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R. In the signatures of royal persons, "R." is an abbreviation for "*rex*" (king) or "*regina*" (queen.) In descriptions of land, according to the divisions of the governmental survey, it stands for "range." Otumwa, etc., R. Co. v. McWilliams, 71 Iowa, 164, 32 N. W. 315.

R. G. An abbreviation for *Regula Generalis*, a general rule or order of court; or for the plural of the same.

R. L. This abbreviation may stand either for "Revised Laws" or "Roman law."

R. S. An abbreviation for "Revised Statutes."

RACE. A tribe, people, or nation; belonging or supposed to belong to the same stock or lineage. "Race, color, or previous condition of servitude." Const U. S., Am. XV.

RACE-WAY. An artificial canal dug in the earth; a channel cut in the ground. Wilder v. De Cou, 26 Minn. 17, 1 N. W. 48. The channel for the current that drives a water-wheel. Webster.

RACHAT. In French law. The right of repurchase which, in English and American law, the vendor may reserve to himself. It is also called "*réméré*." Brown.

RACHATER. L. Fr. To redeem; to repurchase, (or buy back.) Kelham.

RACHETUM. In Scotch law. Ransom; corresponding to Saxon "*weregild*," a pecuniary composition for an offense. Skene; Jacob.

RACHIMBURGII. In the legal polity of the Salians and Ripuarrians and other Germanic peoples, this name was given to the judges or assessors who sat with the count in his *mallum*, (court,) and were generally associated with him in other matters. Spelman.

RACK. An engine of torture anciently used in the inquisitorial method of examining persons charged with crime, the office of which was to break the limbs or dislocate the joints.

RACK-RENT. A rent of the full value of the tenement, or near it. 2 Bl. Comm. 43.

RACK-VINTAGE. Wines drawn from the lees. Cowell.

RADICALS. A political party. The term arose in England, in 1818, when the popular leaders, Hunt Cartwright, and others, sought to obtain a radical reform in the

representative system of parliament. Bolingbroke (Disc. Parties, Let. 18) employs the term in its present accepted sense: "Such a remedy might have wrought a *radical* cure of the evil that threatens our constitution," etc. Wharton.

RADOUB. In French law. A term including the repairs made to a ship, and a fresh supply of furniture and victuals, munitions, and other provisions required for the voyage. 3 Pard. Droit Commer. § 602.

RAFFLE. A kind of lottery in which several persons pay, in shares, the value of something put up as a stake, and then determine by chance (as by casting dice) which one of them shall become the sole possessor of it. Webster; Prendergast v. State, 41 Tex. Cr. R. 358, 57 S. W. 850; State v. Kenyon, 21 Mo. 264; People v. American Art Union, 7 N. Y. 241.

A raffle may be described as a species of "adventure or hazard," but is held not to be a lottery. State v. Pinchback, 2 Mill, Const. (S. C.) 130.

RAGEMAN. A statute, so called, of justices assigned by Edward I. and his council, to go a circuit through all England, and to hear and determine all complaints of injuries done within five years next before Michaelmas, in the fourth year of his reign. Spelman.

Also a rule, form, regimen, or precedent.

RAGMAN'S ROLL, or RAGIMUND'S ROLL. A roll, called from one Ragimund, or Ragimont, a legate in Scotland, who, summoning all the beneficed clergymen in that kingdom, caused them on oath to give in the true value of their benefices, according to which they were afterwards taxed by the court of Rome. Wharton.

RAILROAD. A road or way on which iron or steel rails are laid for wheels to run on, for the conveyance of heavy loads in cars or carriages propelled by steam or other motive power. The word "railway" is of exactly equivalent import.

Whether or not this term includes roads operated by horse-power, electricity, cable-lines, etc., will generally depend upon the context of the statute in which it is found. The decisions on this point are at variance.

—**Railroad commission.** A body of commissioners, appointed in several of the states, to regulate railway traffic within the state, with power, generally, to regulate and fix rates, see to the enforcement of police ordinances, and sometimes assess the property of railroads for taxation. See Southern Pac. Co. v. Board of Railroad Com'rs (C. C.) 78 Fed. 252.

RAILWAY. In law, this term is of exactly equivalent import to "railroad." See

N State v. Brin, 30 Minn. 522, 16 N. W. 406; Millvale Borough v. Evergreen Ry. Co., 131 Pa. 1, 18 Atl. 993, 7 L. R. A. 369; Massachusetts L. & T. Co. v. Hamilton, 88 Fed. 592, 32 C. C. A. 46.

O —**Railway commissioners.** A body of three commissioners appointed under the English regulation of railways act, 1873, principally to enforce the provisions of the railway and canal traffic act, 1854, by compelling railway and canal companies to give reasonable facilities for traffic, to abstain from giving unreasonable preference to any company or person, and to forward through traffic at through rates. They also have the supervision of working agreements between companies. Sweet.

P **RAISE.** To create. A use may be raised; *i. e.*, a use may be created. Also to infer; to create or bring to light by construction or interpretation.

Q —**Raise a presumption.** To give occasion or ground for a presumption; to be of such a character, or to be attended with such circumstances, as to justify an inference or presumption of law. Thus, a person's silence, in some instances, will "raise a presumption" of his consent to what is done.—**Raise an issue.** To bring pleadings to an issue; to have the effect of producing an issue between the parties pleading in an action.—**Raise revenue.** To levy a tax, as a means of collecting revenue; to bring together, collect, or levy revenue. The phrase does not imply an increase of revenue. Perry County v. Selma, etc., R. Co., 58 Ala. 557.—**Raising a promise.** By this phrase is meant the act of the law in extracting from the facts and circumstances of a particular transaction a promise which was implicit therein, and postulating it as a ground of legal liability.—**Raising a use.** Creating, establishing, or calling into existence a use. Thus, if a man conveyed land to another in fee, without any consideration, equity would presume that he meant it to be to the use of himself, and would therefore raise an implied use for his benefit. Brown.—**Raising an action,** in Scotland, is the institution of an action or suit.—**Raising money.** To raise money is to realize money by subscription, loan, or otherwise. New York & R. Cement Co. v. Davis, 173 N. Y. 235, 66 N. E. 9; New London Literary Inst. v. Prescott, 40 N. H. 333.—**Raising portions.** When a landed estate is settled on an eldest son, it is generally burdened with the payment of specific sums of money in favor of his brothers and sisters. A direction to this effect is called a direction for "raising portions for younger children;" and, for this purpose, it is usual to demise or lease the estate to trustees for a term of years, upon trust to raise the required portions by a sale or mortgage of the same. Mozley & Whitley.

RAN. Sax. In Saxon and old English law. Open theft, or robbery.

RANCHO. Sp. A small collection of men or their dwellings; a hamlet. As used, however, in Mexico and in the Spanish law formerly prevailing in California, the term signifies a ranch or large tract of land suitable for grazing purposes where horses or cattle are raised, and is distinguished from *hacienda*, a cultivated farm or plantation.

RANGE. In the government survey of the United States, this term is used to de-

note one of the divisions of a state, and designates a row or tier of townships as they appear on the map.

RANGER. In forest law. A sworn officer of the forest, whose office chiefly consists in three points: To walk daily through his charge to see, hear, and inquire as well of trespassers as trespassers in his bailiwick; to drive the beasts of the forest, both of venery and chace, out of the deafforested into the forested lands; and to present all trespassers of the forest at the next courts holden for the forest. Cowell.

RANK, n. The order or place in which certain officers are placed in the army and navy, in relation to others. Wood v. U. S., 15 Ct. Cl. 158.

RANK, adj. In English law. Excessive; too large in amount; as a *rank modus*. 2 Bl. Comm. 30.

RANKING OF CREDITORS is the Scotch term for the arrangement of the property of a debtor according to the claims of the creditors, in consequence of the nature of their respective securities. Bell. The corresponding process in England is the marshalling of securities in a suit or action for redemption or foreclosure. Paterson.

RANSOM. In international law. The redemption of captured property from the hands of an enemy, particularly of property captured at sea. 1 Kent, Comm. 104.

A sum paid or agreed to be paid for the redemption of captured property. 1 Kent Comm. 105.

A "ransom," strictly speaking, is not a recapture of the captured property. It is rather a purchase of the right of the captors at the time, be it what it may; or, more properly, it is a relinquishment of all the interest and benefit which the captors might acquire or consummate in the property, by a regular adjudication of a prize tribunal, whether it be an interest *in rem*, a lien, or a mere title to expenses. In this respect, there seems to be no difference between the case of a ransom of an enemy or a neutral. *Maisonnaire v. Keating*, 2 Gall. 325, Fed. Cas. No. 8,978.

In old English law. A sum of money paid for the pardoning of some great offense. The distinction between ransom and americiament is said to be that ransom was the redemption of a corporal punishment, while americiament was a fine or penalty directly imposed, and not in lieu of another punishment. Cowell; 4 Bl. Comm. 380; U. S. v. Griffin, 6 D. C. 57.

Ransom was also a sum of money paid for the redemption of a person from captivity or imprisonment. Thus one of the feudal "aids" was to ransom the lord's person if taken prisoner. 2 Bl. Comm. 63.

—**Ransom bill.** A contract by which a captured vessel, in consideration of her release and of safe-conduct for a stipulated course and time, agrees to pay a certain sum as ransom.

RAPE. In criminal law. The unlawful carnal knowledge of a woman by a man forcibly and against her will. Code Ga. § 4349; *Gore v. State*, 119 Ga. 418, 46 S. E. 671, 100 Am. St. Rep. 182; *Maxey v. State*, 66 Ark. 523, 52 S. W. 2; *Croghan v. State*, 22 Wis. 444; *State v. Montgomery*, 63 Mo. 298; *People v. Crego*, 70 Mich. 319, 38 N. W. 281; *Felton v. State*, 139 Ind. 531, 39 N. E. 231.

In English law. An intermediate division between a shire and a hundred; or a division of a county, containing several hundreds. 1 Bl. Comm. 116; Cowell. Apparently peculiar to the county of Sussex.

—**Rape of the forest.** In old English law. Trespass committed in a forest by violence. Cowell.—**Rape-reeve.** In English law. The chief officer of a rape, (*q. v.*) 1 Bl. Comm. 116.

RAPINE. In criminal law. Plunder; pillage; robbery. In the civil law, *rapina* is defined as the forcible and violent taking of another man's movable property with the criminal intent to appropriate it to the robber's own use. A prætorian action lay for this offense, in which quadruple damages were recoverable. Gaius, lib. 3, § 209; Inst. 4, 2; Mackeld. Rom. Law, § 481; Heinecc. Elem. § 1071.

RAPPORT À SUCCESSION. In French law and in Louisiana. A proceeding similar to hotchpot; the restoration to the succession of such property as the heir may have received by way of advancement from the decedent, in order that an even division may be made among all the co-heirs. Civ. Code La. art. 1305.

RAPTOR. In old English law. A ravisher. Fleta, lib. 2, c. 52, § 12.

RAPTU HÆREDIS. In old English law. A writ for taking away an heir holding in socage, of which there were two sorts: One when the heir was married; the other when he was not. Reg. Orig. 163.

RAPUIT. Lat. In old English law. Ravished. A technical word in old indictments. 2 East, 30.

RASURE. The act of scraping, scratching, or shaving the surface of a written instrument, for the purpose of removing certain letters or words from it. It is to be distinguished from "obliteration," as the latter word properly denotes the crossing out of a word or letter by drawing a line through it with ink. But the two expressions are often used interchangeably. See Penny v. Corwithe, 18 Johns. (N. Y.) 499.

RASUS. In old English law. A rase; a measure of onions, containing twenty fiones, and each fionis twenty-five heads. Fleta, lib. 2, c. 12, § 12.

RATABLE ESTATE. Within the meaning of a tax law, this term means "taxable estate;" the real and personal property which the legislature designates as "taxable." *Marshfield v. Middlesex*, 55 Vt. 346.

RATAM REM HABERE. Lat. In the civil law. To hold a thing ratified; to ratify or confirm it. Dig. 46, 8, 12, 1.

RATE. Proportional or relative value, measure, or degree; the proportion or standard by which quantity or value is adjusted. Thus, the *rate* of interest is the proportion or ratio between the principal and interest. So the buildings in a town are *rated* for insurance purposes; *i. e.*, classified and individually estimated with reference to their insurable qualities. In this sense also we speak of articles as being in "first-rate" or "second-rate" condition.

Absolute measure, value, or degree. Thus, we speak of the *rate* at which public lands are sold, of the *rates* of fare upon railroads, etc. See *Georgia R. & B. Co. v. Maddox*, 116 Ga. 64, 42 S. E. 315; *Chase v. New York Cent. R. Co.*, 26 N. Y. 526; *People v. Dolan*, 36 N. Y. 67.

The term is also used as the synonym of "tax;" that is, a sum assessed by governmental authority upon persons or property, by proportional valuation, for public purposes. It is chiefly employed in this sense in England, but is there usually confined to taxes of a local nature, or those raised by the parish; such as the poor-rate, borough-rate, etc.

It sometimes occurs in a connection which gives it a meaning synonymous with "assessment;" that is, the apportionment of a tax among the whole number of persons who are responsible for it, by estimating the value of the taxable property of each, and making a proportional distribution of the whole amount. Thus we speak of "rating" persons and property.

In marine insurance, the term refers to the classification or scaling of vessels based on their relative state and condition in regard to insurable qualities; thus, a vessel in the best possible condition and offering the best risk from the underwriter's standpoint, is "rated" as "A 1." See *Insurance Companies v. Wright*, 1 Wall. 472, 17 L. Ed. 505.

—**Rate of exchange.** In commercial law. The actual price at which a bill, drawn in one country upon another country, can be bought or obtained in the former country at any given time. Story, Bills, § 31.—**Rate-tithe.** In English law. When any sheep, or other cattle, are kept in a parish for less time than a year, the owner must pay tithe for them *pro rata*, according to the custom of the place. Fitzh. Nat. Brev. 51.

RATIFICATION. The confirmation of a previous act done either by the party himself or by another; confirmation of a voidable act. See Story, Ag. §§ 250, 251; 2 Kent,

N Comm. 237; Norton v. Shelby County, 118 U. S. 425, 6 Sup. Ct. 1121, 30 L. Ed. 178; Gallup v. Fox, 64 Conn. 491, 30 Atl. 756; Reid v. Field, 83 Va. 26, 1 S. E. 395; Ballard v. Nye, 138 Cal. 588, 72 Pac. 156; Ansonia v. Cooper, 64 Conn. 536, 30 Atl. 760; Smyth v. Lynch, 7 Colo. App. 383, 43 Pac. 670.

O This is where a person adopts a contract or other transaction which is not binding on him, because it was entered into by an unauthorized agent or the like. Leake, Cont. 268.

P **RATIHABITIO.** Lat. Confirmation, agreement, consent, approbation of a contract. Saltmarsh v. Candia, 51 N. H. 76.

Q **Ratihabitio mandato sequiparatur.** Ratification is equivalent to express command. Dig. 46, 3, 12, 4; Broom, Max. 867; Palmer v. Yates, 3 Sandf. (N. Y.) 151.

R **RATIO.** Rate; proportion; degree. Reason, or understanding. Also a cause, or giving judgment therein.

—**Ratio decidendi.** The ground of decision. The point in a case which determines the judgment.—**Ratio legis.** The reason or occasion of a law; the occasion of making a law. Bl. Law Tracts, 3.

Ratio est formalis causa consuetudinis. Reason is the formal cause of custom.

Ratio est legis anima; mutata legis ratione mutatur et lex. 7 Coke, 7. Reason is the soul of law; the reason of law being changed, the law is also changed.

Ratio est radius divini luminis. Co. Litt. 232. Reason is a ray of the divine light.

Ratio et auctoritas, duo clarissima mundi lumina. 4 Inst. 320. Reason and authority, the two brightest lights of the world.

Ratio legis est anima legis. Jenk. Cent. 45. The reason of law is the soul of law.

Ratio potest allegari deficiente lege; sed ratio vera et legalis, et non apparet. Co. Litt. 191. Reason may be alleged when law is defective; but it must be true and legal reason, and not merely apparent.

RATIONABILE ESTOVERIUM. A Latin phrase equivalent to "alimony."

RATIONABILI PARTE BONORUM. A writ that lay for the wife against the executors of her husband, to have the third part of his goods after his just debts and funeral expenses had been paid. Fitzh. Nat. Brev. 122.

RATIONALIBUS DIVISIS. An abolished writ which lay where two lords, in divers towns, had seignories adjoining, for him who found his waste by little and little to have been encroached upon, against the other, who had encroached, thereby to rectify their bounds. Cowell.

RATIONE IMPOTENTIÆ. Lat. On account of inability. A ground of qualified property in some animals *feræ naturæ*; as in the young ones, while they are unable to fly or run. 2 Bl. Comm. 3, 4.

RATIONE MATERIÆ. Lat. By reason of the matter involved; in consequence of, or from the nature of, the subject-matter.

RATIONE PERSONÆ. Lat. By reason of the person concerned; from the character of the person.

RATIONE PRIVILEGII. Lat. This term describes a species of property in wild animals, which consists in the right which, by a peculiar franchise anciently granted by the English crown, by virtue of its prerogative, one man may have of killing and taking such animals on the land of another. 106 E. C. L. 870.

RATIONE SOLI. Lat. On account of the soil; with reference to the soil. Said to be the ground of ownership in bees. 2 Bl. Comm. 393.

RATIONE TENURÆ. L. Lat. By reason of tenure; as a consequence of tenure. 3 Bl. Comm. 230.

RATIONES. In old law. The pleadings in a suit. *Rationes exercere*, or *ad rationes stare*, to plead.

RATTENING is where the members of a trade union cause the tools, clothes, or other property of a workman to be taken away or hidden, in order to compel him to join the union or cease working. It is, in England, an offense punishable by fine or imprisonment. 38 & 39 Vict. c. 86, § 7. Sweet.

RAVISHED. In criminal practice. A material word in indictments for rape. Whart. Crim. Law, § 401.

RAVISHMENT. In criminal law. An unlawful taking of a woman, or of an heir in ward. Rape.

—**Ravishment de gard.** L. Fr. An abolished writ which lay for a guardian by knight's service or in socage, against a person who took from him the body of his ward. Fitzh. Nat. Brev. 140; 12 Car. II. c. 3.—**Ravishment of ward.** In English law. The marriage of an infant ward without the consent of the guardian.

RAZE. To erase. 3 How. State Tr. 156.

RAZON. In Spanish law. Cause, (*causa*.) *Las Partidas*, pt. 4, tit. 4, l. 2.

RE. Lat. In the matter of; in the case of. A term of frequent use in designating judicial proceedings, in which there is only one party. Thus, "*Re Vivian*" signifies "In the matter of Vivian," or in "Vivian's Case."

RE. FA. LO. The abbreviation of "*recordari facias loquclam*," (*q. v.*)

Re, verbis, scripto, consensu, traditione, junctura vestes sumere pacta solent. Compacts usually take their clothing from the thing itself, from words, from writing, from consent, from delivery. *Plowd.* 161.

READERS. In the middle temple, those persons were so called who were appointed to deliver lectures or "readings" at certain periods during term. The clerks in holy orders who read prayers and assist in the performance of divine service in the chapels of the several inns of court are also so termed. *Brown.*

READING-IN. In English ecclesiastical law. The title of a person admitted to a rectory or other benefice will be divested unless within two months after actual possession he publicly read in the church of the benefice, upon some Lord's day, and at the appointed times, the morning and evening service, according to the book of common prayer; and afterwards, publicly before the congregation, declare his assent to such book; and also publicly read the thirty-nine articles in the same church, in the time of common prayer, with declaration of his assent thereto; and moreover, within three months after his admission, read upon some Lord's day in the same church, in the presence of the congregation, in the time of divine service, a declaration by him subscribed before the ordinary, of conformity to the Liturgy, together with the certificate of the ordinary of its having been so subscribed. *2 Steph. Comm. (7th Ed.) 687; Wharton.*

REAFFORESTED. Where a deafforested forest is again made a forest. *20 Car. II. c. 3.*

REAL. In common law. Relating to *land*, as distinguished from personal property. This term is applied to lands, tenements, and hereditaments.

In the civil law. Relating to a *thing*, (whether movable or immovable,) as distinguished from a person.

—Real burden. In Scotch law. Where a right to lands is expressly granted under the burden of a specific sum, which is declared a burden on the lands themselves, or where the right is declared null if the sum be not paid, and where the amount of the sum, and the name of the creditor in it, can be discovered from the

records, the burden is said to be real. *Bell.—Real chymia.* L. Fr. In old English law. The royal way; the king's highway, (*regia via*.)
—Real injury. In the civil law. An injury arising from an unlawful act, as distinguished from a verbal injury, which was done by words. *Hallifax, Civil Law, b. 2, c. 15, nn. 3, 4.—Real things, (or things real.)* In common law. Such things as are permanent, fixed, and immovable, which cannot be carried out of their place; as lands and tenements. *2 Bl. Comm. 15.* Things substantial and immovable, and the rights and profits annexed to or issuing out of them. *1 Steph. Comm. 156.*

As to real "Action," "Assets," "Chattels," "Composition," "Contract," "Covenant," "Estate," "Evidence," "Issue," "Obligation," "Party," "Poinding," "Privilege," "Property," "Representative," "Right," "Security," "Servitude," "Statute," "Warrandice," and "Wrong," see those titles.

REAL LAW. At common law. The body of laws relating to real property. This use of the term is popular rather than technical.

In the civil law. A law which relates to specific property, whether movable or immovable.

Laws purely real directly and indirectly regulate property, and the rights of property, without intermeddling with or changing the state of the person. *Wharton.*

REALITY. In foreign law. That quality of laws which concerns property or things, (*quæ ad rem spectant*.) *Story, Conf. Laws, § 16.*

REALIZE. To convert any kind of property into money; but especially to receive the returns from an investment. See *Bittner v. Gomprecht, 28 Misc. Rep. 218, 58 N. Y. Supp. 1011.*

REALM. A kingdom; a country. *1 Taunt. 270; 4 Camp. 289.*

REALTY. A brief term for real property; also for anything which partakes of the nature of real property.

—Quasi realty. Things which are fixed in contemplation of law to realty, but movable in themselves, as heir-looms, (or limbs of the inheritance,) title-deeds, court rolls, etc. *Wharton.*

REAPPRAISER. A person who, in certain cases, is appointed to make a revaluation or second appraisal of imported goods at the custom-house.

REASON. A faculty of the mind by which it distinguishes truth from falsehood, good from evil, and which enables the possessor to deduce inferences from facts or from propositions. *Webster.* Also an inducement, motive, or ground for action, as in the phrase "reasons for an appeal." See *Nelson v. Clongland, 15 Wis. 393; Miller v. Miller, 8 Johns. (N. Y.) 77.*

N **REASONABLE.** Agreeable to reason; just; proper. Ordinary or usual.

—**Reasonable act.** Such as may fairly, justly, and reasonably be required of a party.—**Reasonable and probable cause.** Such grounds as justify any one in suspecting another of a crime, and giving him in custody thereon. It is a defense to an action for false imprisonment.

O —**Reasonable creature.** Under the common-law rule that murder is taking the life of a "reasonable creature" under the king's peace, with malice aforethought, the phrase means a human being, and has no reference to his mental condition, as it includes a lunatic, an idiot, and even an unborn child. See *State v. Jones, Walk. (Miss.) 85*.—**Reasonable part.** In old English law. That share of a man's goods which the law gave to his wife and children after his decease. 2 Bl. Comm. 492.

P **Q** As to reasonable "Aids," "Care," "Diligence," "Doubt," "Notice," "Skill," and "Time," see those titles.

R **REASSURANCE.** This is where an insurer procures the whole or a part of the sum which he has insured (*i. e.*, contracted to pay in case of loss, death, etc.) to be insured again to him by another person. Sweet.

REATTACHMENT. A second attachment of him who was formerly attached, and dismissed the court without day, by the not coming of the justices, or some such casualty. Reg. Orig. 35.

REBATE. Discount; reducing the interest of money in consideration of prompt payment. Also a deduction from a stipulated premium on a policy of insurance, in pursuance of an antecedent contract. Also a deduction or drawback from a stipulated payment, charge, or rate, (as, a rate for the transportation of freight by a railroad,) not taken out in advance of payment, but handed back to the payer after he has paid the full stipulated sum.

REBEL. The name of rebels is given to all subjects who unjustly take up arms against the ruler of the society, [or the lawful and constitutional government,] whether their view be to deprive him of the supreme authority or to resist his lawful commands in some particular instance, and to impose conditions on him. Vatt. Law Nat. bk. 3, § 288.

REBELLION. Deliberate, organized resistance, by force and arms, to the laws or operations of the government, committed by a subject. See *Hubbard v. Harnden Exp. Co.*, 10 R. I. 247; *State v. McDonald*, 4 Port. (Ala.) 455; *Crashley v. Press Pub. Co.*, 74 App. Div. 118, 77 N. Y. Supp. 711.

In old English law, the term "rebellion" was also applied to contempt of a court manifested by disobedience to its process, particularly of the court of chancery. If a defendant refused to appear, after attachment

and proclamation, a "commission of rebellion" issued against him. 3 Bl. Comm. 444.

—**Rebellion, commission of.** In equity practice. A process of contempt issued on the non-appearance of a defendant.

REBELLIOUS ASSEMBLY. In English law. A gathering of twelve persons or more, intending, going about, or practicing unlawfully and of their own authority to change any laws of the realm; or to destroy the inclosure of any park or ground inclosed, banks of fish-ponds, pools, conduits, etc., to the intent the same shall remain void; or that they shall have way in any of the said grounds; or to destroy the deer in any park, fish in ponds, coneyes in any warren, dove-houses, etc.; or to burn sacks of corn; or to abate rents or prices of victuals, etc. See Cowell.

REBOUTER. To repel or bar. The action of the heir by the warranty of his ancestor is called "to rebut or repel." 2 Co. Litt. 247.

REBUS SIC STANTIBUS. Lat. At this point of affairs; in these circumstances.

REBUT. In pleading and evidence. To rebut is to defeat or take away the effect of something. Thus, when a plaintiff in an action produces evidence which raises a presumption of the defendant's liability, and the defendant adduces evidence which shows that the presumption is ill-founded, he is said to "rebut it." Sweet.

In the old law of real property, to rebut was to repel or bar a claim. Thus, when a person was sued for land which had been warranted to him by the plaintiff or his ancestor, and he pleaded the warranty as a defense to the action, this was called a "rebutter." Co. Litt. 365a; *Termes de la Ley*.

—**Rebut an equity.** To defeat an apparent equitable right or claim, by the introduction of evidence showing that, in the particular circumstances, there is no ground for such equity to attach, or that it is overridden by a superior or countervailing equity. See 2 Whart. Ev. § 973.

REBUTTABLE PRESUMPTION. In the law of evidence. A presumption which may be rebutted by evidence. Otherwise called a "disputable" presumption. A species of legal presumption which holds good until disproved. Best, Pres. § 25; 1 Greenl. Ev. § 33.

REBUTTAL. The introduction of rebutting evidence; the stage of a trial at which such evidence may be introduced; also the rebutting evidence itself. *Lux v. Haggin*, 69 Cal. 255, 10 Pac. 674.

REBUTTER. In pleading. A defendant's answer of fact to a plaintiff's surrejoinder; the third pleading in the series on

the part of the defendant. Steph. Pl. 59; 3 Bl. Comm. 310.

REBUTTING EVIDENCE. See EVIDENCE.

RECALL. In international law. To summon a diplomatic minister back to his home court, at the same time depriving him of his office and functions.

RECALL A JUDGMENT. To revoke, cancel, vacate, or reverse a judgment for matters of fact; when it is annulled by reason of errors of law, it is said to be "reversed."

RECAPTION. A retaking, or taking back. A species of remedy by the mere act of the party injured, (otherwise termed "re-prisal,") which happens when any one has deprived another of his property in goods or chattels personal, or wrongfully detains one's wife, child, or servant. In this case, the owner of the goods, and the husband, parent, or master may lawfully claim and retake them, wherever he happens to find them, so it be not in a riotous manner, or attended with a breach of the peace. 3 Inst. 134; 3 Bl. Comm. 4; 3 Steph. Comm. 358; Prigg v. Pennsylvania, 16 Pet. 612, 10 L. Ed. 1060.

