3.** *Wills & estates.* Invalidation of a will by the testator, either by destroying the will or by executing a new one. — **revoke, vb.** Cf. REPUDIATION; RESCISSION.

revocation hearing. See HEARING.

revocatory action (rev-ə-kə-tor-ee or ri-vok-ə-tor-ee). *Civil law.* An action brought by a creditor to annul a contract that has been entered into by the debtor and that will increase the debtor's insolvency.

revocatur (ree-voh-kay-tər). [Latin] *Hist.* It is recalled. • In former English practice, this was

used as a notation on a judgment that was set aside because of a factual error (as opposed to being reversed because of legal error).

revolution, n. An overthrow of a government, usu. resulting in fundamental political change; a successful rebellion. — **revolt, vb.** — **revolutionary, adj. & n.**

revolver loan. See LOAN.

revolving charge account. See *revolving credit* under CREDIT (4).

revolving credit. See CREDIT (4).

revolving fund. See FUND (1).

revolving letter of credit. See LETTER OF CREDIT.

revolving loan. See LOAN.

revolving performance bond. See PERFORMANCE BOND.

Rev. Proc. abbr. REVENUE PROCEDURE.

Rev. Rul. abbr. REVENUE RULING.

Rev. Stat. See *revised statutes* under STATUTE.

reward, n. Something of value, usu. money, given in return for some service or achievement, such as recovering property or providing information that leads to the capture of a criminal. — **reward, vb.**

rex (reks). (usu. cap.) **1.** A king. **2.** The official title of a king. **3.** The prosecution side (as representatives of the king) in criminal proceedings in a monarchy. — Abbr. R. Cf. REGINA.

rezone, vb. To change the zoning boundaries or restrictions of (an area) <rezone the neighborhood>. See ZONING.

RFA. abbr. REQUEST FOR ADMISSION.

RFI. abbr. REQUEST FOR INSTRUCTIONS.

RFP. abbr. REQUEST FOR PRODUCTION.

r.g. abbr. REGULA GENERALIS.

rhadamanthine (rad-ə-man-thin), adj. (*often cap.*) (Of a judge) rigorous and inflexible <the

judge's rhadamanthine interpretation of procedural requirements makes it essential to study the local rules before appearing in court>.

Rhodian law (*roh-dee-ən*). The earliest known system or code of maritime law, supposedly dating from 900 B.C. • Rhodian law was purportedly developed by the people of the island Rhodes, located in the Aegean Sea and now belonging to Greece. The ancient inhabitants of Rhodes are said to have controlled the seas because of their commercial prosperity and naval superiority. Despite the uncertainties about its history, Rhodian law has often been cited as a source of admiralty and maritime law.

"A strong tradition says that a maritime code was promulgated by the Island of Rhodes, in the Eastern Mediterranean, at the height of its power; the ridiculously early date of 900 B.C. has even been assigned to this supposititious code — a date accepted uncritically by some legal scholars. But even the existence of such a code has been pretty well cast in doubt, and we know next to nothing of its contents, if it existed. It is interesting to note, however, that the root-principle of the highly distinctive maritime-law system of general average . . . is clearly stated in Justinian's Digest, and that the Rhodian Law is invoked as authority." Grant Gilmore & Charles L. Black, Jr., *The Law of Admiralty* § 1-2, at 3-4 (2d ed. 1975).

ribbon-matching rule. See MIRROR-IMAGE RULE.

Richard Roe. A fictitious name for a male party to a legal proceeding, used because the party's true identity is unknown or because his real name is being withheld; esp., the second of two such parties. Cf. JOHN DOE.

RICO (*ree-koh*). *abbr.* RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

rider. An attachment to some document, such as a legislative bill or an insurance policy, that amends or supplements the document.

rien culp (*ryan kəlp*). [Law French "not guilty"] *Hist.* A plea of not guilty.

rien dit (*ryan-dee*). [Law French "says nothing"] *Hist.* A plea of *nihil dicit*. See NIHIL DICIT.

rien luy doit (*ryan lwee dwah*). [Law French "owes him nothing"] *Hist.* A plea of *nil debet*. See NIL DEBET.

riens en arrière (*ryan aw-nah-ree-air*). [Law French "nothing in arrear"] *Hist.* A plea in a debt action for arrearages of account.

riens passa per le fait (*ryan pah-sah pair le fay*). [Law French "nothing passed by the deed"] *Hist.* A plea by which a party seeks to avoid the operation of a deed that has been enrolled or acknowledged in court.

riens per descent (*ryan pair day-sawn*). [Law French "nothing by descent"] *Hist.* The plea of an heir who is sued for the ancestor's debt and who received no land or assets from the ancestor.

rier county. See RERE-COUNTY.

rigging the market. The practice of artificially inflating stock prices, by a series of bids, so that the demand for those stocks appears to be high and investors will therefore be enticed into buying the stocks. See MANIPULATION.

right, n. **1.** That which is proper under law, morality, or ethics <know right from wrong>. **2.** Something that is due to a person by just claim, legal guarantee, or moral principle <the right of liberty>. **3.** A power, privilege, or immunity secured to a person by law <the right to dispose of one's estate>. **4.** A legally enforceable claim that another will do or will not do a given act; a recognized and protected interest the violation of which is a wrong <a breach of duty that infringes one's right>. **5.** (*often pl.*) The interest, claim, or ownership that one has in tangible or intangible property <a debtor's rights in collateral> <publishing rights>.

"Right is a correlative to duty; where there is no duty there can be no right. But the converse is not necessarily true. There may be duties without rights. In order for a duty to create a right, it must be a duty to act or forbear. Thus, among those duties which have rights corresponding to them do not come the duties, if such there be, which call for an inward state of mind, as distinguished from external acts or forbearances. It is only to acts and forbearances that others have a right. It may be our duty to love our neighbor, but he has no right to our love." John Chipman Gray, *The Nature and Sources of the Law* 8-9 (2d ed. 1921).