It also signifies the taking a second distress of one formerly distrained during the plea grounded on the former distress.

Also a writ to recover damages for him whose goods, being distrained for rent in service, etc., are distrained again for the same cause, pending the plea in the county court, or before the justice. Fitzh. Nat. Brev. 71.

RECAPTURE. The taking from an enemy, by a friendly force, a vessel previously taken for prize by such enemy.

Receditur a placitis juris, potius quam injuriæ et delicta maneat impunita. Positive rules of law [as distinguished from maxims or conclusions of reason] will be receded from, [given up or dispensed with,] rather than that crimes and wrongs should remain unpunished. Bac. Max. 55, reg. 12.

RECEIPT. A receipt is the written acknowledgment of the receipt of money, or a thing of value, without containing any affirmative obligation upon either party to it; a mere admission of a fact, in writing. Krutz v. Craig, 53 Ind. 574.

A receipt may be defined to be such a written acknowledgment by one person of his having received money from another as will be *prima facie* evidence of that fact in a court of law. Kegg v. State, 10 Ohio, 75.

Also the act or transaction of accepting or taking anything delivered.

In old practice. Admission of a party to defend a suit, as of a wife on default of the

husband in certain cases. Litt. § 668; Co. Litt. 352b.

RECEPTOR. A name given in some of the states to a person who receives from the sheriff goods which the latter has seized under process of garnishment, on giving to the sheriff a bond conditioned to have the property forthcoming when demanded or when execution issues. Story, Bailm. § 124.

RECEIVER. A receiver is an indifferent person between the parties appointed by the court to collect and receive the rents, issues, and profits of land, or the produce of personal estate, or other things which it does not seem reasonable to the court that either party should do; or where a party is incompetent to do so, as in the case of an infant. The remedy of the appointment of a receiver is one of the very oldest in the court of chancery, and is founded on the inadequacy of the remedy to be obtained in the court of ordinary jurisdiction. Bisp. Eq. § 576. See Hay v. McDaniel, 26 Ind. App. 683, 60 N. E. 729; Hale v. Hardon, 95 Fed. 773, 37 C. C. A. 240; Wiswall v. Kunz, 173 Ill. 110, 50 N. E. 184; State v. Gambs, 68 Mo. 297; Nevitt v. Woodburn, 190 Ill. 283, 60 N. E. 500; Kennedy v. Railroad Co. (C. C.) 3 Fed. 103.

One who receives money to the use of another to render an account. Story, Eq. Jur. § 446.

In criminal law. One who receives stolen goods from thieves, and conceals them. Cowell. This was always the prevalent sense of the word in the common as well as the civil law.

—Receiver general of the duchy of Lancaster. An officer of the duchy court, who collects all the revenues, fines, forfeitures, and assessments within the duchy.—**Receiver general of the public revenue.** In English law. An officer appointed in every county to receive the taxes granted by parliament, and remit the money to the treasury.—**Receiver of fines.** An English officer who receives the money from persons who compound with the crown on original writs sued out of chancery. Wharton.—**Receivers and triers of petitions.** The mode of receiving and trying petitions to parliament was formerly judicial rather than legislative, and the triers were committees of prelates, peers, and judges, and, latterly, of the members generally. Brown.—**Receiver's certificate.** A non-negotiable evidence of debt, or debenture, issued by authority of a court of chancery, as a first lien upon the property of a debtor corporation in the hands of a receiver. Beach, Rec. § 379.—**Receivers of wreck.** Persons appointed by the English board of trade. The duties of a receiver of wreck are to take steps for the preservation of any vessel stranded or in distress within his district; to receive and take possession of all articles washed on shore from the vessel; to use force for the suppression of plunder and disorder; to institute an examination on oath with respect to the vessel; and, if necessary, to sell the vessel, cargo, or wreck. Sweet.

RECEIVING STOLEN GOODS. The short name usually given to the offense of

N receiving any property with the knowledge that it has been feloniously or unlawfully stolen, taken, extorted, obtained, embezzled, or disposed of. Sweet.

O **RECENS INSECUTIO.** In old English law. Fresh suit; fresh pursuit. Pursuit of a thief immediately after the discovery of the robbery. 1 Bl. Comm. 297.

P **RÉCÉPISSÉ DE COTISATION.** In French law. A receipt setting forth the extent of the interest subscribed by a member of a mutual insurance company. Arg. Fr. Merc. Law, 571.

Q **RECEPTUS.** Lat. In the civil law. The name sometimes given to an arbitrator, because he had been received or chosen to settle the differences between the parties. Dig. 4, 8; Cod. 2, 56.

R **RECESS.** In the practice of the courts, a recess is a short interval or period of time during which the court suspends business, but without adjourning. See *In re Gannon*, 69 Cal. 541, 11 Pac. 240. In legislative practice, a recess is the interval, occurring in consequence of an adjournment, between the sessions of the same continuous legislative body; not the interval between the final adjournment of one body and the convening of another at the next regular session. See *Tip-ton v. Parker*, 71 Ark. 193, 74 S. W. 298.

RECESSION. The act of ceding back; the restoration of the title and dominion of a territory, by the government which now holds it, to the government from which it was obtained by cession or otherwise. 2 White, Recop. 516.

RECESSUS MARIS. Lat. In old English law. A going back; reliction or retreat of the sea.

RECHT. Ger. Right; justice; equity; the whole body of law; unwritten law; law; also a right.

There is much ambiguity in the use of this term, an ambiguity which it shares with the French "*droit*," the Italian "*diritto*," and the English "right." On the one hand, the term "*recht*" answers to the Roman "*jus*," and thus indicates law in the abstract, considered as the foundation of all rights, or the complex of underlying moral principles which impart the character of justice to all positive law, or give it an ethical content. Taken in this abstract sense, the term may be an adjective, in which case it is equivalent to the English "just," or a noun, in which case it may be paraphrased by the expressions "justice," "morality," or "equity." On the other hand, it serves to point out a right; that is, a power, privilege, faculty, or demand, inherent in one person, and incident upon another. In the latter signifi-

cation "*recht*" (or "*droit*," or "*diritto*," or "right") is the correlative of "duty" or "obligation." In the former sense, it may be considered as opposed to wrong, injustice, or the absence of law. The word "*recht*" has the further ambiguity that it is used in contradistinction to "*gesetz*," as "*jus*" is opposed to "*lex*," or the unwritten law to enacted law. See DROIT; JUS; RIGHT.

RECIDIVE. In French law. The state of an individual who commits a crime or misdemeanor, after having once been condemned for a crime or misdemeanor; a relapse. Dalloz.

RECIPROCAL CONTRACT. A contract, the parties to which enter into mutual engagements. A mutual or bilateral contract.

RECIPROCAL WILLS. Wills made by two or more persons in which they make reciprocal testamentary provisions in favor of each other, whether they unite in one will or each executes a separate one. In *re Cawley's Estate*, 136 Pa. 628, 20 Atl. 567, 10 L. R. A. 93.

RECIPROCITY. Mutuality. The term is used in international law to denote the relation existing between two states when each of them gives the subjects of the other certain privileges, on condition that its own subjects shall enjoy similar privileges at the hands of the latter state. Sweet.

RECITAL. The formal statement or setting forth of some matter of fact, in any deed or writing, in order to explain the reasons upon which the transaction is founded. The recitals are situated in the premises of a deed, that is, in that part of a deed between the date and the *habendum*, and they usually commence with the formal word "whereas." Brown.

The formal preliminary statement in a deed or other instrument, of such deeds, agreements, or matters of fact as are necessary to explain the reasons upon which the transaction is founded. 2 Bl. Comm. 298.

In pleading. The statement of matter as introductory to some positive allegation, beginning in declarations with the words, "For that *whereas*." Steph. Pl. 388, 389.

RECITE. To state in a written instrument facts connected with its inception, or reasons for its being made. Also to quote or set forth the words or the contents of some other instrument or document; as, to "recite" a statute. See *Hart v. Baltimore & O. R. Co.*, 6 W. Va. 348.

RECKLESSNESS. Rashness; heedlessness; wanton conduct. The state of mind accompanying an act, which either pays no regard to its probably or possibly injurious

consequences, or which, though foreseeing such consequences, persists in spite of such knowledge. See *Railroad Co. v. Bodemer*, 139 Ill. 596, 29 N. E. 692, 32 Am. St. Rep. 218; *Com. v. Pierce*, 138 Mass. 165, 52 Am. Rep. 264; *Railway Co. v. Whipple*, 39 Kan. 531, 18 Pac. 730; *Eddy v. Powell*, 49 Fed. 817, 1 C. C. A. 448; *Harrison v. State*, 37 Ala. 156.

RECLAIM. To claim or demand back; to ask for the return or restoration of a thing; to insist upon one's right to recover that which was one's own, but was parted with conditionally or mistakenly; as, to *reclaim* goods which were obtained from one under false pretenses.

In **feudal law**, it was used of the action of a lord pursuing, prosecuting, and recalling his vassal, who had gone to live in another place, without his permission.

In **international law**, it denotes the demanding of a thing or person to be delivered up or surrendered to the government or state to which either properly belongs, when, by an irregular means, it has come into the possession of another. Wharton.

In **the law of property**. Spoken of animals, to reduce from a wild to a tame or domestic state; to tame them. In an analogous sense, to reclaim land is to reduce marshy or swamp land to a state fit for cultivation and habitation.

In **Scotch law**. To appeal. The reclaiming days in Scotland are the days allowed to a party dissatisfied with the judgment of the lord ordinary to appeal therefrom to the inner house; and the petition of appeal is called the reclaiming "bill," "note," or "petition." Mozley & Whitley; Bell.

RECLAIMED ANIMALS. Those that are made tame by art, industry, or education, whereby a qualified property may be acquired in them.

RECLAIMING BILL. In Scotch law. A petition of appeal or review of a judgment of the lord ordinary or other inferior court. Bell.

RECLAMATION DISTRICT. A subdivision of a state created by legislative authority, for the purpose of reclaiming swamp, marshy, or desert lands within its boundaries and rendering them fit for habitation or cultivation, generally with funds raised by local taxation or the issue of bonds, and sometimes with authority to make rules or ordinances for the regulation of the work in hand.

RECLUSION. In French law and in Louisiana. Incarceration as a punishment for crime; a temporary, afflictive, and infamous punishment, consisting in being con-

finéd at hard labor in a penal institution, and carrying civil degradation. See *Phelps v. Reinach*, 38 La. Ann. 551; *Jurgens v. Ittman*, 47 La. Ann. 367, 16 South. 952.

RECOGNITION. Ratification; confirmation; an acknowledgment that something done by another person in one's name had one's authority.

An inquiry conducted by a chosen body of men, not sitting as part of the court, into the facts in dispute in a case at law; these "recognitors" preceded the jurymen of modern times, and reported their recognition or verdict to the court. *Stim. Law Gloss.*

RECOGNITIONE ADNULLANDA PER VIM ET DURITIEM FACTA. A writ to the justices of the common bench for sending a record touching a recognizance, which the recognizer suggests was acknowledged by force and duress; that if it so appear the recognizance may be annulled. *Reg. Orig.* 183.

RECOGNITORS. In English law. The name by which the jurors impaneled on an assize are known. See **RECOGNITION**.

The word is sometimes met in modern books, as meaning the person who enters into a recognizance, being thus another form of recognizer.

RECOGNIZANCE. An obligation of record, entered into before some court of record, or magistrate duly authorized, with condition to do some particular act; as to appear at the assizes, or criminal court, to keep the peace, to pay a debt, or the like. It resembles a bond, but differs from it in being an acknowledgment of a former debt upon record. 2 Bl. Comm. 341. See *U. S. v. Insley* (C. C.) 49 Fed. 778; *State v. Walker*, 56 N. H. 178; *Crawford v. Vinton*, 102 Mich. 83, 62 N. W. 988; *State v. Grant*, 10 Minn. 48 (Gil. 22); *Longley v. Vose*, 27 Me. 179; *Com. v. Emery*, 2 Bin. (Pa.) 431.

In criminal law, a person who has been found guilty of an offense may, in certain cases, be required to enter into a recognizance by which he binds himself to keep the peace for a certain period. Sweet.

In the practice of several of the states, a recognizance is a species of bail-bond or security, given by the prisoner either on being bound over for trial or on his taking an appeal.

RECOGNIZE. To try; to examine in order to determine the truth of a matter. Also to enter into a recognizance.

RECOGNIZEE. He to whom one is bound in a recognizance.

RECOGNIZOR. He who enters into a recognizance.

RECOLEMENT. In French law. This is the process by which a witness, who has

N given his deposition, reads the same over and scrutinizes it, with a view to affirming his satisfaction with it as it stands, or to making such changes in it as his better recollection may suggest to him as necessary to the truth. This is necessary to the validity of the deposition. See Poth. Proc. Crim. § 4, art. 4.

RECOMMENDATION. In feudal law. A method of converting allodial land into feudal property. The owner of the allod surrendered it to the king or a lord, doing homage, and received it back as a benefice or feud, to hold to himself and such of his heirs as he had previously nominated to the superior.

Q The act of one person in giving to another a favorable account of the character, responsibility, or skill of a third.

R —**Letter of recommendation.** A writing whereby one person certifies concerning another that he is of good character, solvent, possessed of commercial credit, skilled in his trade or profession, or otherwise worthy of trust, aid, or employment. It may be addressed to an individual or to whom it may concern, and is designed to aid the person commended in obtaining credit, employment, etc. See McDonald v. Illinois Cent. R. Co., 187 Ill. 529, 58 N. E. 463; Lord v. Goddard, 13 How. 198, 14 L. Ed. 111.

RECOMMENDATORY. Precatory, advisory, or directory. Recommendatory words in a will are such as do not express the testator's command in a peremptory form, but advise, counsel, or suggest that a certain course be pursued or disposition made.

RECOMPENSATION. In Scotland, where a party sues for a debt, and the defendant pleads compensation, *i. e.*, set-off, the plaintiff may allege a compensation on his part; and this is called a "recompensation." Bell.

RECOMPENSE. A reward for services; remuneration for goods or other property.

RECOMPENSE OR RECOVERY IN VALUE. That part of the judgment in a "common recovery" by which the tenant is declared entitled to recover lands of equal value with those which were warranted to him and lost by the default of the vouchee. See 2 Bl. Comm. 358-359.

RECONCILIATION. The renewal of amicable relations between two persons who had been at enmity or variance; usually implying forgiveness of injuries on one or both sides. It is sometimes used in the law of divorce as a term synonymous or analogous to "condonation."

RECONDUCTION. In the civil law. A renewing of a former lease; relocation. Dig. 19, 2, 13, 11; Code Nap. arts. 1737-1740.

RECONSTRUCTION. The name commonly given to the process of reorganizing,

by acts of congress and executive action, the governments of the states which had passed ordinances of secession, and of re-establishing their constitutional relations to the national government, restoring their representation in congress, and effecting the necessary changes in their internal government, after the close of the civil war. See Black, Const. Law (3d Ed.) 48; Texas v. White, 7 Wall. 700, 19 L. Ed. 227.

RECONTINUANCE seems to be used to signify that a person has recovered an incorporeal hereditament of which he had been wrongfully deprived. Thus, "A. is disseised of a manor, whereunto an advowson is appendant, an estranger [*i. e.*, neither A. nor the disseisor] usurpes to the advowson; if the disseisee [A.] enter into the manor, the advowson is recontinued again, which was severed by the usurpation. * * * And so note a diversitie between a recontinuance and a remitter; for a remitter cannot be properly, unlesse there be two titles; but a recontinuance may be where there is but one." Co. Litt. 363b; Sweet.

RECONVENIRE. Lat. In the canon and civil law. To make a cross-demand upon the actor, or plaintiff. 4 Reeve, Eng. Law, 14, and note, (*r.*)

RECONVENTION. In the civil law. An action by a defendant against a plaintiff in a former action; a cross-bill or litigation.

The term is used in practice in the states of Louisiana and Texas, derived from the *reconventio* of the civil law. Reconvention is not identical with set-off, but more extensive. See Pacific Exp. Co. v. Mallin, 132 U. S. 531, 10 Sup. Ct. 166, 33 L. Ed. 450; Suberville v. Adams, 47 La. Ann. 68, 16 South. 652; Gimbel v. Gomprecht, 89 Tex. 497, 35 S. W. 470.

RECONVERSION. That imaginary process by which a prior constructive conversion is annulled, and the converted property restored in contemplation of law to its original state.

RECONVEYANCE takes place where a mortgage debt is paid off, and the mortgaged property is conveyed again to the mortgagor or his representatives free from the mortgage debt. Sweet.

RECOPIACION DE INDIAS. A collection of Spanish colonial law, promulgated A. D. 1680. See Schm. Civil Law, Introd. 94.

RECORD, v. To register or enroll; to write out on parchment or paper, or in a book, for the purpose of preservation and perpetual memorial; to transcribe a document, or enter the history of an act or series of acts, in an official volume, for the purpose of giving notice of the same, of furnishing authentic evidence, and for preservation. See Cady v. Purser, 131 Cal. 552, 63 Pac. 844, 82

Am. St. Rep. 391; *Vidor v. Rawlins*, 93 Tex. 259, 54 S. W. 1026.

RECORD, n. A written account of some act, transaction, or instrument, drawn up, under authority of law, by a proper officer, and designed to remain as a memorial or permanent evidence of the matters to which it relates.

There are three kinds of records, viz.: (1) *judicial*, as an attainer; (2) *ministerial*, on oath, being an officer or inquisition found; (3) by way of *conveyance*, as a deed enrolled. Wharton.

In practice. A written memorial of all the acts and proceedings in an action or suit, in a court of record. The record is the official and authentic history of the cause, consisting in entries of each successive step in the proceedings, chronicling the various acts of the parties and of the court, couched in the formal language established by usage, terminating with the judgment rendered in the cause, and intended to remain as a perpetual and unimpeachable memorial of the proceedings and judgment.

At common law, "record" signifies a *roll of parchment* upon which the proceedings and transactions of a court are entered or drawn up by its officers, and which is then deposited in its treasury *in perpetuam rei memoriam*. 3 Steph. Comm. 583; 3 Bl. Comm. 24. A court of record is that where the acts and judicial proceedings are enrolled in parchment for a perpetual memorial and testimony, which rolls are called the "records of the court," and are of such high and supereminent authority that their truth is not to be called in question. *Hahn v. Kelly*, 34 Cal. 422, 94 Am. Dec. 742. And see *O'Connell v. Hotchkiss*, 44 Conn. 53; *Murray v. State*, 51 Miss. 656; *Bellas v. McCarty*, 10 Watts (Pa.) 24; *U. S. v. Taylor*, 147 U. S. 695, 13 Sup. Ct. 479, 37 L. Ed. 335; *State v. Godwin*, 27 N. C. 403, 44 Am. Dec. 42; *Vail v. Iglehart*, 69 Ill. 334; *State v. Anders*, 64 Kan. 742, 68 Pac. 668; *Wilkinson v. Railway Co.* (C. C.) 23 Fed. 562; *In re Christen*, 43 N. Y. Super. Ct. 531.

In the practice of appellate tribunals, the word "record" is generally understood to mean the history of the proceedings on the trial of the action below, (with the pleadings, offers, objections to evidence, rulings of the court, exceptions, charge, etc.) in so far as the same appears in the record furnished to the appellate court in the paper-books or other transcripts. Hence, derivatively, it means the aggregate of the various judicial steps taken on the trial below, in so far as they were taken, presented, or allowed in the formal and proper manner necessary to put them upon the record of the court. This is the meaning in such phrases as "no error in the record," "contents of the record," "outside the record," etc.

—Conveyances by record. Extraordinary assurances; such as private acts of parliament and royal grants.—**Courts of record.** Those whose judicial acts and proceedings are enrolled in parchment, for a perpetual memorial and testimony, which rolls are called the "records of the court," and are of such high and supereminent authority that their truth is not

to be called in question. Every court of record has authority to fine and imprison for contempt of its authority. 3 Broom & H. Comm. 21, 30.

—Debts of record. Those which appear to be due by the evidence of a court of record; such as a judgment, recognizance, etc.—**Diminution of record.** Incompleteness of the record sent up on appeal. See DIMINUTION.—**Matter of record.** See MATTER.—**Nul tiel record.** See NUL.—**Of record.** See that title.

—Pocket record. A statute so called. Brownl. pt. 2, p. 81.—**Public record.** A record, memorial of some act or transaction, written evidence of something done, or document, considered as either concerning or interesting the public, affording notice or information to the public, or open to public inspection. See *Keefe v. Donnell*, 92 Me. 151, 42 Atl. 345; *Colnon v. Orr*, 71 Cal. 43, 11 Pac. 814.—**Record and writ clerk.** Four officers of the court of chancery were designated by this title, whose duty it was to file bills brought to them for that purpose. Business was distributed among them according to the initial letter of the surname of the first plaintiff in a suit. Hunt, Eq. These officers are now transferred to the high court of justice under the judicature acts.—**Record commission.** The name of a board of commissioners appointed for the purpose of searching out, classifying, indexing, or publishing the public records of a state or county.

—Record of nisi prius. In English law. An official copy or transcript of the proceedings in an action, entered on parchment and "sealed and passed," as it is termed, at the proper office; it serves as a warrant to the judge to try the cause, and is the only document at which he can judicially look for information as to the nature of the proceedings and the issues joined. Brown.—**Title of record.** A title to real estate, evidenced and provable by one or more conveyances or other instruments all of which are duly entered on the public land records.—**Trial by record.** A species of trial adopted for determining the existence or non-existence of a record. When a record is asserted by one party to exist, and the opposite party denies its existence under the form of a traverse that there is no such record remaining in court as alleged, and issue is joined thereon, this is called an "issue of *nul tiel record*," and in such case the court awards a trial by inspection and examination of the record. Upon this the party affirming its existence is bound to produce it in court on a day given for the purpose, and, if he fails to do so, judgment is given for his adversary. Co. Litt. 117b, 260a; 3 Bl. Comm. 331.

Recorda sunt vestigia vetustatis et veritatis. Records are vestiges of antiquity and truth. 2 Rolle, 296.

RECORDARE. In American practice. A writ to bring up judgments of justices of the peace. *Halcombe v. Loudermilk*, 48 N. C. 491.

RECORDARI FACIAS LOQUELAM. In English practice. A writ by which a suit or plaint in replevin may be removed from a county court to one of the courts of Westminster Hall. 3 Bl. Comm. 149; 3 Steph. Pl. 522, 666. So termed from the emphatic words of the old writ, by which the sheriff was commanded to *cause the plaint to be recorded*, and to have the record before the superior court. Reg. Orig. 5b.

RECORDATUR. In old English practice. An entry made upon a record, in order to

N prevent any alteration of it. 1 Ld. Raym. 211.

An order or allowance that the verdict returned on the *nisi prius* roll be recorded.

O **RECORDER, v. L. Fr.** In Norman law. To recite or testify on recollection what had previously passed in court. This was the duty of the judges and other principal persons who presided at the *placitum*; thence called "recordeurs." Steph. Pl., Append. note 11.

P **RECORDER, n.** In old English law. A barrister or other person learned in the law, whom the mayor or other magistrate of any city or town corporate, having jurisdiction or a court of record within their precincts, associated to him for his better direction in matters of justice and proceedings according to law. Cowell.

Q The name "recorder" is also given to a magistrate, in the judicial systems of some of the states, who has a criminal jurisdiction analogous to that of a police judge or other committing magistrate, and usually a limited civil jurisdiction, and sometimes authority conferred by statute in special classes of proceedings.

R Also an officer appointed to make record or enrolment of deeds and other legal instruments authorized by law to be recorded.

RECORDER OF LONDON. One of the justices of oyer and terminer, and a justice of the peace of the *quorum* for putting the laws in execution for the preservation of the peace and government of the city. Being the mouth of the city, he delivers the sentences and judgments of the court therein, and also certifies and records the city customs, etc. He is chosen by the lord mayor and aldermen, and attends the business of the city when summoned by the lord mayor, etc. Wharton.

RECORDING ACTS. Statutes enacted in the several states relative to the official recording of deeds, mortgages, bills of sale, chattel mortgages, etc., and the effect of such records as notice to creditors, purchasers, incumbrancers, and others interested.

RECUP, or RECOUPE. To deduct, defalk, discount, set off, or keep back; to withhold part of a demand.

RECOUPMENT. In practice. Defalcation or discount from a demand. A keeping back something which is due, because there is an equitable reason to withhold it. Tomlins.

Recoupment is a right of the defendant to have a deduction from the amount of the plaintiff's damages, for the reason that the plaintiff has not complied with the cross-obligations or independent covenants arising under the same contract. Code Ga. 1882, § 2909.

It is keeping back something which is due because there is an equitable reason to withhold

it; and is now uniformly applied where a man brings an action for breach of a contract between him and the defendant; and where the latter can show that some stipulation in the same contract was made by the plaintiff, which he has violated, the defendant may, if he choose, instead of suing in his turn, *recoupe* his damages arising from the breach committed by the plaintiff, whether they be liquidated or not. Ives v. Van Eppees, 22 Wend. (N. Y.) 156. And see Barber v. Chapin, 23 Vt. 413; Lawton v. Ricketts, 104 Ala. 430, 16 South. 59; Aultman v. Torrey, 55 Minn. 492, 57 N. W. 211; Dietrich v. Ely, 63 Fed. 413, 11 C. C. A. 266; The Wellsville v. Geissie, 3 Ohio St. 341; Nichols v. Dusenbury, 2 N. Y. 286; Myers v. Estell, 47 Miss. 23.

In speaking of matters to be shown in defense, the term "recoupment" is often used as synonymous with "reduction." The term is of French origin, and signifies cutting again, or cutting back, and, as a defense, means the cutting back on the plaintiff's claim by the defendant. Like reduction, it is of necessity limited to the amount of the plaintiff's claim. It is properly applicable to a case where the same contract imposes mutual duties and obligations on the two parties, and one seeks a remedy for the breach of duty by the second, and the second meets the demand by a claim for the breach of duty by the first. Davenport v. Hubbard, 46 Vt. 207, 14 Am. Rep. 620.

"Recoupment" differs from "set-off" in this respect: that any claim or demand the defendant may have against the plaintiff may be used as a set-off, while it is not a subject for recoupment unless it grows out of the very same transaction which furnishes the plaintiff's cause of action. The term is, as appears above, synonymous with "reduction;" but the latter is not a technical term of the law; the word "defalcation," in one of its meanings, expresses the same idea, and is used interchangeably with recoupment. Recoupment, as a remedy, corresponds to the *reconvention* of the civil law.

RECOURSE. The phrase "without recourse" is used in the form of making a qualified or restrictive indorsement of a bill or note. By these words the indorser signifies that, while he transfers his property in the instrument, he does not assume the responsibility of an indorser. See Lyons v. Fitzpatrick, 52 La. Ann. 697, 27 South. 111.

RECOUSSE. Fr. In French law. Recapture. Emerig. Traité des Assur. c. 12, § 23.

RECOVEREE. In old conveyancing. The party who suffered a common recovery.

RECOVERER. The demandant in a common recovery, after judgment has been given in his favor.

RECOVERY. In its most extensive sense, a recovery is the restoration or vindication of a right existing in a person, by the formal judgment or decree of a competent court, at his instance and suit, or the obtaining, by such judgment, of some right or property which has been taken or withheld from him. This is also called a "true" recovery, to dis-

tinguish it from a "feigned" or "common" recovery. See **COMMON RECOVERY**.

—**Final recovery.** The final judgment in an action. Also the final verdict in an action, as distinguished from the judgment entered upon it. *Fisk v. Gray*, 100 Mass. 193; *Count Joannes v. Pangborn*, 6 Allen (Mass.) 243.

RECREANT. Coward or craven. The word pronounced by a combatant in the trial by battle, when he acknowledged himself beaten. 3 Bl. Comm. 340.

RECRIMINATION. A charge made by an accused person against the accuser; in particular a counter-charge of adultery or cruelty made by one charged with the same offense in a suit for divorce, against the person who has charged him or her. *Wharton*.