"[T]he word 'right' is one of the most deceptive of pitfalls; it is so easy to slip from a qualified meaning in the premise to an unqualified one in the conclusion. Most rights are qualified." *American Bank & Trust Co. v. Federal Reserve Bank of Atlanta*, 256 U.S. 350, 358, 41 S.Ct. 499, 500 (1921) (Holmes, J.).

absolute right. A right that belongs to every human being, such as the right of personal liberty; a natural right. Cf. *relative right*.

accessory right. A supplementary right that has been added to the main right that is vested in the same owner. • For example, the right in a security is accessory to the right that is secured; a servitude is accessory to the

ownership of the land for whose benefit the servitude exists. Cf. *principal right*.

accrued right. A matured right; a right that is ripe for enforcement (as through litigation).

acquired right. A right that a person does not naturally enjoy, but that is instead procured, such as the right to own property.

civil right. See CIVIL RIGHT.

conditional right. A right that depends on an uncertain event; a right that may or may not exist. • For example, parents have the conditional right to punish their child, the condition being that the punishment must be reasonable.

conjugal rights. See CONJUGAL RIGHTS.

equitable right. A right cognizable within a court of equity. • If a legal right and an equitable right conflict, the legal right ordinarily prevails over and destroys the equitable right even if the legal right arose after the equitable right. With the merger of law and equity in federal and most state courts, the procedural differences between legal and equitable rights have been largely abolished. Cf. *legal right*.

expectant right. A right that depends on the continued existence of present conditions until some future event occurs; a contingent right.

fundamental right. See FUNDAMENTAL RIGHT.

imperfect right. A right that is recognized by the law but is not enforceable. • Examples include time-barred claims and claims exceeding the local limits of a court's jurisdiction.

"[T]here are certain rights, sometimes called imperfect rights, which the law recognizes but will not enforce directly. Thus a statute-barred debt cannot be recovered in a court of law, but for certain purposes the existence of the debt has legal significance. If the debtor pays the money, he cannot later sue to recover it as money paid without consideration; and the imperfect right has the faculty of becoming perfect if the debtor makes an acknowledgment of the debt from which there can be inferred a promise to pay." George Whitecross Paton, *A Textbook of Jurisprudence* 286 (G.W. Paton & David P. Derham eds., 4th ed. 1972).

imprescriptible right. A right that cannot be lost to prescription.

inalienable right. A right that cannot be transferred or surrendered; esp., a natural right such as the right to own property. — Also termed *inherent right*.

incorporeal right. A right to intangible, rather than tangible, property. • A right to a

legal action (a *chose in action*) is an incorporeal right. See CHOSE IN ACTION.

inherent right. See *inalienable right*.

legal right. 1. A right created or recognized by law. 2. A right historically recognized by common-law courts. Cf. *equitable right*.

natural right. A right that is conceived as part of natural law and that is therefore thought to exist independently of rights created by government or society, such as the right to life, liberty, and property. See NATURAL LAW.

negative right. A right entitling a person to have another refrain from doing an act that might harm the person entitled.

patent right. A right secured by a patent.

perfect right. A right that is recognized by the law and is fully enforceable.

peripheral right. A right that surrounds or springs from another right.

personal right. 1. A right that forms part of a person's legal status or personal condition, as opposed to the person's estate. 2. See *right in personam*.

political right. The right to participate in the establishment or administration of government, such as the right to vote or the right to hold public office. — Also termed *political liberty*.

positive right. A right entitling a person to have another do some act for the benefit of the person entitled.

precarious right. A right enjoyed at the pleasure of another; a right that can be revoked at any time.

primary right. A right prescribed by the substantive law, such as a right not to be defamed or assaulted. • The enforcement of a primary right is termed *specific enforcement*.

principal right. A right to which has been added a supplementary right in the same owner. Cf. *accessory right*.

private right. A personal right, as opposed to a right of the public or the state. Cf. *public right*.

procedural right. A right that derives from legal or administrative procedure; a right that helps in the protection or enforcement of a substantive right. Cf. *substantive right*.

property right. A right to specific property, whether tangible or intangible.

proprietary right. A right that is part of a person's estate, assets, or property, as op-

posed to a right arising from the person's legal status.

public right. A right belonging to all citizens and usu. vested in and exercised by a public office or political entity. Cf. *private right*.

real right. 1. *Civil law.* A right that is connected with a thing rather than a person. • Real rights include ownership, use, habitation, usufruct, predial servitude, pledge, and real mortgage.

"The term 'real rights' (*jura in re*) is an abstraction unknown to classical Roman law. The classical jurists were preoccupied with the availability of remedies rather than the existence of *substantive* rights, and did not have a generic term to include all 'rights' which civilian scholars of following generations classified as 'real.' The expression ('real rights') was first coined by medieval writers elaborating on the *Digest* in an effort to explain ancient procedural forms of action in terms of substantive rights." A.N. Yiannopoulos, *Real Rights in Louisiana and Comparative Law*, 23 La. L. Rev. 161, 163 (1963).

2. **JUS IN RE.** 3. See *right in rem*.

relative right. A right that arises from and depends on someone else's right, as distinguished from an absolute right. Cf. *absolute right*.

remedial right. The secondary right to have a remedy that arises when a primary right is broken.

right in personam (in pər-sōh-nəm). An interest protected solely against specific individuals. — Also termed *personal right*; *jus in personam*. See IN PERSONAM.

right in rem (in rem). A right exercisable against the world at large. — Also termed *real right*; *jus in rem*. See IN REM.

"A right *in rem* need not relate to a tangible *res*. Thus a right that one's reputation should not be unjustifiably attacked is today described as a right *in rem*, since it is a right that avails against persons generally. This shows how far the conception has developed from the Roman notion of *actio in rem*, for one who sues to protect his reputation is not asking for judgment for a specific *res*. It should also be noticed that on breach of a right *in rem*, a right *in personam* arises against the aggressor." George Whitecross Paton, *A Textbook of Jurisprudence* 300 (G.W. Paton & David P. Derham eds., 4th ed. 1972).

secondary right. A right prescribed by procedural law to enforce a substantive right, such as the right to damages for a breach of contract. • The enforcement of a secondary right is variously termed *secondary enforcement*, *remedial enforcement*, or *sanctional enforcement*. — Also termed *remedial right*; *sanctioning right*.

substantial right. An essential right that potentially affects the outcome of a lawsuit

and is capable of legal enforcement and protection, as distinguished from a mere technical or procedural right.

substantive right (səb-stən-tiv). A right that can be protected or enforced by law; a right of substance rather than form. Cf. *procedural right*.

vested right. A right that so completely and definitely belongs to a person that it cannot be impaired or taken away without the person's consent.

right against self-incrimination. A criminal defendant's or a witness's constitutional right — under the Fifth Amendment, but waivable under certain conditions — guaranteeing that a person cannot be compelled by the government to testify if the testimony might result in the person's being criminally prosecuted. • Although this right is most often asserted during a criminal prosecution, a person can also "plead the Fifth" in a civil, legislative, administrative, or grand-jury proceeding. — Also termed *privilege against self-incrimination*; *right to remain silent*. See SELF-INCRIMINATION.