Recrimination is a showing by the defendant of any cause of divorce against the plaintiff, in bar of the plaintiff's cause of divorce. Civ. Code Cal. § 122. And see *Duberstein v. Duberstein*, 171 Ill. 133, 49 N. E. 316; *Bohan v. Bohan* (Tex. Civ. App.) 56 S. W. 960.

RECRUIT. A newly-enlisted soldier.

RECTA PRISA REGIS. In old English law. The king's right to prisage, or taking of one butt or pipe of wine before and another behind the mast, as a custom for every ship laden with wines. *Cowell*.

RECTIFICATION. *Rectification of instrument.* In English law. To rectify is to correct or define something which is erroneous or doubtful. Thus, where the parties to an agreement have determined to embody its terms in the appropriate and conclusive form, but the instrument meant to effect this purpose (*e. g.*, a conveyance, settlement, etc.) is, by mutual mistake, so framed as not to express the real intention of the parties, an action may be brought in the chancery division of the high court to have it rectified. *Sweet*.

Rectification of boundaries. An action to rectify or ascertain the boundaries of two adjoining pieces of land may be brought in the chancery division of the high court. *Id.*

Rectification of register. The rectification of a register is the process by which a person whose name is wrongly entered on (or omitted from) a register may compel the keeper of the register to remove (or enter) his name. *Id.*

RECTIFIER. As used in the United States internal revenue laws, this term is not confined to a person who runs spirits through charcoal, but is applied to any one who rectifies or purifies spirits in any manner whatever, or who makes a mixture of spirits with anything else, and sells it under any name. *Quantity of Distilled Spirits*, 3 Ben. 73, Fed. Cas. No. 11,494.

RECTITUDO. Lat. Right or justice; legal dues; tribute or payment. *Cowell*.

RECTO, BREVE DE. A writ of right, which was of so high a nature that as other writs in real actions were only to recover the possession of the land, etc., in question, this aimed to recover the seisin and the property, and thereby both the rights of possession and property were tried together. *Cowell*.

RECTO DE ADVOCATIONE ECCLESIE. A writ which lay at common law, where a man had right of advowson of a church, and, the parson dying, a stranger had presented. *Fitzh. Nat. Brev.* 30.

RECTO DE CUSTODIA TERRÆ ET HEREDIS. A writ of right of ward of the land and heir. Abolished.

RECTO DE DOTE. A writ of right of dower, which lay for a widow who had received part of her dower, and demanded the residue, against the heir of the husband or his guardian. Abolished. See 23 & 24 Vict. c. 126, § 26.

RECTO DE DOTE UNDE NIHIL HABET. A writ of right of dower whereof the widow had nothing, which lay where her deceased husband, having divers lands or tenements, had assured no dower to his wife, and she thereby was driven to sue for her thirds against the heir or his guardian. Abolished.

RECTO DE RATIONABILI PARTE. A writ of right, of the reasonable part, which lay between privies in blood; as brothers in gavelkind, sisters, and other coparceners, for land in fee-simple. *Fitzh. Nat. Brev.* 9.

RECTO QUANDO (or QUIA) DOMINUS REMISIT CURIAM. A writ of right, when or because the lord had remitted his court, which lay where lands or tenements in the seignory of any lord were in demand by a writ of right. *Fitzh. Nat. Brev.* 16.

RECTO SUR DISCLAIMER. An abolished writ on disclaimer.

RECTOR. In English law. He that has full possession of a parochial church. A rector (or parson) has, for the most part, the whole right to all the ecclesiastical dues in his parish; while a *vicar* has an appropriator over him, entitled to the best part of the profits, to whom the vicar is, in effect, perpetual curate, with a standing salary. 1 Bl. Comm. 384, 388. See *Bird v. St. Mark's Church*, 62 Iowa, 567, 17 N. W. 747.

RECTOR PROVINCIÆ. Lat. In Roman law. The governor of a province. *Cod.* 1, 40.

RECTOR SINECURE. A rector of a parish who has not the cure of souls. 2 Steph. Comm. 633.

N **RECTORIAL TITHES.** Great or pre-dial tithes.

RECTORY. An entire parish church, with all its rights, glebes, tithes, and other profits whatsoever; otherwise commonly called a "benefice." See *Gibson v. Brockway*, 8 N. H. 470, 31 Am. Dec. 200; *Pawlet v. Clark*, 9 Oranch, 326, 3 L. Ed. 735.

A rector's manse, or parsonage house. Spelman.

P **RECTUM.** Lat. Right; also a trial or accusation. Bract; Cowell.

—**Rectum esse.** To be right in court.—**Rectum rogare.** To ask for right; to petition the judge to do right.—**Rectum, stare ad.** To stand trial or abide by the sentence of the court.

Q **RECTUS IN CURIA.** Lat. Right in court. The condition of one who stands at the bar, against whom no one objects any offense. When a person outlawed has reversed his outlawry, so that he can have the benefit of the law, he is said to be "*rectus in curia.*" Jacob.

R **RECUPERATIO.** Lat. In old English law. Recovery; restitution by the sentence of a judge of a thing that has been wrongfully taken or detained. Co. Litt. 154a.

Recuperatio, i. e., ad rem, per injuriam extortam sive detentam, per sententiam judicis restitutio. Co. Litt. 154a. Recovery, *i. e.*, restitution by sentence of a judge of a thing wrongfully extorted or detained.

Recuperatio est alicujus rei in causam, alterius adducta per judicem acquisitio. Co. Litt. 154a. Recovery is the acquisition by sentence of a judge of anything brought into the cause of another.

RECUPERATORES. In Roman law. A species of judges first appointed to decide controversies between Roman citizens and strangers concerning rights requiring speedy remedy, but whose jurisdiction was gradually extended to questions which might be brought before ordinary judges. Mackeld. Rom. Law, § 204.

Recurrendum est ad extraordinarium quando non valet ordinarium. We must have recourse to what is extraordinary, when what is ordinary fails.

RECUSANTS. In English law. Persons who willfully absent themselves from their parish church, and on whom penalties were imposed by various statutes passed during the reigns of Elizabeth and James I. Wharton.

Those persons who separate from the church established by law. Termes de la Ley. The term was practically restricted to Roman Catholics.

RECUSATIO TESTIS. Lat. In the civil law. Rejection of a witness, on the ground of incompetency. Best, Ev. Introd. 60, § 60.

RECUSATION. In the civil law. A species of exception or plea to the jurisdiction, to the effect that the particular judge is disqualified from hearing the cause by reason of interest or prejudice. Poth. Proc. Civile, pt. 1, c. 2, § 5.

The challenge of jurors. Code Prac. La. arts. 499, 500. An act, of what nature soever it may be, by which a strange heir, by deeds or words, declares he will not be heir. Dig. 29, 2, 95.

RED, RAED, or REDE. Sax. Advice; counsel.

RED BOOK OF THE EXCHEQUER. An ancient record, wherein are registered the holders of lands *per baroniam* in the time of Henry II., the number of hides of land in certain counties before the Conquest, and the ceremonies on the coronation of Eleanor, wife of Henry III. Jacob; Cowell.

RED-HANDED. With the marks of crime fresh on him.

RED TAPE. In a derivative sense, order carried to fastidious excess; system run out into trivial extremes. Webster v. Thompson, 55 Ga. 434.

REDDENDO SINGULA SINGULIS. Lat. By referring each to each; referring each phrase or expression to its appropriate object. A rule of construction.

REDDENDUM. Lat. In conveyancing. Rendering; yielding. The technical name of that clause in a conveyance by which the grantor creates or reserves some new thing to himself, out of what he had before granted; as "*rendering* therefor yearly the sum of ten shillings, or a pepper-corn," etc. That clause in a lease in which a rent is reserved to the lessor, and which commences with the word "*yielding.*" 2 Bl. Comm. 299.

REDDENS CAUSAM SCIENTIÆ. Lat. Giving the reason of his knowledge.

In Scotch practice. A formal phrase used in depositions, preceding the statement of the reason of the witness' knowledge. 2 How. State Tr. 715.

Reddere, nil aliud est quam acceptum restituere; seu, reddere est quasi retro dare, et redditur dicitur a redeundo, quia retro it. Co. Litt. 142. To render is nothing more than to restore that which has been received; or, to render is as it were to give back, and it is called "rendering" from "returning," because it goes back again.

REDDIT SE. Lat. He has rendered himself.

In old English practice. A term applied to a principal who had rendered himself in discharge of his bail. Holthouse.

REDDITARIUS. In old records. ▲ renter; a tenant. Cowell.

REDDITARIUM. In old records. ▲ rental, or rent-roll. Cowell.

REDDITION. A surrendering or restoring; also a judicial acknowledgment that the thing in demand belongs to the demandant, and not to the person surrendering. Cowell.

REDEEM. To buy back. To liberate an estate or article from mortgage or pledge by paying the debt for which it stood as security. To repurchase in a literal sense; as, to redeem one's land from a tax-sale. See Maxwell v. Foster, 67 S. C. 377, 45 S. E. 927; Miller v. Ratterman, 47 Ohio St. 141, 24 N. E. 496; Swearingen v. Roberts, 12 Neb. 333, 11 N. W. 325; Pace v. Bartles, 47 N. J. Eq. 170, 20 Atl. 352.

REDEEMABLE. 1. Subject to an obligation of redemption; embodying, or conditioned upon, a promise or obligation of redemption; convertible into coin; as, a "redeemable currency." See U. S. v. North Carolina, 136 U. S. 211, 10 Sup. Ct. 920, 34 L. Ed. 336.

2. Subject to redemption; admitting of redemption or repurchase; given or held under conditions admitting of reacquisition by purchase; as, a "redeemable pledge."

—**Redeemable rights.** Rights which return to the conveyer or disposer of land, etc., upon payment of the sum for which such rights are granted. Jacob.

REDELIVERY. A yielding and delivering back of a thing.

—**Redelivery bond.** A bond given to a sheriff or other officer, who has attached or levied on personal property, to obtain the release and repossession of the property, conditioned to redeliver the property to the officer or pay him its value in case the levy or attachment is adjudged good. See Drake v. Sworts, 24 Or. 198, 33 Pac. 563.

REDEMISE. A regrantee of land demised or leased.

REDEMPATIO OPERIS. Lat. In Roman law, a contract for the hiring or letting of services, or for the performance of a certain work in consideration of the payment of a stipulated price. It is the same contract as "*locatio operis*," but regarded from the standpoint of the one who is to do the work, and who is called "*redemptor operis*," while the hirer is called "*locator operis*." See Mackeld. Rom. Law, § 408.

REDEMPTION. A repurchase; a buying back. The act of a vendor of property in buying it back again from the purchaser at the same or an enhanced price.

The right of redemption is an agreement or paction, by which the vendor reserves to himself the power of taking back the thing sold by returning the price paid for it. Civil Code La. art. 2567.

The process of annulling and revoking a conditional sale of property, by performance of the conditions on which it was stipulated to be revocable.

The process of cancelling and annulling a defeasible title to land, such as is created by a mortgage or a tax-sale, by paying the debt or fulfilling the other conditions.

The liberation of a chattel from pledge or pawn, by paying the debt for which it stood as security.

Repurchase of notes, bills, or other evidences of debt, (particularly bank-notes and paper-money,) by paying their value in coin to their holders.

—**Redemption, equity of.** See EQUITY OF REDEMPTION.—**Redemption of land-tax.** In English law. The payment by the landowner of such a lump sum as shall exempt his land from the land-tax. Mozley & Whitley.—**Voluntary redemption,** in Scotch law, is when a mortgagee receives the sum due into his own hands, and discharges the mortgage, without any consignment. Bell.

REDEMPTIONES. In old English law. Heavy fines. Distinguished from *miseri cordia*, (which see.)

REDEUNDO. Lat. Returning; in returning; while returning. 2 Strange, 985.

REDEVANCE. In old French and Canadian law. Dues payable by a tenant to his lord, not necessarily in money.

REDHIBERE. Lat. In the civil law. To have again; to have back; to cause a seller to have again what he had before.

REDHIBITION. In the civil law. The avoidance of a sale on account of some vice or defect in the thing sold, which renders it either absolutely useless or its use so inconvenient and imperfect that it must be supposed that the buyer would not have purchased it had he known of the vice. Civ. Code La. art. 2520.

REDHIBITORY ACTION. In the civil law. An action for redhibition. An action to avoid a sale on account of some vice or defect in the thing sold, which renders its use impossible, or so inconvenient and imperfect that it must be supposed the buyer would not have purchased it had he known of the vice. Civ. Code La. art. 2520.

REDHIBITORY DEFECT (or VICE.) In the civil law. A defect in an article sold, for which the seller may be compelled to

N take it back; a defect against which the seller is bound to warrant. Poth. Cont. Sale, no. 203.

O **REDISSEISIN.** In old English law. A second disseisin of a person of the same tenements, and by the same disseisor, by whom he was before disseised. 3 Bl. Comm. 188.

REDITUS. Lat. A revenue or return; income or profit; specifically, rent.

P **-Reditus albi.** White rent; blanche farm; rent payable in silver or other money.—**Reditus assisus.** A set or standing rent.—**Reditus capitales.** Chief rent paid by freeholders to go quit of all other services.—**Reditus nigr.** Black rent; black mail; rent payable in provisions, corn, labor, etc.; as distinguished from "money rent," called "*reditus albi*."—**Reditus quieti.** Quitrents, (*q. v.*)—**Reditus siccus.** Rent seck, (*q. v.*)

R **REDMANS.** In feudal law. Men who, by the tenure or custom of their lands, were to ride with or for the lord of the manor, about his business. Domesday.

REDOBATORES. In old English law. Those that buy stolen cloth and turn it into some other color or fashion that it may not be recognized. Redubbers.

REDRAFT. In commercial law. A draft or bill drawn in the place where the original bill was made payable and where it went to protest, on the place where such original bill was drawn, or, when there is no regular commercial intercourse rendering that practicable, then in the next best or most direct practicable course. 1 Bell, Comm. 406.

REDRESS. The receiving satisfaction for an injury sustained.

REDUBBERS. In criminal law. Those who bought stolen cloth and dyed it of another color to prevent its being identified were anciently so called. Cowell; 3 Inst. 134.

REDUCE. In Scotch law. To rescind or annul.

REDUCTIO AD ABSURDUM. Lat. In logic. The method of disproving an argument by showing that it leads to an absurd consequence.

REDUCTION. In Scotch law. An action brought for the purpose of rescinding, annulling, or cancelling some bond, contract, or other instrument in writing. 1 Forb. Inst. pt. 4, pp. 153, 159.

In French law. Abatement. When a parent gives away, whether by gift *inter vivos* or by legacy, more than his *portion disponible*, (*q. v.*) the donee or legatee is required to submit to have his gift reduced to the legal proportion.

—**Reduction ex capite lecti.** By the law of Scotland the heir in heritage was entitled

to reduce all voluntary deeds granted to his prejudice by his predecessor within sixty days preceding the predecessor's death; provided the maker of the deed, at its date, was laboring under the disease of which he died, and did not subsequently go to kirk or market unsupported. Bell.—**Reduction improbatum.** In Scotch law. One form of the action of reduction in which falsehood and forgery are alleged against the deed or document sought to be set aside.

REDUCTION INTO POSSESSION. The act of exercising the right conferred by a chose in action, so as to convert it into a chose in possession; thus, a debt is reduced into possession by payment. Sweet.

REDUNDANCY. This is the fault of introducing superfluous matter into a legal instrument; particularly the insertion in a pleading of matters foreign, extraneous, and irrelevant to that which it is intended to answer. See *Carpenter v. Reynolds*, 58 Wis. 666, 17 N. W. 300; *Carpenter v. West*, 5 How. Prac. (N. Y.) 55; *Bowman v. Sheldon*, 5 Sandf. (N. Y.) 660.

RE-ENTRY. The entering again into or resuming possession of premises. Thus in leases there is a proviso for re-entry of the lessor on the tenant's failure to pay the rent or perform the covenants contained in the lease, and by virtue of such proviso the lessor may take the premises into his own hands again if the rent be not paid or covenants performed; and this resumption of possession is termed "re-entry." 2 Cruise, Dig. 8; Cowell. And see *Michaels v. Fishel*, 169 N. Y. 381, 62 N. E. 425; *Earl Orchard Co. v. Fava*, 138 Cal. 76, 70 Pac. 1073.

RE-EXAMINATION. An examination of a witness after a cross-examination, upon matters arising out of such cross-examination. See EXAMINATION.

RE-EXCHANGE. The damages or expenses caused by the dishonor and protest of a bill of exchange in a foreign country, where it was payable, and by its return to the place where it was drawn or indorsed, and its being there taken up. *Bangor Bank v. Hook*, 5 Me. 175.

RE-EXTENT. In English practice. A second extent made upon lands or tenements, upon complaint made that the former extent was partially performed. Cowell.

REEVE. In old English law. A ministerial officer of justice. His duties seem to have combined many of those now confided to the sheriff or constable and to the justice of the peace. He was also called, in Saxon, "*gerefa*."

—**Land reeve.** See LAND.

REFALO. A word composed of the three initial syllables "*re*," "*fa*," "*lo*," for "*recordari facias loquelam*," (*q. v.*) 2 Sell. Pr. 160.

REFARE. To bereave, take away, rob. Cowell.

REFECTION. In the civil law. Reparation; re-establishment of a building. Dig. 19, 1, 6, 1.

REFER. 1. When a case or action involves matters of account or other intricate details which require minute examination, and for that reason are not fit to be brought before a jury, it is usual to *refer* the whole case, or some part of it, to the decision of an auditor or referee, and the case is then said to be referred.

Taking this word in its strict, technical use, it relates to a mode of determining questions which is distinguished from "arbitration," in that the latter word imports submission of a controversy without any lawsuit having been brought, while "reference" imports a lawsuit pending, and an issue framed or question raised which (and not the controversy itself) is sent out. Thus, arbitration is resorted to instead of any judicial proceeding; while reference is one mode of decision employed in the course of a judicial proceeding. And "reference" is distinguished from "hearing or trial," in that these are the ordinary modes of deciding issues and questions in and by the courts with aid of juries when proper; while reference is an employment of non-judicial persons—individuals not integral parts of the court—for the decision of particular matters inconvenient to be heard in actual court. Abbott.

2. To point, allude, direct, or make reference to. This is the use of the word in conveyancing and in literature, where a word or sign introduced for the purpose of directing the reader's attention to another place in the deed, book, document, etc., is said to "refer" him to such other connection.

REFEREE. In practice. A person to whom a cause pending in a court is referred by the court, to take testimony, hear the parties, and report thereon to the court. See REFER. And see *In re Hathaway*, 71 N. Y. 243; *Betts v. Letcher*, 1 S. D. 182, 46 N. W. 193; *Central Trust Co. v. Wabash, etc.*, R. Co. (C. C.) 32 Fed. 685.

—**Referee in bankruptcy.** An officer appointed by the courts of bankruptcy under the act of 1898 (U. S. Comp. St. 1901, p. 3418) corresponding to the "registers in bankruptcy" under earlier statutes having administrative and quasi-judicial functions under the bankruptcy law, and who assists the court in such cases and relieves the judge of attention to matters of detail or routine, by taking charge of all administrative matters and the preparation or preliminary consideration of questions requiring judicial decision, subject at all times to the supervision and review of the court.

REFERENCE. In contracts. An agreement to submit to arbitration; the act of parties in submitting their controversy to chosen referees or arbitrators.

In practice. The act of sending a cause pending in court to a referee for his examination and decision. See REFER.

In commercial law. The act of sending or directing one person to another, for in-

formation or advice as to the character, solvency, standing, etc., of a third person, who desires to open business relations with the first, or to obtain credit with him.

—**Reference in case of need.** When a person draws or indorses a bill of exchange, he sometimes adds the name of a person to whom it may be presented "in case of need;" i. e., in case it is dishonored by the original drawee or acceptor. Byles, Bills, 261.—**Reference to record.** Under the English practice, when an action is commenced, an entry of it is made in the cause-book according to the year, the initial letter of the surname of the first plaintiff, and the place of the action, in numerical order among those commenced in the same year, e. g., "1876, A. 26;" and all subsequent documents in the action (such as pleadings and affidavits) bear this mark, which is called the "reference to the record." Sweet.

REFERENDARIUS. An officer by whom the order of causes was laid before the Roman emperor, the desires of petitioners made known, and answers returned to them. Vicat, Voc. Jur.; Calvin.

REFERENDARY. In Saxon law. A master of requests; an officer to whom petitions to the king were referred. Spelman.

REFERENDO SINGULA SINGULIS. Lat. Referring individual or separate words to separate subjects; making a distributive reference of words in an instrument; a rule of construction.

REFERENDUM. In international law. A communication sent by a diplomatic representative to his home government, in regard to matters presented to him which he is unable or unwilling to decide without further instructions.

In the modern constitutional law of Switzerland, the *referendum* is a method of submitting an important legislative measure to a direct vote of the whole people. See PLEBISCITE.

REFINEMENT. A term sometimes employed to describe verbiage inserted in a pleading or indictment, over and above what is necessary to be set forth; or an objection to a plea or indictment on the ground of its failing to include such superfluous matter. See *State v. Gallimon*, 24 N. C. 377; *State v. Peak*, 130 N. C. 711, 41 S. E. 887.

REFORM. To correct, rectify, amend, remodel. Instruments *inter partes* may be *reformed*, when defective, by a court of equity. By this is meant that the court, after ascertaining the real and original intention of the parties to a deed or other instrument, (which intention they failed to sufficiently express, through some error, mistake of fact, or inadvertence,) will decree that the instrument be held and construed as if it fully and technically expressed that intention. See *Sullivan v. Haskin*, 70 Vt. 487, 41 Atl.

N 437; *De Voin v. De Voin*, 76 Wis. 66, 44 N. W. 839.

O It is to be observed that "reform" is seldom, if ever, used of the correction of defective pleadings, judgments, decrees or other judicial proceedings; "amend" being the proper term for that use. Again, "amend" seems to connote the idea of improving that which may have been well enough before, while "reform" might be considered as properly applicable only to something which before was quite worthless.

P **REFORM ACTS.** A name bestowed on the statutes 2 Wm. IV. c. 45, and 30 & 31 Vict. c. 102, passed to amend the representation of the people in England and Wales; which introduced extended amendments into the system of electing members of the house of commons.

Q **REFORMATION.** See **REFORM.**

R **REFORMATORY.** This term is of too wide and uncertain signification to support a bequest for the building of a "boys' reformatory." It includes all places and institutions in which efforts are made either to cultivate the intellect, instruct the conscience, or improve the conduct; places in which persons voluntarily assemble, receive instruction, and submit to discipline, or are detained therein for either of these purposes by force. *Hughes v. Daly*, 49 Conn. 35. But see *McAndrews v. Hamilton County*, 105 Tenn. 399, 58 S. W. 483.

REFORMATORY SCHOOLS. In English law. Schools to which convicted juvenile offenders (under sixteen) may be sent by order of the court before which they are tried, if the offense be punishable with penal servitude or imprisonment, and the sentence be to imprisonment for ten days or more. *Wharton*.

REFRESHER. In English law. A further or additional fee to counsel in a long case, which may be, but is not necessarily, allowed on taxation.

REFRESHING THE MEMORY. The act of a witness who consults his documents, memoranda, or books, to bring more distinctly to his recollection the details of past events or transactions, concerning which he is testifying.

REFUND. To repay or restore; to return money had by one party of another. See *Rackliff v. Greenbush*, 93 Me. 99, 44 Atl. 375; *Maynard v. Mechanics' Nat. Bank*, 1 Brewst. (Pa.) 484; *Gutch v. Fosdick*, 48 N. J. Eq. 353, 22 Atl. 590, 27 Am. St. Rep. 473.

—Refunding bond. A bond given to an executor by a legatee, upon receiving payment of the legacy, conditioned to *refund* the same, or so much of it as may be necessary, if the assets prove deficient.—**Refunds.** In the laws

of the United States, this term is used to denote sums of money received by the government or its officers which, for any cause, are to be refunded or restored to the parties paying them; such as excessive duties or taxes, duties paid on goods destroyed by accident, duties received on goods which are re-exported, etc.

REFUSAL. The act of one who has, by law, a right and power of having or doing something of advantage, and declines it. Also, the declination of a request or demand, or the omission to comply with some requirement of law, as the result of a positive intention to disobey. In the latter sense, the word is often coupled with "neglect," as, if a party shall "neglect or refuse" to pay a tax, file an official bond, obey an order of court, etc. But "neglect" signifies a mere omission of a duty, which may happen through inattention, dilatoriness, mistake, or inability to perform, while "refusal" implies the positive denial of an application or command, or at least a mental determination not to comply. See *Thompson v. Tinkcom*, 15 Minn. 299 (Gil. 226); *People v. Perkins*, 85 Cal. 509, 26 Pac. 245; *Kimball v. Rowland*, 6 Gray (Mass.) 225; *Davis v. Lumpkin*, 106 Ga. 582, 32 S. E. 626; *Burns v. Fox*, 113 Ind. 205, 14 N. E. 541; *Cape Elizabeth v. Boyd*, 86 Me. 317, 29 Atl. 1062; *Taylor v. Mason*, 9 Wheat. 344, 6 L. Ed. 101.

REFUTANTIA. In old records. An acquittance or acknowledgment of renouncing all future claim. *Cowell*.

REG. GEN. An abbreviation of "*Regula Generalis*," a general rule, (of court.)

REG. JUD. An abbreviation of "*Registrum Judiciale*," the register of judicial writs.

REG. LIB. An abbreviation of "*Registrarii Liber*," the register's book in chancery, containing all decrees.

REG. ORIG. An abbreviation of "*Registrum Originale*," the register of original writs.

REG. PL. An abbreviation of "*Regula Placitandi*," rule of pleading.

REGAL FISH. Whales and sturgeons, so called in English law, as belonging to the king by prerogative when cast on shore or caught near the coast. 1 Bl. Comm. 290.

REGALE. In old French law. A payment made to the *seigneur* of a fief, on the election of every bishop or other ecclesiastical feudatory, corresponding with the relief paid by a lay feudatory. *Steph. Lect.* 235.

REGALE EPISCOPORUM. The temporal rights and privileges of a bishop. *Cowell*.

REGALIA seems to be an abbreviation of "*jura regalia*," royal rights, or those

rights which a king has by virtue of his prerogative. Hence owners of counties palatine were formerly said to have "*jura regalia*" in their counties as fully as the king in his palace. 1 Bl. Comm. 117. The term is sometimes used in the same sense in the Spanish law. See *Hart v. Burnett*, 15 Cal. 566.

Some writers divide the royal prerogative into *majora* and *minora regalia*, the former including the regal dignity and power, the latter the revenue or fiscal prerogatives of the crown. 1 Bl. Comm. 117.

REGALIA FACERE. To do homage or fealty to the sovereign by a bishop when he is invested with the regalia.

REGALITY. A territorial jurisdiction in Scotland conferred by the crown. The lands were said to be given *in liberam regalitatem*, and the persons receiving the right were termed "lords of regality." Bell.

REGARD. In old English law. Inspection; supervision. Also a reward, fee, or perquisite.

—**Regard, court of.** In forest law. A tribunal held every third year, for the lawing or expeditation of dogs, to prevent them from chasing deer. Cowell.—**Regard of the forest.** In old English law. The oversight or inspection of it, or the office and province of the regarder, who is to go through the whole forest, and every bailiwick in it, before the holding of the sessions of the forest, or justice-seat, to see and inquire after trespassers, and for the survey of dogs. Manwood.

REGARDANT. A term which was applied, in feudal law, to a villein annexed to a manor, and having charge to do all base services within the same, and to see the same freed from all things that might annoy his lord. Such a villein *regardant* was thus opposed to a villein *en gros*, who was transferable by deed from one owner to another. Cowell; 2 Bl. Comm. 93.

REGARDER OF A FOREST. An ancient officer of the forest, whose duty it was to take a view of the forest hunts, and to inquire concerning trespasses, offenses, etc. Manwood.

REGE INCONSULTO. Lat. In English law. A writ issued from the sovereign to the judges, not to proceed in a cause which may prejudice the crown, until advised. Jenk. Cent. 97.

REGENCY. Rule; government; kingship. The man or body of men intrusted with the vicarious government of a kingdom during the minority, absence, insanity, or other disability of the king.