"The right against self-incrimination, protected by the Fifth Amendment, is central to the accusatorial system of criminal justice: together with the presumption of innocence, the right against self-incrimination ensures that the state must bear the burden of prosecution. . . . The right against self-incrimination is personal. It may be claimed only by the person who himself might be at risk for testifying. It may not be claimed on behalf of another. . . ." Jethro K. Lieberman, *The Evolving Constitution* 481–82 (1992).

right-and-wrong test. See MCNAGHTEN RULES.

rightful, adj. 1. (Of an action) equitable; fair <a rightful dispossession>. 2. (Of a person) legitimately entitled to a position <a rightful heir>. 3. (Of an office or piece of property) that one is entitled to <her rightful inheritance>.

right heir. See HEIR.

right in personam. See RIGHT.

right in re aliena. See JUS IN RE ALIENA.

right in rem. See RIGHT.

right in re propria. See JUS IN RE PROPRIA.

right of action. 1. The right to bring a specific case to court. 2. A right that can be enforced by legal action; a chose in action. Cf. CAUSE OF ACTION.

right of angary. See ANGARY.

right of approach. *Int'l law.* The right of a warship on the high seas to draw near another vessel to determine its nationality.

right of assembly. The constitutional right — guaranteed by the First Amendment — of the people to gather peacefully for public expression of religion, politics, or grievances. — Also termed *freedom of assembly*; *right to assemble*. Cf. FREEDOM OF ASSOCIATION; *unlawful assembly* under ASSEMBLY.

right of audience. A right to appear and be heard in a given court. • The term is chiefly used in England to denote the right of a certain type of lawyer to appear in a certain type of court.

right of common. See PROFIT A PRENDRE.

right of contribution. See CONTRIBUTION (1).

right of dissent and appraisal. See APPRAISAL REMEDY.

right of election. *Wills & estates.* A spouse's statutory right to choose, upon the other spouse's death, either the share under the deceased spouse's will or a share of the estate as defined in the probate statute, which usually amounts to what the spouse would have received if the deceased spouse had died intestate. — Also termed *widow's election*. See ELECTION (2).

right of entry. 1. The right of taking or resuming possession of land or other real property in a peaceable manner. **2.** POWER OF TERMINATION. **3.** The right to go into another's real property for a special purpose without committing trespass. • An example is a landlord's right to enter a tenant's property to make repairs. **4.** The right of an alien to go into a jurisdiction for a special purpose. • An example is an exchange student's right to enter another country to attend college.

right of entry for breach of condition. See POWER OF TERMINATION.

right of entry for condition broken. See POWER OF TERMINATION.

right of exoneration. See EQUITY OF EXONERATION.

right of first refusal. A potential buyer's contractual right to meet the terms of a third party's offer if the seller intends to accept that offer. • For example, if Beth has a right of first refusal on the purchase of Sam's house, and if Sam intends to accept Terry's offer to buy the house for \$300,000, Beth can match this offer and prevent Terry from buying it. Cf. RIGHT OF PREEMPTION.

right of fishery. See FISHERY (1).

right of innocent passage. See INNOCENT PASSAGE.

right of petition. See RIGHT TO PETITION.

right of possession. The right to hold, use, occupy, or otherwise enjoy a given property; esp., the right to enter real property and eject or evict a wrongful possessor.

right of preemption. A potential buyer's contractual right to have the first opportunity to buy, at a specified price, if the seller chooses to sell. • For example, if Beth has a right of preemption on Sam's house for five years at \$100,000, Sam can either keep the house for five years (in which case Beth's right expires) or, if he wishes to sell during those five years, offer the house to Beth, who can either buy it for \$100,000 or refuse to buy, but if she refuses, Sam can sell to someone else. — Also termed *first option to buy*. Cf. RIGHT OF FIRST REFUSAL.

right of privacy. 1. The right to personal autonomy. • The U.S. Constitution does not explicitly provide for a right of privacy, but the Supreme Court has repeatedly ruled that this right is implied in the "zones of privacy" created by specific constitutional guarantees. **2.** The right of a person and the person's property to be free from unwarranted public scrutiny or exposure. — Also termed *right to privacy*. See INVASION OF PRIVACY.

right of publicity. The right to control the use of one's own name, picture, or likeness and to prevent another from using it for commercial benefit without one's consent.

right of redemption. See EQUITY OF REDEMPTION.

right of reentry. See POWER OF TERMINATION.

right of rescission. See RIGHT TO RESCIND.

right of revolution. The inherent right of a people to cast out their rulers, change their polity, or effect radical reforms in their system of government or institutions, by force or general uprising, when the legal and constitutional methods of making such changes have proved inadequate or are so obstructed as to be unavailable.

right of search. *Int'l law.* The right to stop, visit, and examine vessels on the high seas to discover whether they or the goods they carry are liable to capture; esp., a belligerent state's right to stop any merchant vessel of a neutral state on the high seas and to search as reasonably necessary to determine whether the ship has become liable to capture under the international law of naval warfare. • This right carries with it no right to destroy without full examination, unless those on a given vessel actively resist. — Also termed *right of visit*; *right of visit and search*; *right of visitation*; *right of visitation and search*. See VISIT.

right of subrogation. See EQUITY OF SUBROGATION.

right of support. *Property.* **1.** A landowner's right to have the land supported by adjacent land and by the underlying earth. **2.** A servitude giving the owner of a house the right to rest timber on the walls of a neighboring house.

right of survivorship. A joint tenant's right to succeed to the whole estate upon the death of the other joint tenant. — Also termed *jus accrescendi*. See SURVIVORSHIP; *joint tenancy* under TENANCY.

right of termination. *English law.* A remedy involving the ending of contractual relations, accorded to a party to a contract when the other party breaches a duty that arises under the contract. • The right of termination is contrasted with a right to rescind, which arises when the other party breaches a duty that arises independently of the contract. — Also termed *right to terminate*.

right of transit passage. See TRANSIT PASSAGE.

right of visit. See RIGHT OF SEARCH.

right of visit and search. See RIGHT OF SEARCH.

right of visitation. **1.** VISITATION RIGHT. **2.** RIGHT OF SEARCH.

right of visitation and search. See RIGHT OF SEARCH.

right-of-way. **1.** A person's legal right, established by usage or by contract, to pass through grounds or property owned by another. Cf. EASEMENT. **2.** The right to build and operate a railway line or a highway on land belonging to another, or the land so used. **3.** The right to take precedence in traffic.

right of wharfing out. *Hist.* A right to the exclusive use of submerged lands, as by establishing a permanent structure or wharf on the land to dock oceangoing vessels.

rights arbitration. See *grievance arbitration* under ARBITRATION.

rights-consciousness. See CLAIMS-CONSCIOUSNESS.

rights off. See EX RIGHTS.

rights offering. See OFFERING.

rights on. See CUM RIGHTS.

right to assemble. See RIGHT OF ASSEMBLY.

right to bear arms. The constitutional right of persons to own firearms.

right to choose. See FREEDOM OF CHOICE.

right-to-convey covenant. See *covenant of seisin* under COVENANT (4).

right to counsel. A criminal defendant's constitutional right, guaranteed by the Sixth Amendment, to representation by a court-appointed lawyer if the defendant cannot afford to hire one. — Also termed *access to counsel*. See ASSISTANCE OF COUNSEL.

right to die. The right of a terminally ill person to refuse life-sustaining treatment. — Also termed *right to refuse treatment*. See ADVANCE DIRECTIVE.

right-to-know act. A federal or state statute requiring businesses (such as chemical manufacturers) that produce hazardous substances to disclose information about the substances both to the community where they are produced or stored and to employees who handle them. — Also termed *right-to-know statute*.

right to petition. The constitutional right — guaranteed by the First Amendment — of the people to make formal requests to the government, as by lobbying or writing letters to public officials. — Also termed *right of petition*; *freedom of petition*.

right to privacy. See RIGHT OF PRIVACY.

right to refuse treatment. See RIGHT TO DIE.

right to remain silent. See RIGHT AGAINST SELF-INCRIMINATION.

right to rescind. *English law.* The remedy accorded to a party to a contract when the other party breaches a duty that arises independently of the contract. • The right to rescind is contrasted with a right of termination, which arises when the other party breaches a duty that arises under the contract. — Also termed *right of rescission*.

right to terminate. See RIGHT OF TERMINATION.

right to travel. A person's constitutional right — guaranteed by the Privileges and Immunities Clause — to travel freely between states.

right to vote. See SUFFRAGE.

right-to-work law. A state law that prevents labor-management agreements requiring a person to join a union as a condition of employment. See SHOP.

right-wrong test. See MCNAGHTEN RULES.

rigid constitution. See CONSTITUTION.

rigor juris (*rig-ər joor-is*). [Latin] Strictness of law. Cf. GRATIA CURIAE.

rigor mortis (*rig-ər mor-tis*). The temporary stiffening of a body's joints and muscles after death. • The onset of rigor mortis can vary from 15 minutes to several hours after death, depending on the body's condition and on atmospheric factors.

ringing out. See RINGING UP.

ringing the changes. Fraud consisting in the offender's using a large banknote to pay for a small purchase, waiting for the shopkeeper to put change on the counter, and then, by a series of maneuvers involving changes of

mind — such as asking for some other article of little value or for smaller change for some of the money on the counter — creating a confused situation in which the offender picks up much more of the money than is really due.

ringing up. A method by which a group of commodities dealers discharge contracts for future delivery in advance by using offsets, cancellations, and price adjustments, thus saving the cost of actual delivery and change of possession. — Also termed *ringing out*.

riot, n. An unlawful disturbance of the peace by an assembly of usu. three or more persons acting with a common purpose in a violent or tumultuous manner that threatens or terrorizes the public. — **riot, vb.** — **riotous, adj.** Cf. *unlawful assembly* under ASSEMBLY; CIVIL COM-MOTION; ROUT.

"A riot is defined as an unlawful assembly (i.e. an assembly come together in pursuance of an unlawful purpose), consisting of at least three persons, which has begun to create a breach of the peace. At Common Law it is an indictable misdemeanour, punishable by a fine and imprisonment. But the statutory form of it, introduced by the Riot Act of 1714, is better known. By that statute, passed to deal with Jacobite disturbances, it was provided that the members of a riotous assembly of twelve or more persons which does not disperse within an hour after the reading by a magistrate of the proclamation contained in the Act, become guilty of felony, which, at the time of the passing of the Act, was a capital offence, and is, even now, punishable with imprisonment for life." Edward Jenks, *The Book of English Law* 136 (P.B. Fairst ed., 6th ed. 1967).

"A riot is a tumultuous disturbance of the peace by three or more persons acting together (a) in the commission of a crime by open force, or (b) in the execution of some enterprise, lawful or unlawful, in such a violent, turbulent and unauthorized manner as to create likelihood of public terror and alarm. . . . When they come together for this purpose they are guilty of unlawful assembly. When they start on their way to carry out their common design they are guilty of *rout*. In the actual execution of their design they are guilty of *riot*." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 483 (3d ed. 1982).

Riot Act. A 1714 English statute that made it a capital offense for 12 or more rioters to continue together for an hour after a magistrate has officially proclaimed that rioters must disperse. • This statute was not generally accepted in the United States and did not become a part of American common law. It did, however, become a permanent part of the English language in the slang phrase *reading the Riot Act* (meaning "to reprimand vigorously"), which originally referred to the official command for rioters to disperse.

riotous assembly. See ASSEMBLY.

riparian (ri-pair-ee-ən or rī-), *adj.* Of, relating to, or located on the bank of a river or stream (or occasionally another body of water, such as a lake) <riparian land> <a riparian owner>. Cf. LITTORAL.

riparian proprietor. A landowner whose property borders on a stream or river.

riparian right. (*often pl.*) The right of a landowner whose property borders on a body of water or watercourse. ● Such a landowner traditionally has the right to make reasonable use of the water. — Also termed *water right*.

riparian-rights doctrine. The rule that owners of land bordering on a waterway have equal rights to use the water passing through or by their property. Cf. PRIOR-APPROPRIATION DOCTRINE.

ripeness, n. **1.** The circumstance existing when a case has reached, but has not passed, the point when the facts have developed sufficiently to permit an intelligent and useful decision to be made. **2.** The requirement that this circumstance must exist before a court will decide a controversy. — **ripen, vb.** — **ripe, adj.** See JUSTICIABILITY. Cf. MOOTNESS DOCTRINE; PREMATURITY (1).