REGENT. A governor or ruler. One who vicariously administers the government of a kingdom, in the name of the king, during the latter's minority or other disability.

A master, governor, director, or superin-

tendent of a public institution, particularly a college or university.

Regia dignitas est indivisibilis, et quaelibet alia derivativa dignitas est similiter indivisibilis. 4 Inst. 243. The kingly power is indivisible, and every other derivative power is similarly indivisible.

REGIA VIA. Lat. In old English law. The royal way; the king's highway. Co. Litt. 56a.

REGIAM MAJESTATEM. A collection of the ancient laws of Scotland. It is said to have been compiled by order of David I., king of Scotland, who reigned from A. D. 1124 to 1153. Hale, Com. Law, 271.

REGICIDE. The murder of a sovereign; also the person who commits such murder.

REGIDOR. In Spanish law. One of a body, never exceeding twelve, who formed a part of the *ayuntamiento*. The office of regidor was held for life; that is to say, during the pleasure of the supreme authority. In most places the office was purchased; in some cities, however, they were elected by persons of the district, called "*capitulares*." 12 Pet. 442, note.

RÉGIME. In French law. A system of rules or regulations.

—**Régime dotal.** The *dot*, being the property which the wife brings to the husband as her contribution to the support of the burdens of the marriage, and which may either extend as well to future as to present property, or be expressly confined to the present property of the wife, is subject to certain regulations which are summarized in the phrase "*régime dotal*." The husband has the entire administration during the marriage; but, as a rule, where the *dot* consists of immovables, neither the husband nor the wife, nor both of them together, can either sell or mortgage it. The *dot* is returnable upon the dissolution of the marriage, whether by death or otherwise. Brown.—**Régime en communauté.** The community of interests between husband and wife which arises upon their marriage. It is either (1) legal or (2) conventional, the former existing in the absence of any "agreement" properly so called, and arising from a mere declaration of community; the latter arising from an "agreement," properly so called. Brown.

REGIMIENTO. In Spanish law. The body of regidores, who never exceeded twelve, forming a part of the municipal council, or *ayuntamiento*, in every capital of a jurisdiction. 12 Pet. 442, note.

REGINA. Lat. The queen.

REGIO ASSENSU. A writ whereby the sovereign gives his assent to the election of a bishop. Reg. Orig. 294.

REGISTER. An officer authorized by law to keep a record called a "register" or "reg-

N 'stry;" as the register for the probate of wills.

A book containing a record of facts as they occur, kept by public authority; a register of births, marriages, and burials.

O —**Register in bankruptcy.** An officer of the courts of bankruptcy, under the earlier acts of congress in that behalf, having substantially the same powers and duties as the "referees in bankruptcy" under the act of 1898 (U. S. Comp. St. 1901, p. 3418). See REFERENCE.

P **Register of deeds.** The name given in some states to the officer whose duty is to record deeds, mortgages, and other instruments affecting realty in the official books provided and kept for that purpose; more commonly called "recorder of deeds." —**Register of land office.**

A federal officer appointed for each federal land district, to take charge of the local records and attend to the preliminary matters connected with the sale, pre-emption, or other disposal of the public lands within the district. See Rev. St. U. S. § 2234 (U. S. Comp. St. 1901, p. 1366). —**Register of patents.** A book of patents, directed by St. 15 & 16 Vict. c. 83, § 34, passed in 1852, to be kept at the specification office, for public use. 2 Steph. Comm. 29, note *t*.

R —**Register of ships.** A register kept by the collectors of customs, in which the names, ownership, and other facts relative to merchant vessels are required by law to be entered. This register is evidence of the nationality and privileges of an American ship. The certificate of such registration, given by the collector to the owner or master of the ship, is also called the ship's register." Rapalje & Lawrence.

—**Register of the treasury.** An officer of the United States treasury, whose duty is to keep all accounts of the receipt and expenditure of public money and of debts due to or from the United States, to preserve adjusted accounts with vouchers and certificates, to record warrants drawn upon the treasury, to sign and issue government securities, and take charge of the registry of vessels under United States laws. See Rev. St. U. S. §§ 812, 313 (U. S. Comp. St. 1901, p. 183).

—**Register of wills.** An officer in some of the states, whose function is to record and preserve all wills admitted to probate, to issue letters testamentary or of administration, to receive and file accounts of executors, etc., and generally to act as the clerk of the probate court.

—**Register of writs.** A book preserved in the English court of chancery, in which were entered the various forms of original and judicial writs.

REGISTERED. Entered or recorded in some official register or record or list.

—**Registered bond.** The bonds of the United States government (and of many municipal and private corporations) are either registered or "coupon bonds." In the case of a registered bond, the name of the owner or lawful holder is entered in a register of record, and it is not negotiable or transferable except by an entry on the register, and checks or warrants are sent to the registered holder for the successive installments of interest as they fall due. A bond with interest coupons attached is transferable by mere delivery, and the coupons are payable, as due, to the person who shall present them for payment. But the bond issues of many private corporations now provide that the individual bonds "may be registered as to principal," leaving the interest coupons payable to bearer, or that they may be registered as to both principal and interest, at the option of the holder. See *Benwell v. New York*, 55 N. J. Eq. 260, 36 Atl. 668. —**Registered tonnage.** The registered tonnage of a vessel is the capacity or cubical contents of the ship, or the amount of weight which she will carry,

as ascertained in some proper manner and entered on an official register or record. See *Reck v. Phoenix Ins. Co.*, 54 Hun. 637, 7 N. Y. Supp. 492; *Wheaton v. Weston* (D. C.) 128 Fed. 153. —**Registered trade-mark.** A trade-mark filed in the United States patent office, with the necessary description and other statements required by the act of congress, and there duly recorded, securing its exclusive use to the person causing it to be registered. Rev. St. U. S. § 4937. See U. S. Comp. St. 1901, p. 3401. —**Registered voters.** In Virginia, this term refers to the persons whose names are placed upon the registration books provided by law as the sole record or memorial of the duly qualified voters of the state. *Chalmers v. Funk*, 76 Va. 719.

REGISTER'S COURT. In American law. A court in the state of Pennsylvania which has jurisdiction in matters of probate.

REGISTRANT. One who registers; particularly, one who registers anything (*e. g.*, a trade-mark) for the purpose of securing a right or privilege granted by law on condition of such registration.

REGISTRAR. An officer who has the custody or keeping of a registry or register. This word is used in England; "register" is more common in America.

—**Registrar general.** In English law. An officer appointed by the crown under the great seal, to whom, subject to such regulations as shall be made by a principal secretary of state, the general superintendence of the whole system of registration of births, deaths, and marriages is intrusted. 3 Steph. Comm. 234.

REGISTRARIUS. In old English law. A notary; a registrar or register.

REGISTRATION. Recording; inserting in an official register; the act of making a list, catalogue, schedule, or register, particularly of an official character, or of making entries therein. In re Supervisors of Election (C. C.) 1 Fed. 1.

—**Registration of stock.** In the practice of corporations this consists in recording in the official books of the company the name and address of the holder of each certificate of stock, with the date of its issue, and, in the case of a transfer of stock from one holder to another, the names of both parties and such other details as will identify the transaction and preserve a memorial or official record of its essential facts. See *Fisher v. Jones*, 82 Ala. 117, 3 South. 13.

REGISTRUM BREVIUM. The register of writs, (*q. v.*)

REGISTRY. A register, or book authorized or recognized by law, kept for the recording or registration of facts or documents.

In commercial law. The registration of a vessel at the custom-house, for the purpose of entitling her to the full privileges of a British or American built vessel. 3 Kent, Comm. 139; Abb. Shipp. 58-96.

—**Registry of deeds.** The system or organized mode of keeping a public record of deeds, mortgages, and other instruments affecting title

to real property. See *Friedley v. Hamilton*, 17 Serg. & R. (Pa.) 71, 17 Am. Dec. 638; *Castillero v. U. S.*, 2 Black, 109, 17 L. Ed. 360.

REGIUS PROFESSOR. A royal professor or reader of lectures founded in the English universities by the king. Henry VIII. founded in each of the universities five professorships, viz., of divinity, Greek, Hebrew, law, and physic. Cowell.

REGLAMENTO. In Spanish colonial law. A written instruction given by a competent authority, without the observance of any peculiar form. Schm. Civil Law, Introd. 93, note.

REGNAL YEARS. Statutes of the British parliament are usually cited by the name and year of the sovereign in whose reign they were enacted, and the successive years of the reign of any king or queen are denominated the "regnal years."

REGNANT. One having authority as a king; one in the exercise of royal authority.

REGNI POPULI. A name given to the people of Surrey and Sussex, and on the sea-coasts of Hampshire. Blount.

REGNUM ECCLESIASTICUM. The ecclesiastical kingdom. 2 Hale, P. C. 324.

Regnum non est divisibile. Co. Litt. 165. The kingdom is not divisible.

REGRANT. In the English law of real property, when, after a person has made a grant, the property granted comes back to him, (e. g., by escheat or forfeiture,) and he grants it again, he is said to regrant it. The phrase is chiefly used in the law of copyholds.

REGRATING. In old English law. The offense of buying or getting into one's hands at a fair or market any provisions, corn, or other dead victual, with the intention of selling the same again in the same fair or market, or in some other within four miles thereof, at a higher price. The offender was termed a "regrator." 3 Inst. 195. See *Forsyth Mfg. Co. v. Castlen*, 112 Ga. 199, 37 S. E. 485, 81 Am. St. Rep. 28.

REGRESS is used principally in the phrase "free entry, egress, and regress" but it is also used to signify the re-entry of a person who has been disseised of land. Co. Litt. 318b.

REGULA. Lat. In practice. A rule. *Regula generalis*, a general rule; a standing rule or order of a court. Frequently abbreviated, "*Reg. Gen.*"

—**Regula Catoniana.** In Roman law. The rule of Cato. A rule respecting the validity of dispositions by will. See Dig. 34, 7.

Regula est, juris quidem ignorantiam cuique nocere, facti vero ignorantiam non nocere. Cod. 1, 18, 10. It is a rule, that every one is prejudiced by his ignorance of law, but not by his ignorance of fact.

REGULÆ GENERALES. Lat. General rules, which the courts promulgate from time to time for the regulation of their practice.

REGULAR. According to rule; as distinguished from that which violates the rule or follows no rule.

According to rule; as opposed to that which constitutes an exception to the rule or is not within the rule. See *Zulich v. Bowman*, 42 Pa. 87; *Myers v. Rasback*, 4 How. Prac. (N. Y.) 85.

As to regular "Clergy," "Deposit," "Election," "Indorsement," "Meeting," "Navigation," "Process," "Session," and "Term," see those titles.

Regulariter non valet pactum de re mea non alienanda. Co. Litt. 223. It is a rule that a compact not to alienate my property is not binding.

REGULARS. Those who profess and follow a certain rule of life, (*regula*.) belong to a religious order, and observe the three approved vows of poverty, chastity, and obedience. Wharton.

REGULATE. The power to regulate commerce, vested in congress, is the power to prescribe the rules by which it shall be governed, that is, the conditions upon which it shall be conducted, to determine when it shall be free, and when subject to duties or other exactions. The power also embraces within its control all the instrumentalities by which that commerce may be carried on, and the means by which it may be aided and encouraged. *Gloucester Ferry Co. v. Pennsylvania*, 114 U. S. 196, 5 Sup. Ct. 826, 29 L. Ed. 153. And see *Gibbons v. Ogden*, 9 Wheat. 227, 6 L. Ed. 23; *Gilman v. Philadelphia*, 3 Wall. 724, 18 L. Ed. 96; *Welton v. Missouri*, 91 U. S. 279, 23 L. Ed. 347; *Leisy v. Hardin*, 135 U. S. 100, 10 Sup. Ct. 681, 34 L. Ed. 128; *Kavanaugh v. Southern R. Co.*, 120 Ga. 62, 47 S. E. 526.

REGULATION. The act of regulating; a rule or order prescribed for management or government; a regulating principle; a precept. See *Curry v. Marvin*, 2 Fla. 415; *Ames v. Union Pac. Ry. Co.* (C. C.) 64 Fed. 178; *Hunt v. Lambertville*, 45 N. J. Law, 282.

REGULUS. Lat. In Saxon law. A title sometimes given to the earl or comes, in old charters. Spelman.

N REHABERE FACIAS SEISINAM. When a sheriff in the "*habere facias seisinam*" had delivered seisin of more than he ought, this judicial writ lay to make him restore seisin of the excess. Reg. Jud. 13, 51, 54.

O REHABILITATE. In Scotch and French criminal law. To reinstate a criminal in his personal rights which he has lost by a judicial sentence. Brande.

P REHABILITATION. In French and Scotch criminal law. The reinstatement of a criminal in his personal rights which he has lost by a judicial sentence. Brande.

Q In old English law. A papal bull or brief for re-enabling a spiritual person to exercise his function, who was formerly disabled; or a *restoring* to a former *ability*. Cowell.

R REHEARING. In equity practice. A second hearing of a cause, for which a party who is dissatisfied with the decree entered on the former hearing may apply by petition. 3 Bl. Comm. 453. See Belmont v. Erie R. Co., 52 Barb. (N. Y.) 651; Emerson v. Davies, 8 Fed. Cas. 626; Read v. Patterson, 44 N. J. Eq. 211, 14 Atl. 490, 6 Am. St. Rep. 877.

REI INTERVENTUS. Lat. Things intervening; that is, things done by one of the parties to a contract, in the faith of its validity, and with the assent of the other party, and which have so affected his situation that the other will not be allowed to repudiate his obligation, although originally it was imperfect, and he might have renounced it. 1 Bell, Comm. 328, 329.

Rei turpis nullum mandatum est. The mandate of an immoral thing is void. Dig. 17, 1, 6, 3. A contract of mandate requiring an illegal or immoral act to be done has no legal obligation. Story, Bailm. § 158.

REIF. A robbery. Cowell.

REIMBURSE. The primary meaning of this word is "to pay back." Philadelphia Trust, etc., Co. v. Audenreid, 83 Pa. 264. It means to make return or restoration of an equivalent for something paid, expended, or lost; to indemnify, or make whole.

REINSTATE. To place again in a former state, condition, or office; to restore to a state or position from which the object or person had been removed. See Collins v. U. S., 15 Ct. Cl. 22.

REINSURANCE. A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance. Civ. Code Cal. § 2646. And see People v. Miller, 177 N. Y. 515, 70 N. E. 10; Iowa L.

Ins. Co. v. Eastern Mut. L. Ins. Co., 64 N. J. Law, 340, 45 Atl. 762; Chalaron v. Insurance Co., 48 La. Ann. 1582, 21 South. 267, 36 L. R. A. 742; Philadelphia Ins. Co. v. Washington Ins. Co., 23 Pa. 253.

Reipublicæ interest voluntates defunctorum effectum sortiri. It concerns the state that the wills of the dead should have their effect.

REISSUABLE NOTES. Bank-notes which, after having been once paid, may again be put into circulation.

REJOIN. In pleading. To answer a plaintiff's replication in an action at law, by some matter of fact.

REJOINER. In common-law pleading. The second pleading on the part of the defendant, being his answer of matter of fact to the plaintiff's replication.

REJOINING GRATIS. Rejoining voluntarily, or without being required to do so by a rule to rejoin. When a defendant was under terms to rejoin *gratis*, he had to deliver a rejoinder, without putting the plaintiff to the necessity and expense of obtaining a rule to rejoin. 10 Mees. & W. 12; Lush, Pr. 396; Brown.

Relatio est fictio juris et intenta ad unum. Relation is a fiction of law, and intended for one thing. 3 Coke, 28.

Relatio semper fiat ut valeat dispositio. Reference should always be had in such a manner that a disposition in a will may avail. 6 Coke, 76.

RELATION. 1. A relative or kinsman; a person connected by consanguinity or affinity.

2. The connection of two persons, or their situation with respect to each other, who are associated, whether by the law, by their own agreement, or by kinship, in some social *status* or union for the purposes of domestic life; as the relation of guardian and ward, husband and wife, master and servant, parent and child; so in the phrase "domestic relations."

3. In the law of contracts, when an act is done at one time, and it operates upon the thing as if done at another time, it is said to do so by relation; as, if a man deliver a deed as an escrow, to be delivered, by the party holding it, to the grantor, on the performance of some act, the delivery to the latter will have relation back to the first delivery. *Termes de la Ley*. See U. S. v. Anderson, 194 U. S. 394, 24 Sup. Ct. 716, 48 L. Ed. 1035; Peyton v. Desmond, 129 Fed. 11, 63 C. C. A. 651.

4. A recital, account, narrative of facts; information given. Thus, suits by *quo war-*

ranto are entitled "on the relation of" a private person, who is called the "relator." But in this connection the word seems also to involve the idea of the suggestion, instigation, or instance of the relator.

5. In the civil law, the term "relation" was used to designate the report of the facts and law in a pending case, made by the judges to the emperor, for the purpose of obtaining his opinion on the questions of law involved, in the form of an imperial rescript. This proceeding might be resorted to in cases where no law seemed applicable, or where there were great difficulties in its interpretation, until it was abolished by Justinian. Nov. 125.

Relation never defeats collateral acts. 18 Vin. Abr. 292.

Relation shall never make good a void grant or devise of the party. 18 Vin. Abr. 292.

RELATIONS. A term which, in its widest sense, includes all the kindred of the person spoken of. 2 Jarm. Wills, 661.

RELATIVE. A kinsman; a person connected with another by blood or affinity.

A person or thing having relation or connection with some other person or thing; as, relative rights, relative powers, *infra*.

—**Relative confession.** See CONFESSION.—

Relative fact. In the law of evidence. A fact having relation to another fact; a minor fact; a circumstance.—**Relative powers.** Those which relate to land; so called to distinguish them from those which are collateral to it.—**Relative rights.** Those rights of persons which are incident to them as members of society, and standing in various relations to each other. 1 Bl. Comm. 123. Those rights of persons in private life which arise from the civil and domestic relations. 2 Kent, Comm. 1.

Relative words refer to the next antecedent, unless the sense be thereby impaired. Noy, Max. 4; Wing. Max. 19; Broom, Max. 606; Jenk. Cent. 180.

Relativorum, cognito uno, cognoscitur et alterum. Cro. Jac. 539. Of relatives, one being known, the other is also known.

RELATOR. The person upon whose complaint, or at whose instance, an information or writ of *quo warranto* is filed, and who is *quasi* the plaintiff in the proceeding.

RELATRIX. In practice. A female relator or petitioner.

RELAXARE. In old conveyancing. To release. *Relaxavi, relaxasse*, have released. Litt. § 445.

RELAXATIO. In old conveyancing. A release; an instrument by which a person relinquishes to another his right in anything.

RELAXATION. In old Scotch practice. Letters passing the signet by which a debtor was relaxed [released] from the horn; that is, from personal diligence. Bell.

RELEASE. 1. Liberation, discharge, or setting free from restraint or confinement. Thus, a man unlawfully imprisoned may obtain his *release* on *habeas corpus*. Parker v. U. S., 22 Ct. Cl. 100.

2. The relinquishment, concession, or giving up of a right, claim, or privilege, by the person in whom it exists or to whom it accrues, to the person against whom it might have been demanded or enforced. *Jaqua v. Shewalter*, 10 Ind. App. 234, 37 N. E. 1072; *Winter v. Kansas City Cable Ry. Co.*, 160 Mo. 159, 61 S. W. 606.

3. The abandonment to (or by) a person called as a witness in a suit of his interest in the subject-matter of the controversy, in order to qualify him to testify, under the common-law rule.

4. A receipt or certificate given by a ward to the guardian, on the final settlement of the latter's accounts, or by any other beneficiary on the termination of the trust administration, relinquishing all and any further rights, claims, or demands, growing out of the trust or incident to it.

5. In admiralty actions, when a ship, cargo, or other property has been arrested, the owner may obtain its release by giving bail, or paying the value of the property into court. Upon this being done he obtains a release, which is a kind of writ under the seal of the court, addressed to the marshal, commanding him to release the property. Sweet.

6. **In estates.** The conveyance of a man's interest or right which he hath unto a thing to another that hath the possession thereof or some estate therein. Shep. Touch. 320. The relinquishment of some right or benefit to a person who has already some interest in the tenement, and such interest as qualifies him for receiving or availing himself of the right or benefit so relinquished. Burt. Real Prop. 12; *Field v. Columbet*, 9 Fed. Cas. 13; *Baker v. Woodward*, 12 Or. 3, 6 Pac. 173; *Miller v. Emans*, 19 N. Y. 387.

A conveyance of an ulterior interest in lands or tenements to a particular tenant, or of an undivided share to a co-tenant, (the releasee being in either case in privity of estate with the releasor,) or of the right, to a person wrongfully in possession. 1 Steph. Comm. 479.

—**Deed of release.** A deed operating by way of release, in the sense of the sixth definition given above; but more specifically, in those states where deeds of trust are in use instead of common-law mortgages, as a means of pledging real property as security for the payment of a debt, a "deed of release" is a conveyance in fee, executed by the trustee or trustees, to the grantor in the deed of trust, which conveys back to him the legal title to the estate, and which is to be given on satisfactory proof that he has paid the secured debt in full or otherwise com-

N plied with the terms of the deed of trust.—
Release by way of enlarging an estate. A conveyance of the ulterior interest in lands to the particular tenant; as, if there be tenant for life or years, remainder to another in fee, and he in remainder releases all his right to the particular tenant and his heirs, this gives him the estate in fee. 1 Steph. Comm. 480; 2 Bl. Comm. 324.—**Release by way of entry and feoffment.** As if there be two joint disseisors, and the disseisee releases to one of them, he shall be sole seised, and shall keep out his former companion; which is the same in effect as if the disseisee had entered and thereby put an end to the disseisin, and afterwards had enfeoffed one of the disseisors in fee. 2 Bl. Comm. 325.—**Release by way of extinguishment.** As if my tenant for life makes a lease to A. for life, remainder to B. and his heirs, and I release to A., this extinguishes my right to the reversion, and shall inure to the advantage of B.'s remainder, as well as of A.'s particular estate. 2 Bl. Comm. 325.—**Release by way of passing a right.** As if a man be disseised and releaseth to his disseisor all his right, hereby the disseisor acquires a new right, which changes the quality of his estate, and renders that lawful which before was tortious or wrongful. 2 Bl. Comm. 325.—**Release by way of passing an estate.** As, where one of two coparceners releases all her right to the other, this passes the fee-simple of the whole. 2 Bl. Comm. 324, 325.—**Release of dower.** The relinquishment by a married woman of her expectant dower interest or estate in a particular parcel of realty belonging to her husband, as, by joining with him in a conveyance of it to a third person.—**Release to uses.** The conveyance by a deed of release to one party to the use of another is so termed. Thus, when a conveyance of lands was effected, by those instruments of assurance termed a lease and release, from A. to B. and his heirs, to the use of C. and his heirs, in such case C. at once took the whole fee-simple in such lands; B., by the operation of the statute of uses, being made a mere conduit-pipe for conveying the estate to C. Brown.

RELEASEE. The person to whom a release is made.

RELEASER, or RELEASOR. The maker of a release.

RELEGATIO. Lat. A kind of banishment known to the civil law, which differed from "*deportatio*" in leaving to the person his rights of citizenship.

RELEGATION. In old English law. Banishment for a time only. Co. Litt. 133.

RELEVANCY. As a quality of evidence, "relevancy" means applicability to the issue joined. Relevancy is that which conduces to the proof of a pertinent hypothesis; a pertinent hypothesis being one which, if sustained, would logically influence the issue. Whart. Ev. § 20.

In Scotch law, the relevancy is the justice or sufficiency in law of the allegations of a party. A plea to the relevancy is therefore analogous to the demurrer of the English courts.

A distinction is sometimes taken between "logical" relevancy and "legal" relevancy, the former being judged merely by the standards of ordinary logic or the general laws of reasoning, the latter by the strict and artificial rules

of the law with reference to the admissibility of evidence. See *Hoag v. Wright*, 34 App. Div. 260, 54 N. Y. Supp. 658.

RELEVANT. Applying to the matter in question; affording something to the purpose. In Scotch law, good in law, legally sufficient; as, a "relevant" plea or defense.

—**Relevant evidence.** See EVIDENCE.

RELICT. This term is applied to the survivor of a pair of married people, whether the survivor is the husband or the wife; it means the relict of the united pair, (or of the marriage union,) not the relict of the deceased individual. *Spitler v. Heeter*, 42 Ohio St. 101.

RELICTA VERIFICATIONE. L. Lat. Where a judgment was confessed by *cognovit actionem* after plea pleaded, and the plea was withdrawn, it was called a "confession" or "*cognovit actionem relicta verificatione.*" Wharton.

RELICITION. An increase of the land by the sudden withdrawal or retrocession of the sea or a river. *Hammond v. Shepard*, 186 Ill. 235, 57 N. E. 867, 78 Am. St. Rep. 274; *Sapp v. Frazier*, 51 La. Ann. 1718, 26 South. 378, 72 Am. St. Rep. 493.

RELIEF. 1. In feudal law. A sum payable by the new tenant, the duty being incident to every feudal tenure, by way of fine or composition with the lord for taking up the estate which was lapsed or fallen in by the death of the last tenant. At one time the amount was arbitrary, but afterwards the relief of a knight's fee became fixed at one hundred shillings. 2 Bl. Comm. 65.

2. "Relief" also means deliverance from oppression, wrong, or injustice. In this sense it is used as a general designation of the assistance, redress, or benefit which a complainant seeks at the hands of a court, particularly in equity. It may be thus used of such remedies as specific performance, or the reformation or rescission of a contract; but it does not seem appropriate to the awarding of money damages.

3. The assistance or support, pecuniary or otherwise, granted to indigent persons by the proper administrators of the poor-laws, is also called "relief."

RELIEVE. In feudal law, relieve is to depend; thus, the seignior of a tenant *in capite* relieves of the crown, meaning that the tenant holds of the crown. The term is not common in English writers. Sweet.

RELIGION. As used in constitutional provisions forbidding the "establishment of religion," the term means a particular system of faith and worship recognized and practised by a particular church, sect, or denomination. See *Reynolds v. U. S.*, 98 U. S. 149,

25 L. Ed. 244; *Davis v. Beason*, 133 U. S. 333, 10 Sup. Ct. 299, 33 L. Ed. 637; *Board of Education v. Minor*, 23 Ohio St. 241, 13 Am. Rep. 233.

—**Religion, offenses against.** In English law. They are thus enumerated by Blackstone: (1) Apostasy; (2) heresy; (3) reviling the ordinances of the church; (4) blasphemy; (5) profane swearing; (6) conjuration or witchcraft; (7) religious imposture; (8) simony; (9) profanation of the Lord's day; (10) drunkenness; (11) lewdness. 4 Bl. Comm. 43.

RELIGIOUS. When religious books or reading are spoken of, those which tend to promote the religion taught by the Christian dispensation must be considered as referred to, unless the meaning is so limited by associated words or circumstances as to show that the speaker or writer had reference to some other mode of worship. *Simpson v. Welcome*, 72 Me. 500, 39 Am. Rep. 349.

—**Religious corporation.** See CORPORATION.—**Religious houses.** Places set apart for pious uses; such as monasteries, churches, hospitals, and all other places where charity was extended to the relief of the poor and orphans, or for the use or exercise of religion.

—**Religious impostors.** In English law. Those who falsely pretend an extraordinary commission from heaven, or terrify and abuse the people with false denunciations of judgment; punishable with fine, imprisonment, and infamous corporal punishment. 4 Broom & H. Comm. 71.—**Religious liberty.** See LIBERTY.

—**Religious men.** Such as entered into some monastery or convent. In old English deeds, the vendee was often restrained from aliening to "Jews or religious men" lest the lands should fall into mortmain. Religious men were civilly dead. *Blount*.—**Religious society.** A body of persons associated together for the purpose of maintaining religious worship. A church and society are often united in maintaining worship, and in such cases the society commonly owns the property, and makes the pecuniary contract with the minister. But, in many instances, societies exist without a church, and churches without a society. *Silby v. Barlow*, 16 Gray (Mass.) 330; *Weld v. May*, 9 Cush. (Mass.) 188; *Hebrew Free School Ass'n v. New York*, 4 Hun (N. Y.) 449.—**Religious use.** See CHARITABLE USES.