rising of court. *Archaic.* **1.** A court's final adjournment of a term. **2.** A recess or temporary break in a court's business, as at the end of the day.

risk, n. **1.** The chance of injury, damage, or loss; danger or hazard <many feel that skydiving is not worth the risk>. See ASSUMPTION OF THE RISK. **2.** Liability for injury, damage, or loss if it occurs <the consumer-protection statute placed the risk on the manufacturer instead of the buyer>. **3. Insurance.** The chance or degree of probability of loss to the subject matter of an insurance policy <the insurer undertook the risk in exchange for a premium>. Cf. PERIL (2). **4. Insurance.** The amount that an insurer stands to lose <the underwriter took steps to reduce its total risk>. **5. Insurance.** A person or thing that an insurer considers a hazard; someone or something that might be covered by an insurance policy <she's a poor risk for health insurance>. **6. Insurance.** The type of loss covered by a policy; a hazard from a specified source <this homeowner's policy covers fire risks and flood risks>. — **risk, vb.**

absorbable risk. A potential loss that a corporation believes that it can cover either with available capital or with self-insurance.

assigned risk. One who is a poor risk for insurance but whom an insurance company is forced to insure because of state law. ● For example, an accident-prone driver is an assigned risk in a state with a compulsory motor-vehicle-insurance statute.

classified risk. In life and health policies, the risk created by a policyholder's substandard health or other peril.

noninsurable risk. A risk for which insurance will not be written because the risk is too uncertain to be the subject of actuarial analysis.

pure risk. A risk that always results in a loss.

speculative risk. A risk that can result in either a loss or a gain.

risk arbitrage. See ARBITRAGE.

risk-averse, adj. (Of a person) uncomfortable with volatility or uncertainty; not willing to take risks; very cautious <a risk-averse investor>.

risk-benefit test. See RISK-UTILITY TEST.

risk capital. See CAPITAL.

risk-capital test. *Securities.* A test of whether a transaction constitutes the sale of a security (and is thus subject to securities laws) based on whether the seller is soliciting risk capital with which to develop a business venture. Cf. CAPITAL-RISK TEST.

risk factor. *Insurance.* In life-insurance rate-making, the estimated cost of present and future claims, based on a mortality table. ● The risk factor is one element that a life insurer uses to calculate premium rates. See PREMIUM RATE. Cf. INTEREST FACTOR; MORTALITY FACTOR.

risk management. The procedures or systems used to minimize accidental losses, esp. to a business.

risk of jury doubt. See BURDEN OF PERSUASION.

risk of loss. The danger or possibility that a party will have to bear the costs and expenses for the damage, destruction, or inability to locate goods or other property.

risk of nonpersuasion. See BURDEN OF PERSUASION.

risk-utility test. A method of imposing product liability on a manufacturer if the evidence shows that a reasonable person would conclude that the benefits of a product's particular design versus the feasibility of an alternative safer design did not outweigh the dangers inherent in the original design. — Also termed *danger-utility test*; *risk-benefit test*. Cf. CONSUMER-CONTEMPLATION TEST.

RL/C. See *revolving letter of credit* under LETTER OF CREDIT.

robbery, n. The illegal taking of property from the person of another, or in the person's presence, by violence or intimidation; aggravated larceny. — **rob, vb.** See LARCENY; THEFT. Cf. BURGLARY.

"Robbery is larceny from the person by violence or intimidation. It is a felony both at common law and under modern statutes. Under some of the new penal codes robbery does not require an actual taking of property. If force or intimidation is used in the attempt to commit theft this is sufficient." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 343 (3d ed. 1982).

aggravated robbery. Robbery committed by a person who either carries a dangerous weapon — often called *armed robbery* — or inflicts bodily harm on someone during the robbery.

armed robbery. Robbery committed by a person carrying a dangerous weapon, regardless of whether the weapon is revealed or used. • Most states punish armed robbery as an aggravated form of robbery rather than as a separate crime.

conjoint robbery (kən-joynt). A robbery committed by two or more persons.

highway robbery. 1. Robbery committed against a traveler on or near a public highway. 2. Figuratively, a price or fee that is unreasonably high; excessive profit or advantage.

simple robbery. Robbery that does not involve an aggravating factor or circumstance.

robe. (*often cap.*) The legal or judicial profession <eminent members of the robe>.

Robinson-Patman Act. A federal statute (specif., an amendment to the Clayton Act) prohibiting price discrimination that hinders competition or tends to create a monopoly. 15 USCA § 13. See ANTITRUST LAW; CLAYTON ACT.

rocket docket. 1. An accelerated dispute-resolution process. 2. A court or judicial district known for its speedy disposition of cases. 3. A

similar administrative process, in which disputes must be decided within a specified time (such as 60 days).

rogatory letter (rog-ə-tor-ee). See LETTER OF REQUEST.

roll, n. 1. A record of a court's or public office's proceedings. 2. An official list of the persons and property subject to taxation. — Also termed (in sense 2) *tax roll*; *tax list*; *assessment roll*. Cf. TAXPAYERS' LISTS.

rolled-up plea. See PLEA (3).

rollover, n. 1. The extension or renewal of a short-term loan; the refinancing of a maturing loan or note. 2. The transfer of funds (such as IRA funds) to a new investment of the same type, esp. so as to defer payment of taxes. — **roll over, vb.**

rollover mortgage. See *renegotiable-rate mortgage* under MORTGAGE.

Roman-Dutch law. A system of law in Holland from the mid-15th century to the early 19th century, based on a mixture of Germanic customary law and Roman law as interpreted in medieval lawbooks. • This law forms the basis of modern South African law, the law of several other countries in southern Africa, and the law of Sri Lanka.

Romanesque law. See CIVIL LAW (1).

Romanist, n. One who is versed in or practices Roman law; a Roman-law specialist.

Roman law. 1. The legal system of the ancient Romans, forming the basis of the modern civil law. — Also termed *civil law*. 2. CIVIL LAW (1).

"The Roman law is the body of rules that governed the social relations of many peoples in Europe, Asia, and Africa for some period between the earliest prehistoric times and 1453 A.D. This date should perhaps be extended to 1900 A.D., or even to the present time, and we might include America in the territory concerned. . . . Yet the essential fact is that no present-day community . . . consciously applies as binding upon its citizens the rules of Roman law in their unmodified form. That law is an historical fact. It would have only a tepid historical interest . . . if it were not for the circumstance that, before it became a purely historical fact, it was worked into the foundation and framework of what is called the civil law . . ." Max Radin, *Handbook of Roman Law* 1 (1927).