RELINQUISHMENT. In practice. A forsaking, abandoning, renouncing, or giving over a right.

RELIQUA. The remainder or debt which a person finds himself debtor in upon the balancing or liquidation of an account. Hence *reliquary*, the debtor of a *reliqua*; as also a person who only pays piece-meal. Enc. Lond.

RELIQUES. Remains; such as the bones, etc., of saints, preserved with great veneration as sacred memorials. They have been forbidden to be used or brought into England. St. 3 Jac. I. c. 26.

RELOCATIO. Lat. In the civil law. A renewal of a lease on its determination. It may be either express or tacit; the latter is when the tenant holds over with the knowledge and without objection of the landlord. *Mackeld. Rom. Law*, § 412.

RELOCATION. In Scotch law. A letting or renewal of a lease; a *tacit relocation* is permitting a tenant to hold over without any new agreement.

In mining law. A new or fresh location of an abandoned or forfeited mining claim by a stranger, or by the original locator when he wishes to change the boundaries or to correct mistakes in the original location.

REMAINDER. The remnant of an estate in land, depending upon a particular prior estate created at the same time and by the same instrument, and limited to arise immediately on the determination of that estate, and not in abridgment of it. 4 Kent, Comm. 197.

An estate limited to take effect and be enjoyed after another estate is determined. As, if a man seised in fee-simple grants lands to A. for twenty years, and, after the determination of the said term, then to B. and his heirs forever, here A. is tenant for years, *remainder* to B. in fee. 2 Bl. Comm. 164.

An estate in remainder is one limited to be enjoyed after another estate is determined, or at a time specified in the future. An estate in reversion is the residue of an estate, usually the fee left in the grantor and his heirs after the determination of a particular estate which he has granted out of it. The rights of the reversioner are the same as those of a vested remainder-man in fee. Code Ga. 1882, § 2263. And see *Sayward v. Sayward*, 7 Me. 213, 22 Am. Dec. 191; *Bennett v. Garlock*, 10 Hun (N. Y.) 337; *Dana v. Murray*, 122 N. Y. 604, 26 N. E. 21; *Booth v. Terrell*, 16 Ga. 24; *Palmer v. Cook*, 159 Ill. 300, 42 N. E. 796, 50 Am. St. Rep. 165; *Wells v. Houston*, 23 Tex. Civ. App. 629, 57 S. W. 584; *Hudson v. Wadsworth*, 8 Conn. 359.

—**Contingent remainder.** An estate in remainder which is limited to take effect either to a dubious and uncertain person, or upon a dubious and uncertain event, by which no present or particular interest passes to the remainder-man, so that the particular estate may chance to be determined and the remainder never take effect. 2 Bl. Comm. 169. A remainder limited so as to depend upon an event or condition which may never happen or be performed, or which may not happen or be performed till after the determination of the preceding estate. *Fearne, Rem. 3*; *Thompson v. Adams*, 205 Ill. 552, 69 N. E. 1; *Griswold v. Greer*, 18 Ga. 545; *Price v. Sisson*, 13 N. J. Eq. 168; *Yocum v. Siler*, 160 Mo. 281, 61 S. W. 208; *Shannon v. Bonham*, 27 Ind. App. 369, 60 N. E. 951.—

Cross-remainder. Where land is devised or conveyed to two or more persons as tenants in common, or where different parts of the same land are given to such persons in severalty, with such limitations that, upon the determination of the particular estate of either, his share is to pass to the other, to the entire exclusion of the ultimate remainder-man or reversioner until all the particular estates shall be exhausted, the remainders so limited are called "cross-remainders." In wills, such remainders may arise by implication; but, in deeds, only by express limitation. See 2 Bl. Comm. 381; 2 Washb. Real Prop. 233; 1 Prest. Est. 94.—**Executed remainder.** A remainder which vests a present interest in the tenant, though the enjoyment is postponed to the future. 2 Bl. Comm. 168; *Fearne, Rem. 31*; *Hudson v. Wadsworth*, 8 Conn. 359.—**Executory remainder.** A contingent remainder; one which exists where the estate is limited to take effect either to a dubious and uncertain person or upon a dubious and uncertain event. *Temple v. Scott*, 143 Ill. 290,

N 32 N. E. 366; *Hudson v. Wadsworth*, 8 Conn. 359.—**Vested remainder.** An estate by which a present interest passes to the party, though to be enjoyed *in futuro*, and by which the estate is invariably fixed to remain to a determinate person after the particular estate has been spent. 2 Bl. Comm. 168. A vested remainder is one limited to a certain person at a certain time or upon the happening of a necessary event. Code Ga. § 2265. And see *Poor v. Considine*, 6 Wall. 474, 18 L. Ed. 869; *Tayloe v. Gould*, 10 Barb. (N. Y.) 396; *Johnson v. Edmond*, 65 Conn. 492, 33 Atl. 503; *Marvin v. Ledwith*, 111 Ill. 150; *Wallace v. Minor*, 86 Va. 550, 10 S. E. 423; *Woodman v. Woodman*, 89 Me. 128, 35 Atl. 1037; *Brown v. Lawrence*, 3 Cush. (Mass.) 397.

Remainder to a person not of a capacity to take at the time of appointing it, is void. *Plowd.* 27.

REMAINDER-MAN. One who is entitled to the remainder of the estate after a particular estate carved out of it has expired.

R **REMAND.** To remand a prisoner, after a preliminary or partial hearing before a court or magistrate, is to send him back to custody, to be kept until the hearing is resumed or the trial comes on.

To remand a case, brought into an appellate court or removed from one court into another, is to send it back to the court from which it came, that further proceedings in the case, if any, may be taken there.

REMANENT PRO DEFECTU EMP-TORUM. In practice. The return made by the sheriff to a writ of execution when he has not been able to sell the property seized, that the same *remains unsold for want of buyers*.

REMANENTIA. In old English law. A remainder. *Spelman*. A perpetuity, or perpetual estate. *Glan. lib. 7, c. 1.*

REMANET. A remnant; that which remains. Thus the causes of which the trial is deferred from one term to another, or from one sitting to another, are termed "*remnants*." 1 Archb. Pr. 375.

REMEDIAL. 1. Affording a remedy; giving the means of obtaining redress.

2. Of the nature of a remedy; intended to remedy wrongs or abuses, abate faults, or supply defects.

3. Pertaining to or affecting the remedy, as distinguished from that which affects or modifies the right.

—**Remedial statute.** A statute providing a remedy for an injury, as distinguished from a penal statute. A statute giving a party a mode of remedy for a wrong, where he had none, or a different one, before. 1 Chit. Bl. 86, 87, notes. Remedial statutes are those which are made to supply such defects, and abridge such superfluities, in the common law, as arise either from the general imperfection of all human laws, from change of time and circumstances, from the mistakes and unadvised determinations of unlearned (or even learned) judges, or from any other cause whatsoever. 1 Bl. Comm. 86.

Remedies for rights are ever favorably extended. 18 Vin. Abr. 521.

REMEDY. Remedy is the means by which the violation of a right is prevented, redressed, or compensated. Remedies are of four kinds: (1) By act of the party injured, the principal of which are defense, recaption, distress, entry, abatement, and seizure; (2) by operation of law, as in the case of retainer and remitter; (3) by agreement between the parties, *e. g.*, by accord and satisfaction and arbitration; and (4) by judicial remedy, *e. g.*, action or suit. Sweet. See *Knapp v. McCaffrey*, 177 U. S. 638, 20 Sup. Ct. 824, 44 L. Ed. 921; *Missionary Soc. v. Ely*, 56 Ohio St. 405, 47 N. E. 537; *U. S. v. Lyman*, 26 Fed. Cas. 1,024; *Frost v. Ritter*, 132 Cal. 421, 64 Pac. 705, 84 Am. St. Rep. 53.

Also a certain allowance to the master of the mint, for deviation from the standard weight and fineness of coins. *Enc. Lond.*

—**Adequate remedy.** See ADEQUATE.—**Civil remedy.** The remedy afforded by law to a private person in the civil courts in so far as his private and individual rights have been injured by a delict or crime; as distinguished from the remedy by criminal prosecution for the injury to the rights of the public.—**Cumulative remedy.** See CUMULATIVE.—**Extraordinary remedy.** See EXTRAORDINARY.—**Legal remedy.** A remedy available, under the particular circumstances of the case, in a court of law, as distinguished from a remedy available only in equity. See *State v. Sneed*, 105 Tenn. 711, 58 S. W. 1070.—**Remedy over.** A person who is primarily liable or responsible, but who, in turn, can demand indemnification from another, who is responsible to him, is said to have a "remedy over." For example, a city, being compelled to pay for injuries caused by a defect in the highway, has a "remedy over" against the person whose act or negligence caused the defect, and such person is said to be "liable over" to the city. 2 Black, *Judgm.* § 575.

REMEMBRANCER. The remembrancer of the city of London is parliamentary solicitor to the corporation, and is bound to attend all courts of aldermen and common council when required. *Pull. Laws & Cust. Lond.* 122.

REMEMBRANCERS. In English law. Officers of the exchequer, whose duty it is to put in remembrance the lord treasurer and the justices of that court of such things as are to be called and dealt in for the benefit of the crown. *Jacob*.

RÉMÉRÉ. In French law. Redemption; right of redemption. A *sale à réméré* is a species of conditional sale with right of repurchase. An agreement by which the vendor reserves to himself the right to take back the thing sold on restoring the price paid, with costs and interest. *Duverger*.

REMISE. To remit or give up. A formal word in deeds of release and quitclaim; the usual phrase being "remit, release, and forever quitclaim." See *American Mortg.*

Co. v. Hutchinson, 19 Or. 334, 24 Pac. 515; McAnaw v. Tiffin, 143 Mo. 667, 45 S. W. 656; Lynch v. Livingston, 6 N. Y. 434.

REMISE DE LA DETTE. In French law. The release of a debt.

REMISSION. In the civil law. A release of a debt. It is *conventional*, when it is expressly granted to the debtor by a creditor having a capacity to alienate; or *tacit*, when the creditor voluntarily surrenders to his debtor the original title, under private signature constituting the obligation. Civ. Code La. art. 2195.

"Remission" also means forgiveness or condonation of an offense or injury.

At common law. The act by which a forfeiture or penalty is forgiven. United States v. Morris, 10 Wheat. 246, 6 L. Ed. 314.

Remissius imperanti melius paretur. 3 Inst. 233. A man commanding not too strictly is better obeyed.

REMISSNESS. This term imports the doing of the act in question in a tardy, negligent, or careless manner; but it does not apply to the entire omission or forbearance of the act. Baldwin v. United States Tel. Co., 6 Abb. Prac. N. S. (N. Y.) 423.

REMIT. To send or transmit; as to *remit* money. Potter v. Morland, 3 Cush. (Mass.) 388; Hollowell v. Life Ins. Co., 126 N. C. 393, 35 S. E. 616.

To give up; to annul; to relinquish; as to *remit* a fine. Jungbluth v. Redfield, 14 Fed. Cas. 52; Gibson v. People, 5 Hun (N. Y.) 543.

REMITMENT. The act of sending back to custody; an annulment. Wharton.

REMITTANCE. Money sent by one person to another, either in specie, bill of exchange, check, or otherwise.

REMITTEE. A person to whom a remittance is made. Story, Bailm. § 75.

REMITTER. The relation back of a later defective title to an earlier valid title. *Remitter* is where he who has the true property or *jus proprietatis* in lands, but is out of possession thereof, and has no right to enter without recovering possession in an action, has afterwards the freehold cast upon him by some subsequent and of course defective title. In this case he is *remitted*, or sent back by operation of law, to his ancient and more certain title. The right of entry which he has gained by a bad title shall be *ipso facto* annexed to his own inherent good one; and his defeasible estate shall be utterly defeated and annulled by the instantaneous act of law, without his participation or consent. 3 Bl. Comm. 19.

REMITTIT DAMNA. Lat. An entry on the record, by which the plaintiff declares that he remits a part of the damages which have been awarded him.

REMITTITUR DAMNA. Lat. In practice. An entry made on record, in cases where a jury has given greater damages than a plaintiff has declared for, remitting the excess. 2 Tidd, Pr. 896.

REMITTITUR OF RECORD. The returning or sending back by a court of appeal of the record and proceedings in a cause, after its decision thereon, to the court whence the appeal came, in order that the cause may be tried anew, (where it is so ordered,) or that judgment may be entered in accordance with the decision on appeal, or execution be issued, or any other necessary action be taken in the court below.

REMITTOR. A person who makes a remittance to another.

REMONSTRANCE. Expostulation; showing of reasons against something proposed; a representation made to a court or legislative body wherein certain persons unite in urging that a contemplated measure be not adopted or passed. See Girvin v. Simon, 127 Cal. 491, 59 Pac. 945; In re Mercer County License Applications, 3 Pa. Co. Ct. R. 45.

REMOTE. This word is used in law chiefly as the antithesis of "proximate," and conveys the idea of mediateness or of the intervention of something else.

—**Remote cause.** In the law of negligence, a "remote" cause of an accident or injury is one which does not by itself alone produce the given result, but which sets in motion another cause, called the "proximate" cause, which immediately brings about the given effect; or, as otherwise defined, it is "that which may have happened and yet no injury have occurred, notwithstanding that no injury could have occurred if it had not happened." See Troy v. Railroad Co., 99 N. C. 298, 6 S. E. 77, 6 Am. St. Rep. 521; Maryland Steel Co. v. Marney, 88 Md. 482, 42 Atl. 60, 42 L. R. A. 842, 71 Am. St. Rep. 441; Hoey v. Metropolitan St. Ry. Co., 70 App. Div. 60, 74 N. Y. Supp. 1113; Claypool v. Wigmore, 34 Ind. App. 35, 71 N. E. 509.

—**Remote damage.** Damage is said to be too remote to be actionable when it is not the legal and natural consequence of the act complained of.—**Remote possibility.** In the law of estates, a double possibility, or a limitation dependent on two or more facts or events both or all of which are contingent and uncertain; as, for example, the limitation of an estate to a given man provided that he shall marry a certain woman and that she shall then die and he shall marry another.

REMOTENESS. Want of close connection between a wrong and the injury, as cause and effect, whereby the party injured cannot claim compensation from the wrongdoer. Wharton.

REMOTENESS OF EVIDENCE. When the fact or facts proposed to be establish-

N ed as a foundation from which indirect evidence may be drawn, by way of inference, have not a visible, plain, or necessary connection with the proposition eventually to be proved, such evidence is rejected for "remoteness." See 2 Whart. Ev. § 1226, note.

O **Remoto impedimento, emergit actio.** The impediment being removed, the action rises. When a bar to an action is removed, the action rises up into its original efficacy. Shep. Touch. 150; Wing. 20.

P **REMOVAL FROM OFFICE.** The act of a person or body, having lawful authority thereto, in depriving one of an office to which he was appointed or elected.

Q **REMOVAL OF CAUSES.** The transfer of a cause from one court to another; commonly used of the transfer of the jurisdiction and cognizance of an action commenced but not finally determined, with all further proceedings therein, from one trial court to another trial court. More particularly, the transfer of a cause, before trial or final hearing thereof, from a state court to the United States circuit court, under the acts of congress in that behalf.

R **REMOVAL OF PAUPER.** The actual transfer of a pauper, by order of a court having jurisdiction, from a poor district in which he has no settlement, but upon which he has become a charge, to the district of his domicile or settlement.

REMOVAL, ORDER OF. 1. An order of court directing the removal of a pauper from the poor district upon which he has illegally become a charge to the district in which he has his settlement.

2. An order made by the court *a quo*, directing the transfer of a cause therein depending, with all future proceedings in such cause, to another court.

REMOVER. In practice. A transfer of a suit or cause out of one court into another, which is effected by writ of error, *certiorari*, and the like. 11 Coke, 41.

REMUNERATION. Reward; recompense; salary. Dig. 17, 1, 7.

The word "remuneration" means a *quid pro quo*. If a man gives his services, whatever consideration he gets for giving his services seems to me a remuneration for them. Consequently, I think, if a person was in the receipt of a payment, or in the receipt of a percentage, or any kind of payment which would not be an actual money payment, the amount he would receive annually in respect of this would be "remuneration." 1 Q. B. Div. 663, 664.

RENANT, or RENIANT. In old English law. Denying. 32 Hen. VIII. c. 2.

RENCOUNTER. A sudden meeting; as opposed to a duel, which is deliberate.

RENDER, v. In practice. To give up; to yield; to return; to surrender. Also to pay or perform; used of rents, services, and the like.

—Render judgment. To pronounce, state, declare, or announce the judgment of the court in a given case or on a given state of facts; not used with reference to judgments by confession, and not synonymous with "entering," "docketing," or "recording" the judgment. The rendition of a judgment is the judicial act of the court in pronouncing the sentence of the law, while the entry of a judgment is a ministerial act, which consists in spreading upon the record a statement of the final conclusion reached by the court in the matter, thus furnishing external and incontestable evidence of the sentence given and designed to stand as a perpetual memorial of its action. See *Schuster v. Rader*, 13 Colo. 329, 22 Pac. 505; *Farmers' State Bank v. Bales*, 64 Neb. 870, 90 N. W. 945; *Fleet v. Youngs*, 11 Wend. (N. Y.) 522; *Schurts v. Romer*, 81 Cal. 244, 22 Pac. 657; *Winstead v. Evans* (Tex. Civ. App.) 33 S. W. 580; *Coe v. Erb*, 59 Ohio St. 259, 52 N. E. 640, 69 Am. St. Rep. 764.

RENDER, n. In feudal law, "render" was used in connection with rents and heriots. Goods subject to rent or heriot-service were said to lie in *render*, when the lord might not only seize the identical goods, but might also distrain for them. Cowell.

RENDEZVOUS. Fr. A place appointed for meeting. Especially used of places appointed for the assembling of troops, the coming together of the ships of a fleet, or the meeting of vessels and their convoy.

RENEGADE. One who has changed his profession of faith or opinion; one who has deserted his church or party.

RENEWAL. The act of renewing or reviving. The substitution of a new grant, engagement, or right, in place of one which has expired, of the same character and on the same terms and conditions as before; as, the renewal of a note, a lease, a patent. See *Carter v. Brooklyn L. Ins. Co.*, 110 N. Y. 15, 17 N. E. 396; *Gault v. McGrath*, 32 Pa. 392; *Kedey v. Petty*, 153 Ind. 179, 54 N. E. 798; *Pitts v. Hall*, 19 Fed. Cas. 758.

RENOUNCE. To reject; cast off; repudiate; disclaim; forsake; abandon; divest one's self of a right, power, or privilege. Usually it implies an affirmative act of disclaimer or disavowal.

RENOUNCING PROBATE. In English practice. Refusing to take upon one's self the office of executor or executrix. Refusing to take out probate under a will wherein one has been appointed executor or executrix. Holthouse.

RENOVARE. Lat. In old English law. To renew. *Annuatim renovare*, to renew annually. A phrase applied to profits which are taken and the product renewed again. Amb. 131.

RENT. At common law. A certain profit issuing yearly out of lands and tenements corporeal; a species of incorporeal hereditament. 2 Bl. Comm. 41. A compensation or return yielded periodically, to a certain amount, out of the profits of some corporeal hereditaments, by the tenant thereof. 2 Steph. Comm. 23. A certain yearly profit in money, provisions, chattels, or labor, issuing out of lands and tenements, in retribution for the use. 3 Kent, Comm. 460.

The compensation, either in money, provisions, chattels, or labor, received by the owner of the soil from the occupant thereof. Jack. & G. Landl. & Ten. § 38. And see *Lombard v. Boyden*, 5 Allen (Mass.) 254; *Bledsoe v. Nixon*, 69 N. C. 89; *Fisk v. Brayman*, 21 R. I. 195, 42 Atl. 878; *Clarke v. Cobb*, 121 Cal. 595, 54 Pac. 74; *Parsell v. Stryker*, 41 N. Y. 483; *Otis v. Conway*, 114 N. Y. 13, 20 N. E. 628; *Payn v. Beal*, 4 Denio (N. Y.) 412; *Van Wicklen v. Paulson*, 14 Barb. (N. Y.) 655.

In Louisiana. The contract of *rent of lands* is a contract by which one of the parties conveys and cedes to the other a tract of land, or any other immovable property, and stipulates that the latter shall hold it as owner, but reserving to the former an annual rent of a certain sum of money, or of a certain quantity of fruits, which the other party binds himself to pay him. It is of the essence of this conveyance that it be made in perpetuity. If it be made for a limited time, it is a lease. Civ. Code La. arts. 2779, 2780.

—Fee farm rent. A rent charge issuing out of an estate in fee; a perpetual rent reserved on a conveyance of land in fee simple.—**Ground rent.** See GROUND.—**Quit rent.** Certain established rents of the freeholders and ancient copyholders of manors were so called, because by their payment the tenant was free and "quit" of all other services.—**Rack rent.** A rent of the full annual value of the tenement or near it. 2 Bl. Comm. 43.—**Rent-charge.** This arises where the owner of the rent has no future interest or reversion in the land. It is usually created by deed or will, and is accompanied with powers of distress and entry.—**Rent-roll.** A list of rents payable to a particular person or public body.—**Rent seek.** Barren rent; a rent reserved by deed, but without any clause of distress. 2 Bl. Comm. 42; 3 Kent, Comm. 461.—**Rent-service.** This consisted of fealty, together with a certain rent, and was the only kind of rent originally known to the common law. It was so called because it was given as a compensation for the services to which the land was originally liable. Brown.—**Rents of assize.** The certain and determined rents of the freeholders and ancient copyholders of manors are called "rents of assize," apparently because they were assized or made certain, and so distinguished from a *redditus mobilis*, which was a variable or fluctuating rent. 3 Cruise, Dig. 314; Brown.—**Rents resolute.** Rents anciently payable to the crown from the lands of abbeyes and religious houses; and after their dissolution, notwithstanding that the lands were demised to others, yet the rents were still reserved and made payable again to the crown. Cowell.

Rent must be reserved to him from whom the state of the land moveth. Co. Litt. 143.

RENTAGE. Rent.

RENTAL. (Said to be corrupted from "rent-roll.") In English law. A roll on which the rents of a manor are registered or set down, and by which the lord's bailiff collects the same. It contains the lands and tenements let to each tenant, the names of the tenants, and other particulars. Cuningham; Holthouse.

—Rental bolls. In Scotch law. When the tithes (tiends) have been liquidated and settled for so many bolls of corn yearly. Bell.—**Rental-rights.** In English law. A species of lease usually granted at a low rent and for life. Tenants under such leases were called "rentalers" or "kindly tenants."

RENTE. In French law. *Rente* is the annual return which represents the revenue of a capital or of an immovable alienated. The constitution of *rente* is a contract by which one of the parties lends to the other a capital which he agrees not to recall, in consideration of the borrower's paying an annual interest. It is this interest which is called "*rente*." Duverger. The word is therefore nearly synonymous with the English "annuity."

"*Rentes*," is the term applied to the French government funds, and "*rentier*" to a fundholder or other person having an income from personal property. Wharton.

—Rente foncière. A rent which issues out of land, and it is of its essence that it be perpetual, for, if it be made but for a limited time, it is a lease. It may, however, be extinguished. Civ. Code La. art. 2780.—**Rente viagère.** That species of *rente*, the duration of which depends upon the contingency of the death of one or more persons indicated in the contract. The uncertainty of the time at which such death may happen causes the *rente viagère* to be included in the number of aleatory contracts. Duverger. It is an annuity for life. Civ. Code La. art. 2764.

RENTS, ISSUES, AND PROFITS more commonly signify in the books a chattel real interest in land; a kind of estate growing out of the land, for life or years, producing an annual or other rent. *Bruce v. Thompson*, 26 Vt. 746.

RENUNCIATION. The act of giving up a right. See RENOUNCE.

REO ABSENTE. Lat. The defendant being absent; in the absence of the defendant.

REPAIRS. Restoration to soundness; supply of loss; reparation; work done on an estate to keep it in good order.

"Repair" means to restore to its former condition; not to change either the form or material of a building. *Ardesco Oil Co. v. Richardson*, 63 Pa. 162.

—Necessary repairs. Necessary repairs (for which the master of a ship may lawfully bind the owner) are such as are reasonably fit and proper for the ship under the circumstances,

N and not merely such as are absolutely indispensable for the safety of the ship or the accomplishment of the voyage. *The Fortitude*, 3 Summ. 327, Fed. Cas. No. 4953; *Webster v. Seekamp*, 4 Barn. & Ald. 352.

O **REPARATION.** The redress of an injury; amends for a wrong inflicted.

P **REPARATIONE FACIENDA.** For making repairs. The name of an old writ which lay in various cases; as if, for instance, there were three tenants in common of a mill or house which had fallen into decay, and one of the three was willing to repair it, and the other two not; in such case the party who was willing to repair might have this writ against the others. *Cowell*; *Fitzh. Nat. Brev.* 127.

R **REPARTIAMENTO.** In Spanish law, a judicial proceeding for the partition of property held in common. See *Steinbach v. Moore*, 30 Cal. 505.

REPATRIATION takes place when a person who has been expatriated regains his nationality.

REPEAL. The abrogation or annulling of a previously existing law by the enactment of a subsequent statute which declares that the former law shall be revoked and abrogated, (which is called "express" repeal,) or which contains provisions so contrary to or irreconcilable with those of the earlier law that only one of the two statutes can stand in force, (called "implied" repeal.) See *Oakland Pav. Co. v. Hilton*, 69 Cal. 479, 11 Pac. 3; *Mernaugh v. Orlando*, 41 Fla. 433, 27 South. 34; *Hunter v. Memphis*, 93 Tenn. 571, 26 S. W. 828.

Repellitur a sacramento infamis. An infamous person is repelled or prevented from taking an oath. *Co. Litt.* 153; *Bract. fol.* 185.

Repellitur exceptione cedendarum actionum. He is defeated by the plea that the actions have been assigned. *Cheesebrough v. Millard*, 1 Johns. Ch. (N. Y.) 409, 414.

REPERTORY. In French law. The inventory or minutes which notaries make of all contracts which take place before them. *Merl. Repert.*

REPETITION. In the civil law. A demand or action for the restoration of money paid under mistake, or goods delivered by mistake or on an unperformed condition. *Dig.* 12, 6. See *SOLUTIO INDEBITI*.

In Scotch law. The act of reading over a witness' deposition, in order that he may adhere to it or correct it at his choice. The same as *recolement (q. v.)* in the French law. *2 Benth. Jud. Ev.* 239.

REPETITUM NAMUM. A repeated, second, or reciprocal distress; withernam. *3 Bl. Comm.* 148.

REPETUNDÆ, or PECUNLÆ REPE-TUNDÆ. In Roman law: The terms used to designate such sums of money as the *socii* of the Roman state, or individuals, claimed to recover from *magistratus, judices, or publici curatores*, which they had improperly taken or received in the *provincia*, or in the *urbs Roma*, either in the discharge of their *jurisdictio*, or in their capacity of *judices*, or in respect of any other public function. Sometimes the word "*repetundæ*" was used to express the illegal act for which compensation was sought. *Wharton.*

REPETUNDARUM CRIMEN. In Roman law. The crime of bribery or extortion in a magistrate, or person in any public office. *Calvin.*

REPLEAD. To plead anew; to file new pleadings.

REPLEADER. When, after issue has been joined in an action, and a verdict given thereon, the pleading is found (on examination) to have miscarried and failed to effect its proper object, viz., of raising an apt and material question between the parties, the court will, on motion of the unsuccessful party, award a *repleader*; that is, will order the parties to plead *de novo* for the purpose of obtaining a better issue. *Brown.*

Judgment of repleader differs from a judgment *non obstante veredicto*, in this: that it is allowed by the court to do justice between the parties where the defect is in the form or manner of stating the right, and the issue joined is on an immaterial point, so that it cannot tell for whom to give judgment; while judgment *non obstante* is given only where it is clearly apparent to the court that the party who has succeeded has, upon his own showing, no merits, and cannot have by any manner of statement. *1 Chit. Pl.* 687, 688.