"Roman law is not only the best-known, the most highly developed, and the most influential of all legal systems of the past; apart from English law, it is also the only one

whose entire and unbroken history can be traced from early and primitive beginnings to a stage of elaborate perfection in the hands of skilled specialists." Hans Julius Wolff, *Roman Law: An Historical Introduction* 5 (1951).

root. *Civil law.* A descendant.

root of title. The recorded land transaction, usu. at least 40 years old, that is used to begin a title search. See CHAIN OF TITLE; TITLE SEARCH.

ROR. *abbr.* RELEASE ON RECOGNIZANCE.

Roth IRA. See INDIVIDUAL RETIREMENT ACCOUNT.

round lot. See LOT (3).

riot (rowt), *n.* The offense that occurs when an unlawful assembly makes some move toward the accomplishment of its participants' common purpose. Cf. RIOT.

"The word 'riot' comes from the same source as the word 'route.' It signifies that three or more who have gathered together in unlawful assembly are 'on their way.' It is not necessary for guilt of this offense that the design be actually carried out, nor that the journey be made in a tumultuous manner." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 483 (3d ed. 1982).

Royal Marriages Act. A 1772 statute (12 Geo. 3, ch. 1) forbidding members of the royal family from marrying without the sovereign's permission, except on certain conditions.

"Royal Marriages Act An Act occasioned by George III's fear of the effect on the dignity and honour of the royal family of members thereof contracting unsuitable marriages, two of his brothers having done so It provided that marriages of descendants of George II, other than the issue of princesses who marry into foreign families, should not be valid unless they had the consent of the King in Council, or, if the parties were aged over 25, they had given 12 months' notice to the Privy Council, unless during that time both Houses of Parliament expressly declare disapproval of the proposed marriage." David M. Walker, *The Oxford Companion to Law* 1091 (1980).

royalty. **1.** A payment made to an author or inventor for each copy of a work or article sold under a copyright or patent.

reasonable royalty. A royalty that a licensee would be willing to pay the inventor while still making a reasonable profit from use of the patented invention.

2. A share of the product or profit from real property, reserved by the grantor of a mineral lease, in exchange for the lessee's right to mine

or drill on the land. — Also termed (in sense 2) *override*.

haulage royalty. A royalty paid to a landowner for moving coal via a subterranean passageway under the landowner's land from a mine located on an adjacent property. • The payment is calculated at a certain amount per ton of coal.

mineral royalty. A right to a share of income from mineral production.

overriding royalty. A royalty retained by a mineral lessee when the property is subleased.

shut-in royalty. *Oil & gas.* A payment made by an oil-and-gas lessee to the lessor to keep the lease in force when a well capable of producing is not utilized because there is no market for the oil or gas. • Generally, without such a payment, the lease will terminate at the end of the primary term unless actual production has begun.

rpitr. *abbr.* REPORTER.

R.S. See *revised statutes* under STATUTE.

RTC. *abbr.* RESOLUTION TRUST CORPORATION.

rubber check. See *bad check* under CHECK.

rubber-stamp seal. See NOTARY SEAL.

rubric (roo-brik). **1.** The title of a statute or code <the rubric of the relevant statute is the Civil Rights Act of 1964>. **2.** A category or designation <assignment of rights falls under the rubric of contract law>. **3.** An authoritative rule, esp. for conducting a public worship service <the rubric dictates whether the congregation should stand or kneel>. **4.** An introductory or explanatory note; a preface <a well-known scholar wrote the rubric to the book's fourth edition>. **5.** An established rule, custom, or law <what is the rubric in the Northern District of Texas regarding appearance at docket call?>.

rule, n. **1.** Generally, an established and authoritative standard or principle; a general norm mandating or guiding conduct or action in a given type of situation.

general rule. A rule applicable to a class of cases or circumstances.

special rule. A rule applicable to a particular case or circumstance only.

2. A regulation governing a court's or an agency's internal procedures.

rule, vb. 1. To command or require; to exert control <the dictator ruled the country>. 2. To decide a legal point <the court ruled on the issue of admissibility>.

rule, the. An evidentiary and procedural rule by which all witnesses are excluded from the courtroom while another witness is testifying <invoking "the rule">. • The phrase "the rule" is used chiefly in the American South and Southwest, but it is a universal practice to exclude witnesses before they testify.

Rule 10b-5. The SEC rule that prohibits deceptive or manipulative practices (such as material misrepresentations or omissions) in the buying or selling of securities. — Also termed *anti-fraud rule*.

Rule 11. Civil procedure. 1. In federal practice, the procedural rule requiring the attorney of record or the party (if not represented by an attorney) to sign all pleadings, motions, and other papers filed with the court and — by this signing — to represent that the paper is filed in good faith after an inquiry that is reasonable under the circumstances. • This rule provides for the imposition of sanctions, upon a party's or the court's own motion, if an attorney or party violates the conditions stated in the rule. Fed. R. Civ. P. 11. 2. In Texas practice, the procedural rule requiring agreements between attorneys or parties concerning a pending suit to be in writing, signed, and filed in the court's record or made on the record in open court. Tex. R. Civ. P. 11.

rule absolute. See *decree absolute* under DECREE.

rule against accumulations. See ACCUMULATIONS, RULE AGAINST.

rule against perpetuities. Property. The rule prohibiting a grant of an estate unless the interest must vest, if at all, no later than 21 years after the death of some person alive when the interest was created. — Sometimes written *Rule Against Perpetuities*; *Rule against Perpetuities*.

"The true form of the Rule against Perpetuities is believed to be this: — NO INTEREST SUBJECT TO A CONDITION PRECEDENT IS GOOD, UNLESS THE CONDITION MUST BE FULFILLED, IF AT ALL, WITHIN TWENTY-ONE YEARS AFTER SOME LIFE IN BEING AT THE CREATION OF THE INTEREST." John Chipman Gray, *The Rule Against Perpetuities* 144 (1886).

"Another scholar who spent a substantial part of an academic lifetime attempting to bring order and add sense to the rule [against perpetuities], W. Barton Leach, described the rule as a 'technicality-ridden legal nightmare' and a 'dangerous instrumentality in the hands of most members of the bar.'" Thomas F. Bergin & Paul G. Haskell, *Preface to Estates in Land and Future Interests* 178 (2d ed. 1984) (quoting Leach, *Perpetuities Legislation, Massachusetts Style*, 67 Harv. L. Rev. 1349 (1954)).

"The Rule Against Perpetuities is a rule against remoteness of vesting. A contingent future interest is invalid under the orthodox rule if, at the time of the creation of the interest, the circumstances are such that the contingency may go unresolved for too long a time. The Rule is not concerned with the duration of interests, that is, the length of time that they endure. It is not a rule against suspension of the power of alienation, nor a rule against restraints on alienation. It is not a rule that directly limits the duration of trusts The orthodox rule is satisfied if all contingent future interests are so created that they must vest, if they vest at all, within the perpetuities period." Robert J. Lynn, *The Modern Rule Against Perpetuities* 9 (1966).

"The common law Rule Against Perpetuities (modified by statute in some states) provides that no interest is valid unless it must vest within 21 years after lives in being when the interest was created. The rule is something of a misnomer. It does not limit the duration of a condition in a bequest, but rather limits the testator's power to earmark gifts for remote descendants." Richard A. Posner, *Economic Analysis of Law* § 18.7, at 394 (2d ed. 1977).

rule in Heydon's case. See MISCHIEF RULE.

Rule in Shelley's Case. Property. The rule that if — in a single grant — a freehold estate is given to a person and a remainder is given to the person's heirs, the remainder belongs to the named person and not the heirs, so that the person is held to have a fee simple absolute. • The rule, which dates from the 14th century but draws its name from the famous 16th-century case, has been abolished in most states. *Wolfe v. Shelley*, 76 Eng. Rep. 206 (K.B. 1581).

"[T]he rule in Shelley's Case, the Don Quixote of the law, which, like the last knight errant of chivalry, has long survived every cause that gave it birth and now wanders aimlessly through the reports, still vigorous, but equally useless and dangerous." *Stamper v. Stamper*, 28 S.E. 20, 22 (N.C. 1897).

Rule in Wild's Case. Property. The rule construing a grant to "A and A's children" as a fee tail if A's children do not exist at the effective date of the instrument, and as a joint tenancy if A's children do exist at the effective date. • The rule has been abolished along with the fee tail in most states.

rulemaking, *n.* The process used by an administrative agency to formulate, amend, or repeal a rule or regulation. — Also termed *administrative rulemaking*. — **rulemaking**, *adj.* Cf. ADMINISTRATIVE ADJUDICATION; INFORMAL AGENCY ACTION.

formal rulemaking. Agency rulemaking that, when required by statute or the agency's discretion, must be on the record after an opportunity for an agency hearing, and must comply with certain procedures, such as allowing the submission of evidence and the cross-examination of witnesses. Cf. *informal rulemaking*.

informal rulemaking. Agency rulemaking in which the agency publishes a proposed regulation and receives public comments on the regulation, after which the regulation can take effect without the necessity of a formal hearing on the record. • Informal rulemaking is the most common procedure followed by an agency in issuing its substantive rules. — Also termed *notice-and-comment rulemaking*. See NOTICE-AND-COMMENT PERIOD. Cf. *formal rulemaking*.

rule nisi. See *decree nisi* under DECREE.

rule of capture. **1.** The doctrine that if the donee of a general power of appointment manifests an intent to assume control of the property for all purposes and not just for the purpose of appointing it to someone, the donee captures the property and the property goes to the donee's estate. • One common way for the donee to show an intent to assume control for all purposes is to include provisions in his or her will blending the appointing property with the donee's own property. **2. Property.** The principle that wild animals belong to the person who captures them, regardless of whether they were originally on another person's land. **3. Water law.** The principle that a surface landowner can extract and appropriate all the groundwater beneath the land by drilling or pumping, even if doing so drains away groundwaters to the point of drying up springs and wells from which other landowners benefit. • This doctrine has been widely abolished or limited by legislation. **4. Oil & gas.** The principle that the owner of a mineral right covering migratory (sometimes termed "fugacious") substances can extract and appropriate them by drilling or pumping, subject to the prior or contemporaneous capture of the same minerals by another mineral-rights holder into the same subterraneous mineral deposit elsewhere. — Also termed *doctrine of capture*; *law of capture*.

rule of completeness. See RULE OF OPTIONAL COMPLETENESS.

rule of construction. See *canon of construction* under CANON (1).

rule of court. A rule governing the practice or procedure in a given court <federal rules of court>. See LOCAL RULE.

rule of decision. A rule, statute, body of law, or prior decision that provides the basis for deciding or adjudicating a case.

rule of four. The convention that for certiorari to be granted by the U.S. Supreme Court, four justices must vote in favor of the grant. See CERTIORARI.

rule of inconvenience. The principle of statutory interpretation holding that a court should not construe a statute in a way that will jeopardize an important public interest or produce a serious hardship for anyone, unless that interpretation is unavoidable.

rule of interpretation. See *canon of construction* under CANON (1).

rule of justice. A jurisprudential principle that determines the sphere of individual liberty in the pursuit of individual welfare, so as to confine that liberty within limits that are consistent with the general welfare of humankind.

rule of law. **1.** A substantive legal principle <under the rule of law known as respondeat superior, the employer is answerable for all wrongs committed by an employee in the course of the employment>. **2.** The supremacy of regular as opposed to arbitrary power <citizens must respect the rule of law>. — Also termed *supremacy of law*. **3.** The doctrine that every person is subject to the ordinary law within the jurisdiction <all persons within the United States are within the American rule of law>. **4.** The doctrine that general constitutional principles are the result of judicial decisions determining the rights of private individuals in the courts <under the rule of law, Supreme Court caselaw makes up the bulk of what we call "constitutional law">. **5.** Loosely, a legal ruling; a ruling on a point of law <the *ratio decidendi* of a case is any rule of law reached by the judge as a necessary step in the decision>.

rule of lenity (*len-ə-tee*). The judicial doctrine holding that a court, in construing an ambigu-

ous criminal statute that sets out multiple or inconsistent punishments, should resolve the ambiguity in favor of the more lenient punishment. — Also termed *lenity rule*.

rule of marshaling assets. An equitable doctrine that requires a senior creditor, having two or more funds to satisfy its debt, to first dispose of the fund not available to a junior creditor. • It prevents the inequity that would result if the senior creditor could choose to satisfy its debt out of the only fund available to the junior creditor and thereby exclude the junior creditor from any satisfaction. — Also termed *rule of marshaling securities*; *rule of marshaling remedies*.