REPLEGIARE. To replevy; to redeem a thing detained or taken by another by putting in legal sureties.

—Replegiare de averiis. Replevin of cattle. A writ brought by one whose cattle were distrained, or put in the pound, upon any cause by another, upon surety given to the sheriff to prosecute or answer the action in law. *Cowell.*

REPLEGIARI FACIAS. You cause to be replevied. In old English law. The original writ in the action of replevin; superseded by the statute of *Marlbridge*, c. 21. *3 Bl. Comm.* 146.

REPLETION. In canon law. Where the revenue of a benefice is sufficient to fill or occupy the whole right or title of the graduate who holds it. *Wharton.*

REPLEVIABLE, or REPLEVISABLE. Property is said to be repleviable or replevisable when proceedings in replevin may

be resorted to for the purpose of trying the right to such property.

REPLEVIN. A personal action *ex delicto* brought to recover possession of goods unlawfully taken, (generally, but not only, applicable to the taking of goods distrained for rent,) the validity of which taking it is the mode of contesting, if the party from whom the goods were taken wishes to have them back *in specie*, whereas, if he prefer to have damages instead, the validity may be contested by action of trespass or unlawful distress. The word means a redelivery to the owner of the pledge or thing taken in distress. Wharton. And see *Sinnott v. Felock*, 165 N. Y. 444, 59 N. E. 263, 53 L. R. A. 565, 80 Am. St. Rep. 736; *Healey v. Humphrey*, 81 Fed. 990, 27 C. C. A. 39; *McJunkin v. Mathers*, 158 Pa. 137, 27 Atl. 873; *Tracy v. Warren*, 104 Mass. 377; *Lazard v. Wheeler*, 22 Cal. 142; *Maclary v. Turner*, 9 Houst. (Del.) 231, 32 Atl. 325; *Johnson v. Boehme*, 66 Kan. 72, 71 Pac. 243, 97 Am. St. Rep. 357.

—**Personal replevin.** A species of action to replevy a man out of prison or out of the custody of any private person. It took the place of the old writ *de homine replegiando*; but, as a means of examining into the legality of an imprisonment, it is now superseded by the writ of *habeas corpus*.—**Replevin bond.** A bond executed to indemnify the officer who executed a writ of replevin and to indemnify the defendant or person from whose custody the property was taken for such damages as he may sustain. *Imel v. Van Deren*, 8 Colo. 90, 5 Pac. 803; *Walker v. Kennison*, 34 N. H. 259.

REPLEVISH. In old English law. To let one to mainprise upon surety. Cowell.

REPLEVISOR. The plaintiff in an action of replevin.

REPLEVY. This word, as used in reference to the action of replevin, signifies to redeliver goods which have been distrained, to the original possessor of them, on his pledging or giving security to prosecute an action against the distrainer for the purpose of trying the legality of the distress. It has also been used to signify the bailing or liberating a man from prison on his finding bail to answer for his forthcoming at a future time. Brown.

REPLIANT, or REPLICANT. A litigant who replies or files or delivers a replication.

REPLICARE. Lat. In the civil law and old English pleading. To reply; to answer a defendant's plea.

REPLICATIO. Lat. In the civil law and old English pleading. The plaintiff's answer to the defendant's exception or plea; corresponding with and giving name to the replication in modern pleading. Inst. 4, 14, pr.

REPLICATION. In pleading. A reply made by the plaintiff in an action to the defendant's plea, or in a suit in chancery to the defendant's answer.

General and special. In equity practice, a general replication is a general denial of the truth of defendant's plea or answer, and of the sufficiency of the matter alleged in it to bar the plaintiff's suit, and an assertion of the truth and sufficiency of the bill. A special replication is occasioned by the defendant's introducing new matter into his plea or answer, which makes it necessary for the plaintiff to put in issue some additional fact on his part in avoidance of such new matter. *Vanbibber v. Beirne*, 6 W. Va. 180.

REPLY. In its general sense, a reply is what the plaintiff, petitioner, or other person who has instituted a proceeding says in answer to the defendant's case. Sweet.

On trial or argument. When a case is tried or argued in court, the speech or argument of the plaintiff in answer to that of the defendant is called his "reply."

Under the practice of the chancery and common-law courts, to reply is to file or deliver a replication, (*q. v.*)

Under codes of reformed procedure, "reply" is very generally the name of the pleading which corresponds to "replication" in common-law or equity practice.

REPONE. In Scotch practice. To replace; to restore to a former state or right. 2 Ails. Crim. Pr. 351.

REPORT. An official or formal statement of facts or proceedings.

In practice. The formal statement in writing made to a court by a master in chancery, a clerk, or referee, as the result of his inquiries into some matter referred to him by the court.

The name is also applied (usually in the plural) to the published volumes, appearing periodically, containing accounts of the various cases argued and determined in the courts, with the decisions thereon.

Lord Coke defines "report" to be "a public relation, or a bringing again to memory cases judicially argued, debated, resolved, or adjudged in any of the king's courts of justice, together with such causes and reasons as were delivered by the judges of the same." Co. Litt. 293.

—**Report of committee.** The report of a legislative committee is that communication which the chairman of the committee makes to the house at the close of the investigation upon which it has been engaged. Brown.—**Report office.** A department of the English court of chancery. The suitors' account there is discontinued by the 15 & 16 Vict. c. 87, § 36.

REPORTER. A person who reports the decisions upon questions of law in the cases adjudged in the several courts of law and equity. Wharton.

REPORTS, THE. The name given, *par excellence*, to Lord Coke's Reports, from 14 Eliz. to 13 Jac. I., which are cited as "Rep."

N or "Coke." They are divided into thirteen parts, and the modern editions are in six volumes, including the index.

O **REPOSITION OF THE FOREST.** In old English law. An act whereby certain forest grounds, being made *purview* upon view, were by a second view laid to the forest again, put back into the forest. Manwood; Cowell.

P **REPOSITORIUM.** A storehouse or place wherein things are kept; a warehouse. Cro. Car. 555.

Q **REPRESENT.** To exhibit; to expose before the eyes. To represent a thing is to produce it publicly. Dig. 10, 4, 2, 3.

R To represent a person is to stand in his place; to supply his placé; to act as his substitute. Plummer v. Brown, 64 Cal. 429, 1 Pac. 703; Solon v. Williamsburgh Sav. Bank, 35 Hun (N. Y.) 7.

REPRESENTATION. In Contracts. A statement made by one of two contracting parties to the other, before or at the time of making the contract, in regard to some fact, circumstance, or state of facts pertinent to the contract, which is influential in bringing about the agreement.

In insurance. A collateral statement, either by writing not inserted in the policy or by parol, of such facts or circumstances, relative to the proposed adventure, as are necessary to be communicated to the underwriters, to enable them to form a just estimate of the risks. 1 Marsh. Ins. 450.

The allegation of any facts, by the applicant to the insurer, or *vice versa*, preliminary to making the contract, and directly bearing upon it, having a plain and evident tendency to induce the making of the policy. The statements may or may not be in writing, and may be either express or by obvious implication. Lee v. Howard Fire Ins. Co., 11 Cush. (Mass.) 324; Augusta Insurance & Banking Co. of Georgia v. Abbott, 12 Md. 348.

In relation to the contract of insurance, there is an important distinction between a representation and a warranty. The former, which precedes the contract of insurance, and is no part of it, need be only materially true; the latter is a part of the contract, and must be exactly and literally fulfilled, or else the contract is broken and inoperative. Glendale Woolen Co. v. Protection Ins. Co., 21 Conn. 19, 54 Am. Dec. 309.

In the law of distribution and descent. The principle upon which the issue of a deceased person take or inherit the share of an estate which their immediate ancestor would have taken or inherited, if living; the taking or inheriting *per stirpes*. 2 Bl. Comm. 217, 517.

In Scotch law. The name of a plea or statement presented to a lord ordinary of the

court of session, when his judgment is brought under review.

—**False representation.** A deceitful representation, or one contrary to the fact, made knowingly and with the design and effect of inducing the other party to enter into the contract to which it relates.—**Misrepresentation.** An intentional false statement respecting a matter of fact, made by one of the parties to a contract, which is material to the contract and influential in producing it.—**Promissory representation.** A term used chiefly in insurance, and meaning a representation made by the assured concerning what is to happen during the term of the insurance, stated as a matter of expectation or even of contract, and amounting to a promise to be performed after the contract has come into existence. New Jersey Rubber Co. v. Commercial Union Assur. Co., 64 N. J. Law, 580, 46 Atl. 777.—**Representation of persons.** A fiction of the law, the effect of which is to put the representative in the place, degree, or right of the person represented. Civ. Code La. art. 894.

REPRESENTATIVE. Representation is the act of one person representing or standing in the place of another; and he who so represents or stands in the place of another is termed his "representative." Thus, an heir is the representative of the ancestor, and an executor is the representative of the testator, the heir standing in the place of his deceased ancestor with respect to his realty, the executor standing in the place of his deceased testator with respect to his personalty; and hence the heir is frequently denominated the "real" representative, and the executor the "personal" representative. Brown; 2 Steph. Comm. 243. And see Lee v. Dill, 39 Barb. (N. Y.) 520; Staples v. Lewis, 71 Conn. 288, 41 Atl. 815; McCrary v. McCrary, 12 Abb. Prac. (N. Y.) 1.

In constitutional law, representatives are these persons chosen by the people to represent their several interests in a legislative body.

—**Legal representative.** A person who, in the law, represents the person and controls the rights of another. Primarily the term meant those artificial representatives of a deceased person, the executors and administrators, who by law represented the deceased, in distinction from the heirs, who were the "natural" representatives. But as, under statutes of distribution, executors and administrators are no longer the sole representatives of the deceased as to personal property, the phrase has lost much of its original distinctive force, and is now used to describe either executors and administrators or children, descendants, next of kin, or distributees. Moreover, the phrase is not always used in its technical sense nor always with reference to the estate of a decedent; and in such other connections its import must be determined from the context; so that, in its general sense of one person representing another, or succeeding to the rights of another, or standing in the place of another, it may include an assignee in bankruptcy or insolvency, an assignee for the benefit of creditors, a receiver, an assignee of a mortgage, a grantee of land, a guardian, a purchaser at execution sale, a widow, or a surviving partner. See Staples v. Lewis, 71 Conn. 288, 41 Atl. 815; Miller v. Metcalf, 77 Conn. 176, 58 Atl. 743; Warnecke v. Lembca, 71 Ill. 95, 12 Am. Rep. 85; Thayer v. Pressey, 175 Mass. 225, 56 N. E. 5; Thompson v. U. S., 20 Ct. Cl. 278; Cox v. Curwen, 118 Mass. 200; Halsey v. Paterson,

87 N. J. Eq. 448; Merchants' Nat. Bank v. Abernathy, 32 Mo. App. 211; Hogan v. Page, 2 Wall. 607, 17 L. Ed. 854; Mutual L. Ins. Co. v. Armstrong, 117 U. S. 591, 6 Sup. Ct. 877, 29 L. Ed. 997; Wright v. First Nat. Bank, 30 Fed. Cas. 673; Henderson Nat. Bank v. Alves, 91 Ky. 142, 15 S. W. 132; McLain v. Bedgood, 59 Ga. 793, 15 S. E. 670; Com. v. Bryan, 6 Serg. & R. (Pa.) 83; Barbour v. National Exch. Bank, 45 Ohio St. 133, 12 N. E. 5; Griswold v. Sawyer, 125 N. Y. 411, 26 N. E. 464; Lasater v. First Nat. Bank (Tex. Civ. App.) 72 S. W. 1054.—**Personal representatives.** This term, in its commonly accepted sense, means executors and administrators; but it may have a wider meaning, according to the intention of the person using it, and may include heirs, next of kin, descendants, assignees, grantees, receivers, and trustees in insolvency. See Griswold v. Sawyer, 125 N. Y. 411, 26 N. E. 464; Wells v. Bente, 86 Mo. App. 264; Staples v. Lewis, 71 Conn. 288, 41 Atl. 815; Baynes v. Ottey, 1 Mylne & K. 465; In re Wilcox & Howe Co., 70 Conn. 220, 39 Atl. 163.—**Real representative.** He who represents or stands in the place of another, with respect to his real property, is so termed, in contradistinction to him who stands in the place of another, with regard to his personal property, and who is termed the "personal representative." Thus the heir is the real representative of his deceased ancestor. Brown.—**Representative action or suit.** A representative action or suit is one brought by a member of a class of persons on behalf of himself and the other members of the class. In the proceedings before judgment the plaintiff is, as a rule, *dominus litis*, (*q. v.*) and may discontinue or compromise the action as he pleases. Sweet.—**Representative democracy.** A form of government where the powers of the sovereignty are delegated to a body of men, elected from time to time, who exercise them for the benefit of the whole nation. 1 Bouv. Inst. no. 31.—**Representative peers.** Those who, at the commencement of every new parliament, are elected to represent Scotland and Ireland in the British house of lords; sixteen for the former and twenty-eight for the latter country. Brown.

REPRIEVE. In criminal law. The withdrawing of a sentence of death for an interval of time, whereby the execution is suspended. 4 Bl. Comm. 394. And see Butler v. State, 97 Ind. 374; Sterling v. Drake, 29 Ohio St. 460, 23 Am. Rep. 762; In re Buchanan, 146 N. Y. 264, 40 N. E. 833.

REPRIMAND. A public and formal censure or severe reproof, administered to a person in fault by his superior officer or by a body to which he belongs. Thus, a member of a legislative body may be reprimanded by the presiding officer, in pursuance of a vote of censure, for improper conduct in the house. So a military officer, in some cases, is punished by a reprimand administered by his commanding officer, or by the secretary of war.

REPRISALS. The forcibly taking a thing by one nation which belonged to another, in return or satisfaction for an injury committed by the latter on the former. Vattel, b. 2, c. 18, s. 342.

REPRISES. In English law. Deductions and duties which are yearly paid out of a manor and lands, as rent-charge, rent seck,

pensions, corrodies, annuities, etc., so that, when the clear yearly value of a manor is spoken of, it is said to be so much per annum *ultra reprises*,—besides all *reprises*. Cowell. See Delaware & H. Canal Co. v. Von Storch, 196 Pa. 102, 46 Atl. 375.

Reprobata pecunia liberat solventem. Money refused [the refusal of money tendered] releases him who pays, [or tenders it.] 9 Coke, 79a.

REPROBATION. In ecclesiastical law The interposition of objections or exceptions; as, to the competency of witnesses, to the due execution of instruments offered in evidence and the like.

REPROBATOR, ACTION OF. In Scotch law. An action or proceeding intended to convict a witness of perjury, to which the witness must be made a party. Bell.

REP-SILVER. In old records. Money paid by servile tenants for exemption from the customary duty of *reaping* for the lord. Cowell.

REPUBLIC. A commonwealth; a form of government which derives all its powers directly or indirectly from the general body of citizens, and in which the executive power is lodged in officers chosen by and representing the people, and holding office for a limited period, or at most during good behavior or at the pleasure of the people, and in which the legislative power may be (and in modern republics is) intrusted to a representative assembly. See Federalist, No. 39; Republic of Mexico v. De Arangoiz, 5 Duer (N. Y.) 636; State v. Harris, 2 Bailey (S. C.) 599.

In a wider sense, the state, the commonwealth, the whole organized political community, without reference to the form of government; as in the maxim *interest reipublicæ ut sit finis litium*. Co. Litt. 303.

REPUBLICAN GOVERNMENT. A government in the republican form; a government of the people; a government by representatives chosen by the people. See In re Duncan, 139 U. S. 449, 11 Sup. Ct. 573, 35 L. Ed. 219; Eckerson v. Des Moines, 137 Iowa, 452, 115 N. W. 177; Minor v. Happersett, 21 Wall. 175, 22 L. Ed. 627; Kadderly v. Portland, 44 Or. 118, 74 Pac. 710.

REPUBLICATION. The re-execution or re-establishment by a testator of a will which he had once revoked.

A second publication of a will, either expressly or by construction.

REPUDIATE. To put away, reject, disclaim, or renounce a right, duty, obligation, or privilege.

N **REPUDIATION.** Rejection; disclaimer; renunciation; the rejection or refusal of an offered or available right or privilege, or of a duty or relation. See *Iowa State Sav. Bank v. Black*, 91 Iowa, 490, 59 N. W. 283; *Daley v. Saving Ass'n*, 178 Mass. 13, 59 N. E. 452.

O The refusal on the part of a state or government to pay its debts, or its declaration that its obligations, previously contracted, are no longer regarded by it as of binding force.

P **In the civil law.** The casting off or putting away of a woman betrothed; also, but less usually, of a wife; divorce.

Q **In ecclesiastical law.** The refusal to accept a benefice which has been conferred upon the party repudiating.

R **REPUDIUM.** Lat. In Roman law. A breaking off of the contract of espousals, or of a marriage intended to be solemnized. Sometimes translated "divorce;" but this was not the proper sense. Dig. 50, 16, 191.

REPUGNANCY. An inconsistency, opposition, or contrariety between two or more clauses of the same deed or contract, or between two or more material allegations of the same pleading. See *Lehman v. U. S.*, 127 Fed. 45, 61 C. C. A. 577; *Swan v. U. S.*, 8 Wyo. 151, 9 Pac. 931.

REPUGNANT. That which is contrary to what is stated before, or insensible. A repugnant condition is void.

Reputatio est vulgaris opinio ubi non est veritas. Et vulgaris opinio est duplex, scilicet: Opinio vulgaris orta inter graves et discretos homines, et quae vultum veritatis habet; et opinio tantum orta inter leves et vulgares homines, absque specie veritatis. Reputation is common opinion where there is not truth. And common opinion is of two kinds, to-wit: Common reputation arising among grave and sensible men, and which has the appearance of truth; and mere opinion arising among foolish and ignorant men, without any appearance of truth. 4 Coke, 107.

REPUTATION. A person's credit, honor, character, good name. Injuries to one's reputation, which is a personal right, are defamatory and malicious words, libels, and malicious indictments or prosecutions.

Reputation of a person is the estimate in which he is held by the public in the place where he is known. *Cooper v. Greeley*, 1 Denio (N. Y.) 347.

In the law of evidence, matters of public and general interest, such as the boundaries of counties or towns, rights of common, claims of highway, etc., are allowed to be proved by general reputation; *e. g.*, by the declaration of deceased persons made *ante litem motam*, by old documents, etc., notwithstanding the general rule against secondary evidence. Best, Ev. 632.

REPUTED. Accepted by general, vulgar, or public opinion. Thus, land may be reputed part of a manor, though not really so, and a certain district may be reputed a parish or a manor, or be a parish or a manor in reputation, although it is in reality no parish or manor at all. Brown.

—**Reputed owner**, see OWNER.

REQUEST. An asking or petition; the expression of a desire to some person for something to be granted or done; particularly for the payment of a debt or performance of a contract.

The two words, "request" and "require," as used in notices to creditors to present claims against an estate, are of the same origin, and virtually synonymous. *Prentice v. Whitney*, 8 Hun (N. Y.) 300.

In pleading. The statement in the plaintiff's declaration that the particular payment or performance, the failure of which constitutes the cause of action, was duly requested or demanded of the defendant.

—**Request, letters of.** In English law. Many suits are brought before the Dean of the Arches as original judge, the cognizance of which properly belongs to inferior jurisdictions within the province, but in respect of which the inferior judge has waived his jurisdiction under a certain form of proceeding known in the canon law by the denomination of "letters of request." 3 Steph. Comm. 306.—**Request note.** In English law. A note requesting permission to remove dutiable goods from one place to another without paying the excise.—**Requests, courts of.** See COURTS OF REQUESTS.—**Special request.** A request actually made, at a particular time and place. This term is used in contradistinction to a general request, which need not state the time when nor place where made. 3 Bouv. Inst. no. 2843.

REQUISITION. A demand in writing, or formal request or requirement. *Bain v. State*, 61 Ala. 79; *Atwood v. Charlton*, 21 R. I. 568, 45 Atl. 580.

In international law. The formal demand by one government upon another, or by the governor of one of the United States upon the governor of a sister state, of the surrender of a fugitive criminal.

In Scotch law. A demand made by a creditor that a debt be paid or an obligation fulfilled. Bell.

—**Requisitions on title**, in English conveyancing, are written inquiries made by the solicitor of an intending purchaser of land, or of any estate or interest therein, and addressed to the vendor's solicitor, in respect of some apparent insufficiency in the abstract of title. *Mozley & Whitley*.

REREFIEFS. In Scotch law. Inferior fiefs; portions of a fief or feud granted out to inferior tenants. 2 Bl. Comm. 57.

Rerum ordo confunditur si unicuique jurisdictio non servetur. 4 Inst. Proem. The order of things is confounded if every one preserve not his jurisdiction.

Rerum progressus ostendunt multa, quæ in initio præcaveri seu prævideri non possunt. 6 Coke, 40. The progress of events shows many things which, at the beginning, could not be guarded against or foreseen.

Rerum suarum quilibet est moderator et arbiter. Every one is the regulator and disposer of his own property. Co. Litt. 223a.

RES. Lat. In the civil law. A thing; an object. As a term of the law, this word has a very wide and extensive signification, including not only things which are objects of property, but also such as are not capable of individual ownership. See Inst. 2, 1, pr. And in old English law it is said to have a general import, comprehending both corporeal and incorporeal things of whatever kind, nature, or species. 3 Inst. 182. See Bract. fol. 7b.

By "*res*," according to the modern civilians, is meant everything that may form an *object* of rights, in opposition to "*persona*," which is regarded as a *subject* of rights. "*Res*," therefore, in its general meaning, comprises *actions* of all kinds; while in its restricted sense it comprehends every object of right, except actions. Mackeld. Rom. Law, § 146. This has reference to the fundamental division of the Institutes, that all law relates either to *persons*, to *things*, or to *actions*. Inst. 1, 2, 12.

In modern usage, the term is particularly applied to an object, subject-matter, or *status*, considered as the defendant in an action, or as the object against which, directly, proceedings are taken. Thus, in a prize case, the captured vessel is "the *res*." And proceedings of this character are said to be *in rem*. (See IN PERSONAM; IN REM.) "*Res*" may also denote the action or proceeding, as when a cause, which is not between adversary parties, is entitled "*In re* —."

Classification. Things (*res*) have been variously divided and classified in law, *e. g.*, in the following ways: (1) Corporeal and incorporeal things; (2) movables and immovables; (3) *res mancipi* and *res nec mancipi*; (4) things real and things personal; (5) things in possession and choses (*i. e.*, things) in action; (6) fungible things and things not fungible, (*fungibiles vel non fungibiles*;) and (7) *res singulae* (*i. e.*, individual objects) and *universitates rerum*, (*i. e.*, aggregates of things.) Also persons are for some purposes and in certain respects regarded as things. Brown.

—Res accessoria. In the civil law. An accessory thing; that which belongs to a principal thing, or is in connection with it.—**Res adjudicata.** A common but indefensible misspelling of *res judicata*. The latter term designates a point or question or subject-matter which was in controversy or dispute and has been authoritatively and finally settled by the decision of a court. *Res adjudicata* (if there be such a term) could only mean an article or subject of property "awarded to" a given person by the judgment of a court, which might perhaps be the case in replevin and similar actions.—**Res caduca.** In the civil law. A fallen or escheated thing; an escheat. Halifax, Civil Law, b. 2, c. 9, no. 60.—**Res communes.** In the civil

law. Things common to all; that is, those things which are used and enjoyed by every one, even in single parts, but can never be exclusively acquired as a whole, *e. g.*, light and air. Inst. 2, 1, 1; Mackeld. Rom. Law, § 169.—**Res controversa.** In the civil law. A matter controverted; a matter in controversy; a point in question; a question for determination. Calvin.—**Res coronæ.** In old English law. Things of the crown; such as ancient manors, homages of the king, liberties, etc. Fleta, lib. 3, c. 6, § 3.—**Res corporales.** In the civil law. Corporeal things; things which can be touched, or are perceptible to the senses. Dig. 1, 8, 1, 1; Inst. 2, 2; Bract. fols. 7b, 10b, 13b.—**Res derelicta.** Abandoned property; property thrown away or forsaken by the owner, so as to become open to the acquisition of the first taker or occupant. See Rhodes v. Whitehead, 27 Tex. 313, 84 Am. Dec. 631.—**Res fungibiles.** In the civil law. Fungible things; things of such a nature that they can be replaced by equal quantities and qualities when returning a loan or delivering goods purchased, for example, so many bushels of wheat or so many dollars; but a particular horse or a particular jewel would not be of this character.—**Res furtiva.** In Scotch law. Goods which have been stolen. Bell.—**Res gestæ.** Things done; transactions; essential circumstances surrounding the subject. The circumstances, facts, and declarations which grow out of the main fact, are contemporaneous with it, and serve to illustrate its character. See Stirling v. Buckingham, 46 Conn. 464; Ft. Smith Oil Co. v. Slover, 58 Ark. 168, 24 S. W. 106; State v. Prater, 52 W. Va. 132, 43 S. E. 230; Davids v. People, 192 Ill. 176, 61 N. E. 537; Hall v. State, 48 Ga. 607; Railway Co. v. Moore, 24 Tex. Civ. App. 489, 59 S. W. 282.—**Res habiles.** In the civil law, things which are prescriptible; things to which a lawful title may be acquired by ordinary prescription.—**Res immobiles.** In the civil law. Immovable things; including land and that which is connected therewith, either by nature or art, such as trees and buildings. Mackeld. Rom. Law, § 160.—**Res incorporeales.** In the civil law. Incorporeal things; things which cannot be touched; such as those things which consist in right. Inst. 2, 2; Bract. fols. 7b, 10b. Such things as the mind alone can perceive.—**Res integra.** A whole thing; a new or unopened thing. The term is applied to those points of law which have not been decided, which are untouched by *dictum* or decision. 3 Mer. 269.—**Res inter alios acta.** A thing done between others, or between third parties or strangers. See Chicago, etc., R. Co. v. Schmitz, 211 Ill. 446, 71 N. E. 1050.—**Res ipsa loquitur.** The thing speaks for itself. A phrase used in actions for injury by negligence where no proof of negligence is required beyond the accident itself, which is such as necessarily to involve negligence; *e. g.*, a collision between two trains upon a railway. Wharton. See Benedick v. Potts, 88 Md. 52, 40 Atl. 1067, 41 L. R. A. 478; Griffen v. Manice, 166 N. Y. 188, 59 N. E. 925, 52 L. R. A. 922, 82 Am. St. Rep. 630; Excelsior Electric Co. v. Sweet, 57 N. J. Law, 224, 30 Atl. 553; Houston v. Brush, 66 Vt. 331, 29 Atl. 380; Scott v. London, etc., Docks Co., 3 Hurl. & C. 596.—**Res judicata.** A matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment. A phrase of the civil law, constantly quoted in the books. 2 Kent, Comm. 120.—**Res litigiosæ.** In Roman law, things which are in litigation; property or rights which constitute the subject-matter of a pending action.—**Res mancipi.** In Roman law. Certain classes of things which could not be aliened or transferred except by means of a certain formal ceremony of conveyance called "*mancipatio*," (*q. v.*) These included land, houses, slaves, horses, and cattle. All other things were called "*res nec mancipi*." The distinction was abolished by Justinian.—

N *Res mobiles.* In the civil law. Movable things; things which may be transported from one place to another, without injury to their substance and form. Things corresponding with the chattels personal of the common law. 2 Kent, Comm. 347.—*Res nova.* A new matter; a new case; a question not before decided.—**O** *Res nullius.* The property of nobody. A thing which has no owner, either because a former owner has finally abandoned it, or because it has never been appropriated by any person, or because (in the Roman law) it is not susceptible of private ownership.—*Res perit domino.* A phrase used to express that, when a thing is lost or destroyed, it is lost to the person who was the owner of it at the time. Broom, Max. 238.—*Res privatæ.* In the civil law. Things the property of one or more individuals. Mackeld. Rom. Law, § 157.—*Res publicæ.* Things belonging to the public; public property; such as the sea, navigable rivers, highways, etc.—*Res quotidianæ.* Every-day matters; familiar points or questions.—*Res religiosæ.* Things pertaining to religion. In Roman law, especially, burial-places, which were regarded as sacred, and could not be the subjects of commerce.—*Res sacræ.* In the civil law. Sacred things. Things consecrated by the pontiffs to the service of God; such as sacred edifices, and gifts or offerings. Inst. 2, 1, 8. Chalice, crosses, censers. Bract. fol. 8.—*Res sanctæ.* In the civil law. Holy things; such as the walls and gates of a city. Inst. 2, 1, 10. Walls were said to be holy, because any offense against them was punished capitally. Bract. fol. 8.—*Res universitatis.* In the civil law. Things belonging to a community, (as, to a municipality,) the use and enjoyment of which, according to their proper purpose, is free to every member of the community, but which cannot be appropriated to the exclusive use of any individual; such as the public buildings, streets, etc. Inst. 2, 1, 6; Mackeld. Rom. Law, § 170.