rule of marshaling liens. See INVERSE-ORDER-OF-ALIENATION DOCTRINE.

rule of marshaling remedies. See RULE OF MARSHALING ASSETS.

rule of marshaling securities. See RULE OF MARSHALING ASSETS.

rule of necessity. A rule requiring a judge or other official to hear a case, despite bias or conflict of interest, when disqualification would result in the lack of any competent court or tribunal.

rule of optional completeness. The rule of evidence providing that when a party introduces part of a writing or an utterance at trial, the opposing party may require that the remainder of the passage be read to establish the full context. • The rule has limitations: first, no utterance can be received if it is irrelevant, and second, the remainder of the utterance must explain the first part. In many jurisdictions, the rule applies to conversations, to an opponent's admissions, to confessions, and to all other types of writings — even account books. But the Federal Rules of Evidence limit the rule to writings and recorded statements. Fed. R. Evid. 106. In most jurisdictions, including federal, the remainder is admissible unless its admission would be unfair or misleading. — Also termed *rule of completeness*; *doctrine of completeness*; *doctrine of optional completeness*; *completeness doctrine*; *optional-completeness rule*; *optional-completeness doctrine*.

rule of rank. A doctrine of statutory construction holding that a statute dealing with things or persons of an inferior rank cannot by any general words be extended to things or persons of a superior rank. • Blackstone gives the ex-

ample of a statute dealing with deans, prebendaries, parsons, vicars, and others having spiritual promotion. According to Blackstone, this statute is held not to extend to bishops, even though they have spiritual promotion, because deans are the highest persons named, and bishops are of a higher order. Cf. EJUSDEM GENERIS; EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS; NOSCITUR A SOCIIS.

rule of reason. *Antitrust.* The judicial doctrine holding that a trade practice violates the Sherman Act only if the practice is an unreasonable restraint of trade, based on economic factors. See SHERMAN ANTITRUST ACT; RESTRAINT OF TRADE. Cf. PER SE RULE.

rule of recognition. In the legal theory of H.L.A. Hart, a legal system's fundamental rule, by which all other rules are identified and understood. • In *The Concept of Law* (1961), Hart contends that a society's legal system is centered on rules. There are primary rules of obligation, which prescribe how a person should act in society, and secondary rules, by which the primary rules are created, identified, changed, and understood. A "rule of recognition" is a secondary rule, and serves to instruct citizens on when a pronouncement or societal principle constitutes a rule of obligation. Cf. RULES OF CHANGE; *basic norm* under NORM.

"This rule [the rule of recognition] may amount to no more than specifying a list of primary rules carved on a public monument. Or it may actually be a complete set of rules . . ." Martin P. Golding, *Philosophy of Law* 44 (1975).

rule of right. The source of a right; the rule that gives rise to a right.

rule of 72. A method for determining how many years it takes to double money invested at a compound interest rate. • For example, at a compound rate of 6%, it takes 12 years (72 divided by 6) for principal to double.

rule of 78. A method for computing the amount of interest that a borrower saves by paying off a loan early, when the interest payments are higher at the beginning of the loan period. • For example, to determine how much interest is saved by prepaying a 12-month loan after 6 months, divide the sum of the digits for the remaining six payments (21) by the sum of the digits for all twelve payments (78) and multiply that percentage by the total interest. — Also termed *rule of the sum of the digits*.

rule of the last antecedent. An interpretative principle by which a court determines that qualifying words or phrases modify the words or phrases immediately preceding them and not words or phrases more remote, unless the extension is necessary from the context or the spirit of the entire writing. ● For example, an application of this rule might mean that, in the phrase *Texas courts, New Mexico courts, and New York courts in the federal system*, the words *in the federal system* might be held to modify only *New York courts* and not *Texas courts* or *New Mexico courts*. — Also termed *doctrine of the last antecedent*; *doctrine of the last preceding antecedent*.

rule of the sum of the digits. See RULE OF 78.

rules of change. In the legal theory of H.L.A. Hart, the fundamental rules by which a legal system's other rules are altered. ● In Hart's theory, a legal system's primary rules are subject to identification and change by secondary rules. Among those rules are "rules of change," which prescribe how laws are altered or repealed. Cf. RULE OF RECOGNITION.

rules of court. See COURT RULES.

Rules of Decision Act. A federal statute (28 USCA § 1652) providing that a federal court, when exercising diversity jurisdiction, must apply the substantive law of the state in which the court sits. See *diversity jurisdiction* under JURISDICTION.

rules of navigation. The principles and regulations that govern the steering and sailing of vessels to avoid collisions. ● Examples include the new International Rules governing conduct on the high seas and the Inland Rules governing navigation on the inland waters of the United States and U.S. vessels on the Canadian waters of the Great Lakes. 33 USCA §§ 1602–1608, 2001(a).

rule to show cause. See SHOW-CAUSE PROCEEDING.

ruling, n. The outcome of a court's decision either on some point of law or on the case as a whole. — Also termed *legal ruling*. — **rule, vb.** Cf. JUDGMENT; OPINION (1).

"A distinction is sometimes made between rules and rulings. Whether or not a formal distinction is declared, in common usage 'legal ruling' (or simply 'ruling') is a term ordinarily used to signify the outcome of applying a legal test when that outcome is one of relatively narrow impact. The immediate effect is to decide an issue in a single case. This meaning contrasts, for example, with the usual meaning of 'legal rule' (or simply 'rule'). The term 'rule' ordinarily refers to a legal proposition of general application. A 'ruling' may have force as precedent, but ordinarily it has that force because the conclusion it expresses (for example, 'objection sustained') explicitly depends upon and implicitly reiterates a 'rule' — a legal proposition of more general application . . ." Robert E. Keeton, *Judging* 67–68 (1990).

ruling case. See LEADING CASE (3).

ruling letter. See DETERMINATION LETTER.

run, vb. 1. To expire after a prescribed period <the statute of limitations had run, so the plaintiff's lawsuit was barred>. **2.** To accompany a conveyance or assignment of (land) <the covenant runs with the land>. **3.** To apply <the injunction runs against only one of the parties in the dispute>.

runner. 1. A law-office employee who delivers papers between offices and files papers in court. **2.** One who solicits personal-injury cases for a lawyer.

running account. See ACCOUNT.

running days. See LAWDAYS.

running objection. See *continuing objection* under OBJECTION.

running policy. See *floating policy* under INSURANCE POLICY.