Res accendent lumina rebus. One thing throws light upon others. Odgen v. Gibbons, 4 Johns. Ch. (N. Y.) 149.

Res accessoria sequitur rem principalem. Broom, Max. 491. The accessory follows the principal.

Res denominatur a principali parte. 9 Coke, 47. The thing is named from its principal part.

Res est misera ubi jus est vagum et incertum. 2 Salk. 512. It is a wretched state of things when law is vague and mutable.

Res generalem habet significationem quia tam corporea quam incorporea, cujuscunque sunt generis, naturæ, sive speciei, comprehendit. 3 Inst. 182. The word "thing" has a general signification, because it comprehends corporeal and incorporeal objects, of whatever nature, sort, or species.

Res inter alios acta alteri nocere non debet. Things done between strangers ought not to injure those who are not parties to them. Co. Litt. 132; Broom, Max. 954, 967.

Res inter alios judicata nullum aliis præjudicium faciunt. Matters adjudged in a cause do not prejudice those who were not parties to it. Dig. 44, 2, 1.

Res judicata facit ex albo nigrum; ex nigro, album; ex curvo, rectum; ex recto, curvum. A thing adjudged [the solemn judgment of a court] makes white, black; black, white; the crooked, straight; the straight, crooked. 1 Bouv. Inst. no. 840.

Res judicata pro veritate accipitur. A matter adjudged is taken for truth. Dig. 50, 17, 207. A matter decided or passed upon by a court of competent jurisdiction is received as evidence of truth. 2 Kent, Comm. 120.

Res per pecuniam æstimatur, et non pecunia per rem. 9 Coke, 76. The value of a thing is estimated according to its worth in money, but the value of money is not estimated by reference to a thing.

Res propria est quæ communis non est. A thing is private which is not common. LeBreton v. Miles, 8 Paige (N. Y.) 261, 270.

Res quæ intra præsidia perductæ nondum sunt, quanquam ab hostibus occupatæ, ideo postliminii non egent; quia dominum nondum muturunt ex gentium jure. Things which have not yet been introduced within the enemy's lines, although held by the enemy, do not need the fiction of postliminy on this account, because their ownership by the law of nations has not yet changed. Gro. de Jure B. l. 3, c. 9, § 16; Id. l. 3, c. 6, § 3.

Res sacra non recipit æstimationem. A sacred thing does not admit of valuation. Dig. 1, 8, 9, 5.

Res sua nemini servit. 4 Macq. H. L. Cas. 151. No one can have a servitude over his own property.

Res transit cum suo onere. The thing passes with its burden. Where a thing has been incumbered by mortgage, the incumbrance follows it wherever it goes. Bract. fols. 47b, 48.

RESALE. Where a person who has sold goods or other property to a purchaser sells them again to some one else. Sometimes a vendor reserves the right of reselling if the purchaser commits default in payment of the purchase money, and in some cases (*e. g.*, on a sale of perishable articles) the vendor may do so without having reserved the right. Sweet.

RESCUIT. In old English practice. An admission or receiving a third person to plead his right in a cause formerly com-

menced between two others; as, in an action by tenant for life or years, he in the reversion might come in and pray to be received to defend the land, and to plead with the demandant. Cowell.

—**Resceit of homage.** The lord's receiving homage of his tenant at his admission to the land. Kitch. 148.

RESCIND. To abrogate, annul, avoid, or cancel a contract; particularly, nullifying a contract by the act of a party. See Powell v. Linde Co., 29 Misc. Rep. 419, 60 N. Y. Supp. 1044; Hurst v. Trow Printing Co., 2 Misc. Rep. 361, 22 N. Y. Supp. 371.

RESCISSIO. Lat. In the civil law. An annulling; avoiding, or making void; abrogation; rescission. Cod. 4, 44.

RESCISSION. Rescission, or the act of rescinding, is where a contract is canceled, annulled, or abrogated by the parties, or one of them.

In Spanish law, nullity is divided into absolute and relative. The former is that which arises from a law, whether civil or criminal, the principal motive for which is the public interest; and the latter is that which affects only certain individuals. "Nullity" is not to be confounded with "rescission." Nullity takes place when the act is affected by a radical vice, which prevents it from producing any effect; as where an act is in contravention of the laws or of good morals, or where it has been executed by a person who cannot be supposed to have any will, as a child under the age of seven years, or a madman, (*un nino o demente*). Rescission is where an act, valid in appearance, nevertheless conceals a defect, which may make it null, if demanded by any of the parties; as, for example, mistake, force, fraud, deceit, want of sufficient age, etc. Nullity relates generally to public order, and cannot therefore be made good either by ratification or prescription; so that the tribunals ought, for this reason alone, to decide that the null act can have no effect, without stopping to inquire whether the parties to it have or have not received any injury. Rescission, on the contrary, may be made good by ratification or by the silence of the parties; and neither of the parties can demand it, unless he can prove that he has received some prejudice or sustained some damage by the act. Sunol v. Hepburn, 1 Cal. 281, citing Escriche.

RESCISSORY ACTION. In Scotch law. One to rescind or annul a deed or contract.

RESCOUS. Rescue. The taking back by force goods which had been taken under a distress, or the violently taking away a man who is under arrest, and setting him at liberty, or otherwise procuring his escape, are both so denominated. This was also the name of a writ which lay in cases of rescue. Co. Litt. 160; 3 Bl. Comm. 146; Fitzh. Nat. Brev. 100; 6 Mees. & W. 564.

RESCRIPT. In canon law. A term including any form of apostolical letter emanating from the pope. The answer of the pope in writing. Dict. Droit Can.

In the civil law. A species of imperial constitutions, being the answers of the prince

in individual cases, chiefly given in response to inquiries by parties in relation to litigated suits, or to inquiries by the judges, and which became rules for future litigated or doubtful legal questions. Mackeld. Rom. Law, § 46.

At common law. A counterpart, duplicate, or copy.

In American law. A written order from the court to the clerk, giving directions concerning the further disposition of a case. Pub. St. Mass. p. 1295.

The written statement by an appellate court of its decision in a case, with the reasons therefor, sent down to the trial court.

RESCRIPTION. In French law. A prescription is a letter by which one requests some one to pay a certain sum of money, or to account for him to a third person for it. Poth. Cont. de Change, no. 225.

RESCRIPTUM. Lat. In the civil law. A species of imperial constitution, in the form of an answer to some application or petition; a rescript. Calvin.

RESCUE. The act of forcibly and intentionally delivering a person from lawful arrest or imprisonment, and setting him at liberty. 4 Bl. Comm. 131; Code Ga. § 4478; Robinson v. State, 82 Ga. 535, 9 S. E. 528.

The unlawfully or forcibly taking back goods which have been taken under a distress for rent, damage feasant, etc. Hamlin v. Mack, 33 Mich. 108.

In admiralty and maritime law. The deliverance of property taken as prize, out of the hands of the captors, either when the captured party retake it by their own efforts, or when, pending the pursuit or struggle, the party about to be overpowered receive reinforcements, and so escape capture.

RESCUSSOR. In old English law. A rescuer; one who commits a rescous. Cro. Jac. 419; Cowell.

RESCYT. L. Fr. Resceit; receipt; the receiving or harboring a felon, after the commission of a crime. Britt. c. 23.

RESEALING WRIT. In English law. The second sealing of a writ by a master so as to continue it, or to cure it of an irregularity.

RESERVANDO. Reserving. In old conveyancing. An apt word of reserving a rent. Co. Litt. 47a.

Reservatio non debet esse de proficiis ipsis, quia ea conceduntur, sed de reditu novo extra proficiua. A reservation ought not to be of the profits themselves, because they are granted, but from the new rent, apart from the profits. Co. Litt. 142.

RESERVATION. A clause in a deed or other instrument of conveyance by which the

N grantor creates, and reserves to himself, some right, interest, or profit in the estate granted, which had no previous existence as such, but is first called into being by the instrument reserving it; such as rent, or an easement. *Stephens v. Reynolds*, 6 N. Y. 458; *In re Narragansett Indians*, 20 R. I. 715, 40 Atl. 347; *Miller v. Lapham*, 44 Vt. 435; *Engel v. Ayer*, 85 Me. 448, 27 Atl. 352; *Smith v. Cornell University*, 21 Misc. Rep. 220, 45 N. Y. Supp. 640; *Wilson v. Higbee* (C. C.) 62 Fed. 726; *Hurd v. Curtis*, 7 Metc. (Mass.) 110.

O A "reservation" should be carefully distinguished from an "exception," the difference between the two being this: By an exception, the grantor withdraws from the effect of the grant some part of the thing itself which is *in esse*, and included under the terms of the grant, as one acre from a certain field, a shop or mill standing within the limits of the granted premises, and the like; whereas, a reservation, though made to the grantor, lessor, or the one creating the estate, is something arising out of the thing granted not then *in esse*, or some new thing created or reserved, issuing or coming out of the thing granted, and not a part of the thing itself, nor of anything issuing out of another thing. 3 Washb. Real Prop. 645.

Q **R** **In public land laws of the United States**, a reservation is a tract of land, more or less considerable in extent, which is by public authority withdrawn from sale or settlement, and appropriated to specific public uses; such as parks, military posts, Indian lands, etc. *Jackson v. Wilcox*, 2 Ill. 344; *Meehan v. Jones* (C. C.) 70 Fed. 455; *Cahn v. Barnes* (C. C.) 5 Fed. 331.

In practice, the reservation of a point of law is the act of the trial court in setting it aside for future consideration, allowing the trial to proceed meanwhile as if the question had been settled one way, but subject to alteration of the judgment in case the court *in banc* should decide it differently.

RESET. The receiving or harboring an outlawed person. *Cowell*.

—Reset of theft. In Scotch law. The receiving and keeping stolen goods, knowing them to be stolen, with a design of feloniously retaining them from the real owner. *Alis. Crim. Law*, 328.

RESETTER. In Scotch law. A receiver of stolen goods knowing them to have been stolen.

RESIANCE. Residence, abode, or continuance.

RESIANT. In old English law. Continually dwelling or abiding in a place; resident; a resident. *Kitchin*, 33; *Cowell*.

—Resiant rolls. Those containing the residents in a tithing, etc., which are to be called over by the steward on holding courts leet.

RESIDENCE. Living or dwelling in a certain place permanently or for a considerable length of time. The place where a man

makes his home, or where he dwells permanently or for an extended period of time.

The difference between a residence and a domicile may not be capable of easy definition; but every one can see at least this distinction: A person domiciled in one state may, for temporary reasons, such as health, reside for one or more years in some other place deemed more favorable. He does not, by so doing, forfeit his domicile in the first state, or, in any proper sense, become a non-resident of it, unless some intention, manifested by some act, of abandoning his residence in the first state is shown. *Walker's Estate v. Walker*, 1 Mo. App. 404.

"Residence" means a fixed and permanent abode or dwelling-place for the time being, as contradistinguished from a mere temporary locality of existence. So does "inhabitaney;" and the two are distinguishable in this respect from "domicile." *In re Wrigley*, 8 Wend. (N. Y.) 134.

As they are used in the New York Code of Procedure, the terms "residence" and "resident" mean legal residence; and legal residence is the place of a man's fixed habitation, where his political rights are to be exercised, and where he is liable to taxation. *Houghton v. Ault*, 16 How. Prac. (N. Y.) 77.

A distinction is recognized between legal and actual residence. A person may be a legal resident of one place and an actual resident of another. He may abide in one state or country without surrendering his legal residence in another, if he so intends. His legal residence may be merely ideal, but his actual residence must be substantial. He may not actually abide at his legal residence at all, but his actual residence must be his abiding place. *Tipton v. Tipton*, 87 Ky. 243, 8 S. W. 440; *Hinds v. Hinds*, 1 Iowa, 36; *Fitzgerald v. Arel*, 63 Iowa, 104, 18 N. W. 713, 50 Am. Rep. 733; *Ludlow v. Szold*, 90 Iowa, 175, 57 N. W. 676.

RESIDENT. One who has his residence in a place.

"Resident" and "inhabitant" are distinguishable in meaning. The word "inhabitant" implies a more fixed and permanent abode than does "resident;" and a resident may not be entitled to all the privileges or subject to all the duties of an inhabitant. *Frost v. Brisbin*, 19 Wend. (N. Y.) 11, 32 Am. Dec. 423.

Also a tenant, who was obliged to reside on his lord's land, and not to depart from the same; called, also, "*homme levant et couchant*," and in Normandy, "*ressceant du fief*."

—Resident freeholder. A person who resides in the particular place (town, city, county, etc.) and who owns an estate in lands therein amounting at least to a freehold interest. *Damp v. Dane*, 29 Wis. 427; *Campbell v. Moran*, 71 Neb. 615, 99 N. W. 499; *State v. Kokomo*, 108 Ind. 74, 8 N. E. 720. **—Resident minister.** In international law. A public minister who resides at a foreign court. Resident ministers are ranked in the third class of public ministers. *Wheat. Int. Law*, 264, 267.

RESIDUAL. Relating to the residue; relating to the part remaining.

RESIDUARY. Pertaining to the residue; constituting the residue; giving or bequeathing the residue; receiving or entitled to the residue. *Riker v. Cornwell*, 113 N. Y. 115, 20 N. E. 602; *Kerr v. Dougherty*, 79 N. Y. 359; *Lamb v. Lamb*, 60 Hun, 577, 14 N. Y. Supp. 206.

—Residuary account. In English practice. The account which every executor and adminis-

trator, after paying the debts and particular legacies of the deceased, and before paying over the residuum, must pass before the board of inland revenue. *Mozley & Whitley*.—**Residuary clause.** The clause in a will by which that part of the property is disposed of which remains after satisfying previous bequests and devises.—**Residuary devise and devisee.** See DEVISE.—**Residuary estate.** The remaining part of a testator's estate and effects, after payment of debts and legacies; or that portion of his estate which has not been particularly devised or bequeathed. See *Wetmore v. St. Luke's Hospital*, 56 Hun, 313, 9 N. Y. Supp. 753.—**Residuary legacy.** See LEGACY.

RESIDUE. The surplus of a testator's estate remaining after all the debts and particular legacies have been discharged. 2 Bl. Comm. 514.

The "residue" of a testator's estate and effects means what is left after all liabilities are discharged, and all the purposes of the testator, specifically expressed in his will, are carried into effect. *Graves v. Howard*, 56 N. C. 302.

RESIDUUM. That which remains after any process of separation or deduction; a residue or balance. That which remains of a decedent's estate, after debts have been paid and legacies deducted. See *Parsons v. Colgate* (C. C.) 15 Fed. 603; *Robinson v. Millard*, 133 Mass. 239; *United States Trust Co. v. Black*, 9 Misc. Rep. 653, 30 N. Y. Supp. 453.

Resignatio est juris proprii spontanea refutatio. Resignation is a spontaneous relinquishment of one's own right. *Godb.* 234.

RESIGNATION. The act by which an officer renounces the further exercise of his office and returns the same into the hands of those from whom he received it.

In ecclesiastical law. Resignation is where a parson, vicar, or other beneficed clergyman voluntarily gives up and surrenders his charge and preferment to those from whom he received the same. It is usually done by an instrument attested by a notary. *Phillim. Ecc. Law*, 517.

In Scotch law. The return of a fee into the hands of the superior. *Bell*.

—Resignation bond. A bond or other engagement in writing taken by a patron from the clergyman presented by him to a living, to resign the benefice at a future period. This is allowable in certain cases under St. 9 Geo. IV. c. 94, passed in 1828. 2 *Steph. Comm.* 721.

RESIGNEE. One in favor of whom a resignation is made. 1 *Bell, Comm.* 125n.

RESILIRE. Lat. In old English law. To draw back from a contract before it is made binding. *Bract. fol.* 38.

RESIST. To oppose. This word properly describes an opposition by direct action and *quasi* forcible means. *State v. Welch*, 37 *Wis.* 196.

RESISTANCE. The act of resisting opposition; the employment of forcible means to prevent the execution of an endeavor in which force is employed. See *U. S. v. Jose* (C. C.) 63 *Fed.* 954; *U. S. v. Huff* (C. C.) 13 *Fed.* 639.

RESISTING AN OFFICER. In criminal law, the offense of obstructing, opposing, and endeavoring to prevent (with or without actual force) a peace officer in the execution of a writ or in the lawful discharge of his duty while making an arrest or otherwise enforcing the peace. See *Davis v. State*, 76 *Ga.* 722; *Woodworth v. State*, 26 *Ohio St.* 200; *Jones v. State*, 60 *Ala.* 99.

RESOLUCION. In Spanish colonial law. An opinion formed by some superior authority on matters referred to its decision, and forwarded to inferior authorities for their instruction and government. *Schm. Civil Law*, 93, note 1.

RESOLUTION. The determination or decision, in regard to its opinion or intention, of a deliberative or legislative body, public assembly, town council, board of directors or the like. Also a motion or formal proposition offered for adoption by such a body.

In legislative practice. The term is usually employed to denote the adoption of a motion, the subject-matter of which would not properly constitute a statute; such as a mere expression of opinion; an alteration of the rules; a vote of thanks or of censure, etc. See *City of Cape Girardeau v. Fougeu*, 30 *Mo. App.* 556; *McDowell v. People*, 204 *Ill.* 499, 68 *N. E.* 379.

In practice. The judgment of a court. 5 *Mod.* 438; 10 *Mod.* 209.

In the civil law. The cancellation or annulling, by the act of parties or judgment of a court, of an existing contract which was valid and binding, in consequence of some cause or matter arising after the making of the agreement, and not in consequence of any inherent vice or defect, which, invalidating the contract from the beginning, would be ground for rescission. 7 *Toullier*, no. 551.

RESOLUTIVE. In Scotch conveyancing. Having the quality or effect of resolving or extinguishing a right. *Bell*.

Resoluto jure concedentis resolvitur jus concessum. The right of the grantor being extinguished, the right granted is extinguished. *Mackeld. Rom. Law*, 179; *Broom, Max.* 467.

RESOLUTORY CONDITION. See CONDITION.

RESORT, v. To go back. "It resorted to the line of the mother." *Hale, Com. Law*, c. 11.

N **RESORT, n.** A court whose decision is final and without appeal is, in reference to the particular case, said to be a "court of last resort."

O **RESOURCES.** Money or any property that can be converted into supplies; means of raising money or supplies; capabilities of raising wealth or to supply necessary wants; available means or capability of any kind. *Ming v. Woolfolk*, 3 Mont. 386; *Sacry v. Lobbree*, 84 Cal. 41, 23 Pac. 1088; *Shelby County v. Tennessee Centennial Exposition Co.*, 96 Tenn. 653, 36 S. W. 694, 33 L. R. A. 717.

P **RESPECTU COMPUTI VICECOMITIS HABENDO.** A writ for respiting a sheriff's account addressed to the treasurer and barons of the exchequer. Reg. Orig. 139.

R **RESPECTUS.** In old English and Scotch law. Respite; delay; continuance of time; postponement.

Respicendum est iudicanti ne quid aut durius aut remissius constituatur quam causa deprecit; nec enim aut severitatis aut clementiæ gloria affectanda est. The judge must see that no order be made or judgment given or sentence passed either more harshly or more mildly than the case requires; he must not seek renown, either as a severe or as a tender-hearted judge.

RESPIRE. The temporary suspension of the execution of a sentence; a reprieve; a delay, forbearance, or continuation of time. 4 Bl. Comm. 394; *Mishler v. Com.*, 62 Pa. 55, 1 Am. Rep. 377.

Continuance. In English practice, a jury is said, on the record, to be "respited" till the next term. 3 Bl. Comm. 354.

In the civil law. A *respite* is an act by which a debtor, who is unable to satisfy his debts at the moment, transacts (compromises) with his creditors, and obtains from them time or delay for the payment of the sums which he owes to them. The respite is either voluntary or forced. It is *voluntary* when all the creditors consent to the proposal, which the debtor makes, to pay in a limited time the whole or a part of the debt. It is *forced* when a part of the creditors refuse to accept the debtor's proposal, and when the latter is obliged to compel them by judicial authority to consent to what the others have determined, in the cases directed by law. Civ. Code La. arts. 3084, 3085.

—Respite of appeal. Adjourning an appeal to some future time. Brown.—**Respite of homage.** To dispense with the performance of homage by tenants who held their lands in consideration of performing homage to their lords. Cowell.

RESPOND. 1. To make or file an answer to a bill, libel, or appeal, in the character of a respondent, (*q. v.*)

2. To be liable or answerable; to make satisfaction or amends; as, to "respond in damages."

RESPONDE BOOK. In Scotch practice. A book kept by the directors of chancery, in which are entered all non-entry and relief duties payable by heirs who take precepts from chancery. Bell.

RESPONDEAT OUSTER. Upon an issue in law arising upon a dilatory plea, the form of judgment for the plaintiff is that the defendant answer over, which is thence called a judgment of "*respondeat ouster.*" This not being a final judgment, the pleading is resumed, and the action proceeds. Steph. Pl. 115; 3 Bl. Comm. 303; *Bauer v. Roth*, 4 Rawle (Pa.) 91.

Respondeat raptor, qui ignorare non potuit quod pupillum alienum abduxit. Hob. 99. Let the ravisher answer, for he cannot be ignorant that he has taken away another's ward.

Respondeat superior. Let the master answer. This maxim means that a master is liable in certain cases for the wrongful acts of his servant, and a principal for those of his agent. *Broom*, Max. 843. See *Southern Ry. Co. v. Morrison*, 105 Ga. 543, 31 S. E. 564; *Haehl v. Wabash R. Co.*, 119 Mo. 325, 24 S. W. 737; *State v. Gillespie*, 62 Kan. 469, 63 Pac. 742, 84 Am. St. Rep. 411.

RESPONDENT. The party who makes an answer to a bill or other proceeding in chancery.

The party who appeals against the judgment of an inferior court is termed the "appellant;" and he who contends against the appeal, the "respondent." The word also denotes the person upon whom an ordinary petition in the court of chancery (or a libel in admiralty) is served, and who is, as it were, a defendant thereto. The terms "respondent" and "co-respondent" are used in like manner in proceedings in the divorce court. *Brown*; *Brower v. Nellis*, 6 Ind. App. 323, 33 N. E. 672; *Code Cr. Proc. N. Y.* 1903, § 516.

In the civil law. One who answers or is security for another; a fidejussor. Dig. 2, 8, 6.

RESPONDENTIA. The hypothecation of the cargo or goods on board a ship as security for the repayment of a loan, the term "bottomry" being confined to hypothecations of the ship herself; but now the term "respondentia" is seldom used, and the expression "bottomry" is generally employed, whether the vessel or her cargo or both be the security. *Maude & P. Shipp.* 433; *Smith*, Merc. Law, 416. See *Maitland v. The Atlantic*, 16 Fed. Cas. 522.

Respondentia is a contract by which a

cargo, or some part thereof, is hypothecated as security for a loan, the repayment of which is dependent on maritime risks. Civ. Code Cal. § 3036; Civ. Code Dak. § 1796.

Respondera son souveraigne. His superior or master shall answer. Articuli sup. Chart. c. 18.

RESPONDERE NON DEBET. Lat. In pleading. The prayer of a plea where the defendant insists that he ought not to answer, as when he claims a privilege; for example, as being a member of congress or a foreign ambassador. 1 Chit. Pl. *433.

RESPONSA PRUDENTUM. Lat. Answers of jurists; responses given upon cases or questions of law referred to them, by certain learned Roman jurists, who, though not magistrates, were authorized to render such opinions. These *responsa* constituted one of the most important sources of the earlier Roman law, and were of great value in developing its scientific accuracy. They held much the same place of authority as our modern precedents and reports.

RESPONSALIS. In old English law. One who appeared for another.

In ecclesiastical law. A proctor.

RESPONSALIS AD LUCRANDUM VEL PETENDUM. He who appears and answers for another in court at a day assigned; a proctor, attorney, or deputy. 1 Reeve, Eng. Law, 169.

RESPONSIBILITY. The obligation to answer for an act done, and to repair any injury it may have caused.

RESPONSIBLE. To say that a person is "responsible" means that he is able to pay a sum for which he is or may become liable, or to discharge an obligation which he may be under. Farley v. Day, 26 N. H. 531; People v. Kent, 160 Ill. 655, 43 N. E. 760; Com. v. Mitchell, 82 Pa. 349. A promise to be "responsible" for the contract of another is a guaranty rather than a suretyship. Bickel v. Auner, 9 Phila. (Pa.) 499.

—Responsible government. This term generally designates that species of governmental system in which the responsibility for public measures or acts of state rests upon the ministry or executive council, who are under an obligation to resign when disapprobation of their course is expressed by a vote of want of confidence, in the legislative assembly, or by the defeat of an important measure advocated by them.

Responsio unius non omnino audiatur. The answer of one witness shall not be heard at all. A maxim of the Roman law of evidence. 1 Greenl. Ev. § 260.

RESPONSIVE. Answering; constituting or comprising a complete answer. A "re-

sponsive allegation" is one which directly answers the allegation it is intended to meet.

RESSEISER. The taking of lands into the hands of the crown, where a general livery or *ouster le main* was formerly misused.

REST, v. In the trial of an action, a party is said to "rest," or "rest his case," when he intimates that he has produced all the evidence he intends to offer at that stage, and submits the case, either finally, or subject to his right to afterwards offer rebutting evidence.

REST, n. Rests are periodical balancings of an account, (particularly in mortgage and trust accounts,) made for the purpose of converting interest into principal, and charging the party liable thereon with compound interest. Mozley & Whitley.

REStamping WRIT. Passing it a second time through the proper office, whereupon it receives a new stamp. 1 Chit. Arch. Pr. 212.

RESTAUR, or RESTOR. The remedy or recourse which marine underwriters have against each other, according to the date of their assurances, or against the master, if the loss arise through his default, as through ill loading, want of caulking, or want of having the vessel tight; also the remedy or recourse a person has against his guarantor or other person who is to indemnify him from any damage sustained. Enc. Lond.

RESTAURANT. This term, as currently understood, means only, or chiefly, an eating-house; but it has no such fixed and definite legal meaning as necessarily to exclude its being an "inn" in the legal sense. Lewis v. Hitchcock (D. C.) 10 Fed. 4.

RESTITUTIO IN INTEGRUM. Lat. In the civil law. Restoration or restitution to the previous condition. This was effected by the praetor on equitable grounds, at the prayer of an injured party, by rescinding or annulling a contract or transaction valid by the strict law, or annulling a change in the legal condition produced by an omission, and restoring the parties to their previous situation or legal relations. Dig. 4, 1; Mackeld. Rom. Law, § 220.

The restoration of a cause to its first state, on petition of the party who was cast, in order to have a second hearing. Hallifax, Civil Law, b. 3, c. 9, no. 49.

RESTITUTION. In maritime law. When a portion of a ship's cargo is lost by jettison, and the remainder saved, and the articles so lost are replaced by a general contribution among the owners of the cargo, this is called "restitution."

In practice. The return of something to the owner of it or to the person entitled to

N it, upon the reversal or setting aside of the judgment or order of court under which it was taken from him. *Haebler v. Myers*, 132 N. Y. 363, 30 N. E. 963, 15 L. R. A. 588, 28 Am. St. Rep. 589; *Gould v. McFall*, 118 Pa. 455, 12 Atl. 336, 4 Am. St. Rep. 606; *First Nat. Bank v. Avery Planter Co.*, 69 Neb. 329, 95 N. W. 624, 111 Am. St. Rep. 541.

O If, after money has been levied under a writ of execution, the judgment be reversed by writ of error, or set aside, the party against whom the execution was sued out shall have *restitution*. 2 Tidd, Pr. 1033; 1 Burrill, Pr. 292. So, on conviction of a felon, immediate *restitution* of such of the goods stolen as are brought into court will be ordered to be made to the several prosecutors. 4 Steph. Comm. 434.

P **Q** **R** **In equity.** Restitution is the restoration of both parties to their original condition, (when practicable,) upon the rescission of a contract for fraud or similar cause.

—Restitution of conjugal rights. In English ecclesiastical law. A species of matrimonial cause or suit which is brought whenever either a husband or wife is guilty of the injury of subtraction, or lives separate from the other without any sufficient reason; in which case the ecclesiastical jurisdiction will compel them to come together again, if either party be weak enough to desire it, contrary to the inclination of the other. 3 Bl. Comm. 94.—**Restitution of minors.** In Scotch law. A minor on attaining majority may obtain relief against a deed previously executed by him, which may be held void or voidable according to circumstances. This is called "restitution of minors." Bell.—**Writ of restitution.** In practice. A writ which lies, after the reversal of a judgment, to restore a party to all that he has lost by occasion of the judgment. 2 Tidd, Pr. 1186.

RESTITUTIONE EXTRACTI AB ECCLÉSIA. A writ to restore a man to the church, which he had recovered for his sanctuary, being suspected of felony. Reg. Orig. 69.

RESTITUTIONE TEMPORALIUM. A writ addressed to the sheriff, to restore the temporalities of a bishopric to the bishop elected and confirmed. Fitzh. Nat. Brev. 169.

RESTRAIN. To limit, confine, abridge, narrow down, or restrict.

To prohibit from action; to put compulsion upon; to restrict; to hold or press back. To enjoin, (in equity.)

RESTRAINING ORDER. An order in the nature of an injunction. See **ORDER**.

RESTRAINING POWERS. Restrictions or limitations imposed upon the exercise of a power by the donor thereof.

RESTRAINING STATUTE. A statute which restrains the common law, where it is too lax and luxuriant. 1 Bl. Comm. 87. Statutes restraining the powers of corpora-

tions in regard to leases have been so called in England. 2 Bl. Comm. 319, 320.

RESTRAINT. Confinement, abridgment, or limitation. Prohibition of action; holding or pressing back from action. Hindrance, confinement, or restriction of liberty.

"What, then, according to a common understanding, is the meaning of the term 'restraint?' Does it imply that the limitation, restriction, or confinement must be imposed by those who are in possession of the person or thing which is limited, restricted, or confined, or is the term satisfied by a restriction created by the application of external force? If, for example, a town be besieged, and the inhabitants confined within its walls by the besieging army, if, in attempting to come out, they are forced back, would it be inaccurate to say that they are restrained within those limits? The court believes that it would not; and, if it would not, then with equal propriety may it be said, when a port is blockaded, that the vessels within are confined, or restrained from coming out. The blockading force is not in possession of the vessels inclosed in the harbor, but it acts upon and restrains them. It is a *vis major*, applied directly and effectually to them, which prevents them from coming out of port. This appears to the court to be, in correct language, 'a restraint,' by the power imposing the blockade; and when a vessel, attempting to come out, is boarded and turned back, this restraining force is practically applied to such vessel." *Olivera v. Union Ins. Co.*, 3 Wheat. 189, 4 L. Ed. 365.

The terms "restraint" and "detention of princes," as used in policies of marine insurance, have the same meaning,—that of the effect of superior force, operating directly on the vessel. So long as a ship is under restraint, so long she is detained; and, whenever she is detained, she is under restraint. *Richardson v. Insurance Co.*, 6 Mass. 102, 4 Am. Dec. 92.

—Restraint of marriage. A contract, covenant, bond, or devise is "in restraint of marriage" when its conditions unreasonably hamper or restrict the party's freedom to marry, or his choice, or unduly postpone the time of his marriage.—**Restraint of trade.** Contracts or combinations in restraint of trade are such as tend or are designed to eliminate or stifle competition, effect a monopoly, artificially maintain prices, or otherwise hamper or obstruct the course of trade and commerce as it would be carried on if left to the control of natural and economic forces. See *U. S. v. Trans-Missouri Freight Ass'n*, 166 U. S. 290, 17 Sup. Ct. 540, 41 L. Ed. 1007; *Hodge v. Sloan*, 107 N. Y. 244, 17 N. E. 335, 1 Am. St. Rep. 816. With reference to contracts between individuals, a restraint of trade is said to be "general" or "special." A contract which forbids a person to employ his talents, industry, or capital in any undertaking within the limits of the state or country is in "general" restraint of trade; if it forbids him to employ himself in a designated trade or business, either for a limited time or within a prescribed area or district, it is in "special" restraint of trade. See *Holbrook v. Waters*, 9 How. Prac. (N. Y.) 337.—**Restraint on alienation** is where property is given to a married woman to her separate use, without power of alienation.

RESTRICTION. In the case of land registered under the English land transfer act, 1875, a restriction is an entry on the register made on the application of the registered proprietor of the land, the effect of which is to prevent the transfer of the land or the creation of any charge upon it, unless notice of the application for a transfer or charge is

sent by post to a certain address, or unless the consent of a certain person or persons to the transfer or charge is obtained, or unless some other thing is done. Sweet.

RESTRICTIVE INDORSEMENT. An indorsement may be so worded as to restrict the further negotiability of the instrument, and it is then called a "restrictive indorsement." Thus, "Pay the contents to J. S. only," or "to J. S. for my use," are restrictive indorsements, and put an end to the negotiability of the paper. 1 Daniel, Neg. Inst. § 698.

RESULT. In law, a thing is said to result when, after having been ineffectually or only partially disposed of, it comes back to its former owner or his representatives. Sweet.

—Resulting trust. See TRUST.—**Resulting use.** See USE.

RESUMMONS. In practice. A second summons. The calling a person a second time to answer an action, where the first summons is defeated upon any occasion; as the death of a party, or the like. Cowell.

RESUMPTION. In old English law. The taking again into the king's hands such lands or tenements as before, upon false suggestion, or other error, he had delivered to the heir, or granted by letters patent to any man. Cowell.

RESURRENDER. Where copyhold land has been mortgaged by surrender, and the mortgagee has been admitted, then, on the mortgage debt being paid off, the mortgagor is entitled to have the land reconveyed to him, by the mortgagee surrendering it to the lord to his use. This is called a "resurrender." 2 Dav. Conv. 1332n.

RETAIL. To sell by small parcels, and not in the gross. To sell in small quantities. State v. Lowenhaught, 11 Lea (Tenn.) 13; Bridges v. State, 37 Ark. 224; McArthur v. State, 69 Ga. 444; Com. v. Kimball, 7 Metc. (Mass.) 308.

—Retailer of merchandise. A merchant who buys articles in gross or merchandise in large quantities, and sells the same by single articles or in small quantities.

RETAIN. In practice. To engage the services of an attorney or counsellor to manage a cause. See RETAINER, 2.

—Retaining a cause. In English practice. The act of one of the divisions of the high court of justice in retaining jurisdiction of a cause wrongly brought in that division instead of another. Under the judicature acts of 1873 and 1875, this may be done, in some cases, in the discretion of the court or a judge.—**Retaining fee.** A fee given to counsel on engaging his services for the trial of the cause.—**Retaining lien.** See LIEN.

RETAINER. 1. The right of retainer is the right which the executor or administrator of a deceased person has to retain out of the assets sufficient to pay any debt due to him from the deceased in priority to the other creditors whose debts are of equal degree. 3 Steph. Comm. 263. Miller v. Irby, 63 Ala. 483; Taylor v. Deblois, 23 Fed. Cas. 765.

2. In English practice, a "retainer," as applied to counsel, is commonly used to signify a notice given to a counsel by an attorney on behalf of the plaintiff or defendant in an action, in order to secure his services as advocate when the cause comes on for trial. Holthouse. Agnew v. Walden, 84 Ala. 502, 4 South. 672; Blackman v. Webb, 38 Kan. 668, 17 Pac. 464.

3. A servant, not menial or familiar,—that is, not continually dwelling in the house of his master, but only wearing his livery, and attending sometimes upon special occasions,—is, in old English usage, called a "retainer." Cowell.

—General retainer. A general retainer of an attorney or solicitor "merely gives a right to expect professional service when requested, but none which is not requested. It binds the person retained not to take a fee from another against his retainer, but to do nothing except what he is asked to do, and for this he is to be distinctly paid." Rhode Island Exch. Bank v. Hawkins, 6 R. I. 206.—**Special retainer.** An engagement or retainer of an attorney or solicitor for a special and designated purpose; as, to prepare and try a particular case. Agnew v. Walden, 84 Ala. 502, 4 South. 672.

RETAKING. The taking one's goods, from another, who without right has taken possession thereof.

RETALIATION. The *lex talionis*, (q. v.)

RETAILIA. In old English law. Retail; the cutting up again, or division of a commodity into smaller parts.

RETENEMENTUM. In old English law. Restraint; detainment; withholding.

RETENTION. In Scotch law. A species of lien; the right to retain possession of a chattel until the lienor is satisfied of his claim upon the article itself or its owner.

RETINENTIA. A retinue, or persons retained by a prince or nobleman. Cowell.

RETIRE. As applied to bills of exchange, this word is ambiguous. It is commonly used of an indorser who takes up a bill by handing the amount to a transferee, after which the indorser holds the instrument with all his remedies intact. But it is sometimes used of an acceptor, by whom, when a bill is taken up or retired at maturity, it is in effect paid, and all the remedies on it extinguished. Byles, Bills, 215. See Elsam v. Denny, 15 C. B. 94.

N **RETONSOR.** L. Lat. In old English law. A clipper of money. *Fleta*, lib. 1, c. 20, § 122.

O **RETORNA BREVIUM.** The return of writs. The indorsement by a sheriff or other officer of his doings upon a writ.

P **RETORNO HABENDO.** A writ that lies for the distrainer of goods (when, on replevin brought, he has proved his distress to be a lawful one) against him who was so distrained, to have them returned to him according to law, together with damages and costs. *Brown*.

Q **RETORSION.** In international law. A species of retaliation, which takes place where a government, whose citizens are subjected to severe and stringent regulation or harsh treatment by a foreign government, employs measures of equal severity and harshness upon the subjects of the latter government found within its dominions. See *Vattel*, lib. 2, c. 18, § 341.

R **RETOUR.** In Scotch law. To return a writ to the office in chancery from which it issued.

RETOUR OF SERVICE. In Scotch law. A certified copy of a verdict establishing the legal character of a party as heir to a decedent.

RETOUR SANS FRAIS. Fr. In French law. A formula put upon a bill of exchange to signify that the drawer waives protest, and will not be responsible for costs arising thereon. *Arg. Fr. Merc. Law*, 573.

RETOUR SANS PROTÊT. Fr. Return without protest. A request or direction by a drawer of a bill of exchange that, should the bill be dishonored by the drawee, it may be returned without protest.

RETRACT. To take back. To retract an offer is to withdraw it before acceptance, which the offerer may always do.

RETRACTATION, in probate practice, is a withdrawal of a renunciation, (*q. v.*)

RETRACTO O TANTEO. In Spanish law. The right of revoking a contract of sale; the right of redemption of a thing sold. *White*, *New Recop.* b. 2, tit. 13, c. 2, § 4.

RETRACTUS AQUÆ. Lat. The ebb or return of a tide. *Cowell*.

RETRACTUS FEUDALIS. L. Lat. In old Scotch law. The power which a superior possessed of paying off a debt due to an adjudging creditor, and taking a conveyance to the adjudication. *Bell*.

RETRAIT. Fr. In old French and Canadian law. The taking back of a fief by the seignior, in case of alienation by the vassal. A right of pre-emption by the seignior, in case of sale of the land by the grantee.

RETRAXIT. Lat. In practice. An open and voluntary renunciation by a plaintiff of his suit in court, made when the trial is called on, by which he forever loses his action, or is barred from commencing another action for the same cause. 3 *Bl. Comm.* 296; 2 *Archb. Pr. K. B.* 250.

A *retraxit* is the open, public, and voluntary renunciation by the plaintiff, in open court, of his suit or cause of action, and if this is done by the plaintiff, and a judgment entered thereon by the defendant, the plaintiff's right of action is forever gone. *Code Ga.* 1882, § 3445. And see *U. S. v. Parker*, 120 *U. S.* 89, 7 *Sup. Ct.* 454, 30 *L. Ed.* 601; *Pethel v. McCullough*, 49 *W. Va.* 520, 39 *S. E.* 199; *Westbay v. Gray*, 116 *Cal.* 660, 48 *Pac.* 800; *Russell v. Rolfe*, 50 *Ala.* 57; *Lowry v. McMillan*, 8 *Pa.* 163, 49 *Am. Dec.* 501; *Broward v. Roche*, 21 *Fla.* 477.

RETREAT TO THE WALL. In the law relating to homicide in self-defense, this phrase means that the party must avail himself of any apparent and reasonable avenues of escape by which his danger might be averted, and the necessity of slaying his assailant avoided. *People v. Iams*, 57 *Cal.* 120.

RETRIBUTION. This word is sometimes used in law, though not commonly in modern times, as the equivalent of "recompense," or a payment or compensation for services, property, use of an estate, or other value received.

RETRO. Lat. Back; backward; behind. *Retrofeodum*, a rerefief, or *arriere fief*. *Spelman*.

RETROACTIVE has the same meaning as "retrospective," (*q. v.*)

RETROCESSION. In the civil law. When the assignee of heritable rights conveys his rights back to the cedent, it is called a "retrocession." *Ersk. Inst.* 3, 5, 1.

RETROSPECTIVE. Looking back; contemplating what is past.

—**Retrospective law.** A law which looks backward or contemplates the past; one which is made to affect acts or facts transpiring, or rights accruing, before it came into force. Every statute which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability in respect to transactions or considerations already past, must be deemed *retrospective*. See *EX POST FACTO*. And see *Deland v. Platte Co.*, (*C. C.*) 54 *Fed.* 832; *Poole v. Fleeger*, 11 *Pet.* 193, 9 *L. Ed.* 680; *Sturges v. Carter*, 114 *U. S.* 511, 5 *Sup. Ct.* 1014, 29 *L. Ed.* 240; *Merrill v. Sherburne*,

1 N. H. 213, 8 Am. Dec. 52; Bell v. Perkins, Peck (Tenn.) 266, 14 Am. Dec. 745; Evans v. Denver, 26 Colo. 193, 57 Pac. 696.

RETTE. L. Fr. An accusation or charge. St. Westm. 1, c. 2.

RETURN. The act of a sheriff, constable, or other ministerial officer, in delivering back to the court a writ, notice, or other paper, which he was required to serve or execute, with a brief account of his doings under the mandate, the time and mode of service or execution, or his failure to accomplish it; as the case may be. Also the indorsement made by the officer upon the writ or other paper, stating what he has done under it, the time and mode of service, etc.

The report made by the court, body of magistrates, returning board, or other authority charged with the official counting of the votes cast at an election.

In English practice, the election of a member of parliament is called his "return."

—**False return.** A return to a writ, in which the officer charged with it falsely reports that he served it, when he did not, or makes some other false or incorrect statement, whereby injury results to a person interested. State v. Jenkins, 170 Mo. 16, 70 S. W. 152.—**General return-day.** The day for the general return of all writs of summons, subpoena, etc., running to a particular term of the court.—**Return-book.** The book containing the list of members returned to the house of commons. May, Parl. Pr.—**Return-day.** The day named in a writ or process, upon which the officer is required to return it.—**Return irreplevisable.** A writ allowed by the statute of Westm. 2, c. 2, to a defendant who had had judgment upon verdict or demurrer in an action of replevin, or after the plaintiff had, on a writ of second deliverance, become a second time nonsuit in such action. By this writ the goods were returned to the defendant, and the plaintiff was restrained from suing out a fresh replevin. Previously to this statute, an unsuccessful plaintiff might bring actions of replevin *in infinitum*, in reference to the same matter. 3 Bl. Comm. 150.—**Return of premium.** The repayment of the whole or a ratable part of the premium paid for a policy of insurance, upon the cancellation of the contract before the time fixed for its expiration.—**Return of writs.** In practice. A short account, in writing, made by the sheriff, or other ministerial officer, of the manner in which he has executed a writ. Steph. Pl. 24.

RETURNABLE. In practice. To be returned; requiring a return. When a writ is said to be "returnable" on a certain day, it is meant that on that day the officer must return it.

RETURNING BOARD. This is the official title in some of the states of the board of canvassers of elections.

RETURNING FROM TRANSPORTATION. Coming back to England before the term of punishment is determined.

RETURNING OFFICER. The official who conducts a parliamentary election in

England. The sheriff in counties, and the mayor in boroughs. Wharton.

RETURNUM AVERIORUM. A judicial writ, similar to the *retorno habendo*. Cowell.

RETURNUM IRREPLEGIABILE. A judicial writ addressed to the sheriff for the final restitution or return of cattle to the owner when unjustly taken or distrained, and so found by verdict. It is granted after a nonsuit in a second deliverance. Reg. Jud. 27.

REUS. Lat. In the civil and canon law. The defendant in an action or suit.

A person judicially accused of a crime; a person criminally proceeded against. Halifax, Civil Law, b. 3, c. 13, no. 7.

A party to a suit, whether plaintiff or defendant; a litigant. This was the ancient sense of the word. Calvin.

A party to a contract. *Reus stipulandi*, a party stipulating; the party who asked the question in the form prescribed for stipulations. *Reus promittendi*, a party promising; the party who answered the question.

Reus excipiendo fit actor. The defendant, by excepting or pleading, becomes a plaintiff; that is, where, instead of simply denying the plaintiff's action, he sets up some new matter in defense, he is bound to establish it by proof, just as a plaintiff is bound to prove his cause of action. Bounier, Tr. des Preuves, §§ 152, 320; Best, Ev. p. 294, § 252.

Reus læsæ majestatis punitur ut pereat unus ne pereant omnes. A traitor is punished that one may die lest all perish. 4 Coke, 124.

REVE. In old English law. The bailiff of a franchise or manor; an officer in parishes within forests, who marks the commonable cattle. Cowell.

REVE MOTE. In Saxon law. The court of the *reve*, *reeve*, or *shire reeve*. 1 Reeve, Eng. Law, 6.

REVEL. A criminal complaint charged that the defendant did "revel, quarrel, commit mischief, and otherwise behave in a disorderly manner." *Held*, that the word "revel" has a definite meaning; *i. e.*, "to behave in a noisy, boisterous manner, like a bacchanal." In re Began, 12 R. I. 309.

REVELAND. The land which in Domesday is said to have been "thane-land," and afterwards converted into "reveland." It seems to have been land which, having reverted to the king after the death of the thane, who had it for life, was not granted out to any by the king, but rested in charge

N upon the account of the reve or bailiff of the manor. *Spel. Feuds*, c. 24.

O **REVELS.** Sports of dancing, masking, etc., formerly used in princes' courts, the inns of court, and noblemen's houses, commonly performed by night. There was an officer to order and supervise them, who was entitled the "master of the revels." Cowell.

P **REVENDEICATION.** In the civil law. The right of a vendor to reclaim goods sold out of the possession of the purchaser, where the price was not paid. *Story, Conf. Laws*, § 401. See *Benedict v. Schaettle*, 12 Ohio St. 520; *Ellis v. Davis*, 109 U. S. 485, 3 Sup. Ct. 327, 27 L. Ed. 1006.

Q **REVENUE.** As applied to the income of a government, this is a broad and general term, including all public moneys which the state collects and receives, from whatever source and in whatever manner. *U. S. v. Bromley*, 12 How. 99, 13 L. Ed. 905; *State v. School Fund Com'rs*, 4 Kan. 268; *Fletcher v. Oliver*, 25 Ark. 295.

R It also designates the income of an individual or private corporation.

—**Public revenue.** The revenue of the government of the state or nation; sometimes, perhaps, that of a municipality.—**Revenue law.** Any law which provides for the assessment and collection of a tax to defray the expenses of the government is a revenue law. Such legislation is commonly referred to under the general term "revenue measures," and those measures include all the laws by which the government provides means for meeting its expenditures. *Peyton v. Bliss*, *Woolw.* 173, *Fed. Cas.* No. 11,055; *The Nashville*, 17 *Fed. Cas.* 1178; *Twin City Nat. Bank v. Nebeker*, 3 *App. D. C.* 190.—**Revenue side of the exchequer.** That jurisdiction of the court of exchequer, or of the exchequer division of the high court of justice, by which it ascertains and enforces the proprietary rights of the crown against the subjects of the realm. The practice in revenue cases is not affected by the orders and rules under the judicial act of 1875. *Mozley & Whitley*.

REVERSAL. The annulling or making void a judgment on account of some error or irregularity. Usually spoken of the action of an appellate court.

In international law. A declaration by which a sovereign promises that he will observe a certain order or certain conditions, which have been once established, notwithstanding any changes that may happen to cause a deviation therefrom. *Bouvier*.

REVERSE, REVERSED. A term frequently used in the judgments of an appellate court, in disposing of the case before it. It then means "to set aside; to annul; to vacate." *Laithe v. McDonald*, 7 *Kan.* 254.

REVERSER. In Scotch law. The proprietor of an estate who grants a wadset (or mortgage) of his lands, and who has a right,

on repayment of the money advanced to him, to be replaced in his right. *Bell*.

REVERSIBLE ERROR. See *ERROR*.

REVERSIO. L. Lat. In old English law. The returning of land to the donor. *Fleta*, lib. 3, cc. 10, 12.

Reversio terræ est tanquam terra revertens in possessione donatori, sive hæredibus suis post donum finitum. *Co. Litt.* 142. A reversion of land is, as it were, the return of the land to the possession of the donor or his heirs after the termination of the estate granted.

REVERSION. In real property law. A reversion is the residue of an estate left by operation of law in the grantor or his heirs, or in the heirs of a testator, commencing in possession on the determination of a particular estate granted or devised. *How. St. Mich.* 1882, § 5528; *Civ. Code Cal.* § 768; 2 *Bl. Comm.* 175. And see *Barber v. Brundage*, 50 *App. Div.* 123, 63 *N. Y. Supp.* 347; *Payn v. Beal*, 4 *Denio* (N. Y.) 411; *Powell v. Railroad Co.*, 16 *Or.* 33, 16 *Pac.* 863, 8 *Am. St. Rep.* 251; *Wingate v. James*, 121 *Ind.* 69, 22 *N. E.* 735; *Byrne v. Weller*, 61 *Ark.* 366, 33 *S. W.* 421.

When a person has an interest in lands, and grants a portion of that interest, or, in other terms, a less estate than he has in himself, the possession of those lands shall, on the determination of the granted interest or estate, return or revert to the grantor. This interest is what is called the "grantor's reversion," or, more properly, his "right of reverter," which, however, is deemed an actual estate in the land. *Watk. Conv.* 16.

Where an estate is derived, by grant or otherwise, out of a larger one, leaving in the original owner an ulterior estate immediately expectant on that which is so derived, the ulterior interest is called the "reversion." 1 *Steph. Comm.* 290.

A *reversion* is the residue of an estate left in the grantor, to commence in possession after the determination of some particular estate; while a *remainder* is an estate limited to take effect and be enjoyed after another estate is determined. *Todd v. Jackson*, 26 *N. J. Law*, 525.

In personalty. "Reversion" is also used to denote a reversionary interest; e. g., an interest in personal property subject to the life interest of some other person.

In Scotch law. A reversion is a right of redeeming landed property which has been either mortgaged or adjudicated to secure the payment of a debt. In the former case, the reversion is called "conventional;" in the latter case, it is called "legal;" and the period of seven years allowed for redemption is called the "legal." *Bell*; *Paterson*.

—**Legal reversion.** In Scotch law. The period within which a proprietor is at liberty to redeem land adjudged from him for debt.

REVERSIONARY. That which is to be enjoyed in reversion.

—**Reversionary interest.** The interest which a person has in the reversion of lands or other property. A right to the future enjoy-

ment of property, at present in the possession or occupation of another. *Holthouse*.—**Reversionary lease.** One to take effect *in futuro*. A second lease, to commence after the expiration of a former lease. *Wharton*.

REVERSIONER. A person who is entitled to an estate in reversion. By an extension of its meaning, one who is entitled to any future estate or any property in expectancy.

REVERT. To revert is to return. Thus, when the owner of an estate in land has granted a smaller estate to another person, on the determination of the latter estate, the land is said to "revert" to the grantor. *Sweet*.

REVERTER. Reversion. A possibility of reverter is that species of reversionary interest which exists when the grant is so limited that it may possibly terminate. 1 *Washb. Real Prop.* 63. See **FORMEDON IN THE REVERTER**.

REVEST. To vest again. A seisin is said to *revest*, where it is acquired a second time by the party out of whom it has been divested. 1 *Rop. Husb. & Wife*, 353.

It is opposed to "divest." The words "revest" and "divest" are also applicable to the mere right or title, as opposed to the possession. *Brown*.

REVESTIRE. In old European law. To return or resign an investiture, seisin, or possession that has been received; to reinvest; to re-*enfeoff*. *Spelman*.

REVIEW. A reconsideration; second view or examination; revision; consideration for purposes of correction. Used especially of the examination of a cause by an appellate court, and of a second investigation of a proposed public road by a jury of viewers. See *Weehawken Wharf Co. v. Knickerbocker Coal Co.*, 25 *Misc. Rep.* 309, 54 *N. Y. Supp.* 566; *State v. Main*, 69 *Conn.* 123, 37 *Atl.* 80, 36 *L. R. A.* 623, 61 *Am. St. Rep.* 30.

—**Bill of review.** In equity practice. A bill, in the nature of a writ of error, filed to procure an examination and alteration or reversal of a decree made upon a former bill, which decree has been signed and enrolled. *Story, Eq. Pl.* § 403.—**Commission of review.** In English ecclesiastical law. A commission formerly sometimes granted, in extraordinary cases, to revise the sentence of the court of delegates, when it was apprehended they had been led into a material error. 3 *Bl. Comm.* 67.—**Court of review.** In England. A court established by 1 & 2 *Wm. IV. c.* 56, for the adjudicating upon such matters in bankruptcy as before were within the jurisdiction of the lord chancellor. It was abolished in 1847.—**Reviewing taxation.** The re-taxing or re-examining an attorney's bill of costs by the master. The courts sometimes order the masters to review their taxation, when, on being applied to for that purpose, it appears that items have been allowed or disallowed on some erroneous principle, or under some mistaken impression. 1 *Archb. Pr. K. B.* 55.

REVILING CHURCH ORDINANCES.

An offense against religion punishable in England by fine and imprisonment. 4 *Steph. Comm.* 208.

REVISE. To review, re-examine for correction; to go over a thing for the purpose of amending, correcting, rearranging, or otherwise improving it; as, to revise statutes, or a judgment. *Casey v. Harned*, 5 *Iowa*, 12; *Vinsant v. Knox*, 27 *Ark.* 272; *Falconer v. Robinson*, 46 *Ala.* 348.

REVISED STATUTES. A body of statutes which have been revised, collected, arranged in order, and re-enacted as a whole. This is the legal title of the collections of compiled laws of several of the states, and also of the United States. Such a volume is usually cited as "Rev. Stat.," "Rev. St.," or "R. S."

REVISING ASSESSORS. In English law. Two officers elected by the burgesses of non-parliamentary municipal boroughs for the purpose of assisting the mayor in revising the parish burgess lists. *Wharton*.

REVISING BARRISTERS. In English law. Barristers appointed to revise the list of voters for county and borough members of parliament, and who hold courts for that purpose throughout the county. *St. G. Vict. c.* 18.

—**Revising barristers' courts.** In English law. Courts held in the autumn throughout the country, to revise the list of voters for county and borough members of parliament.

REVIVAL. The process of renewing the operative force of a judgment which has remained dormant or unexecuted for so long a time that execution cannot be issued upon it without new process to reanimate it. See *Brier v. Traders' Nat. Bank*, 24 *Wash.* 695, 64 *Pac.* 831; *Havens v. Sea Shore Land Co.*, 57 *N. J. Eq.* 142, 41 *Atl.* 755.

The act of renewing the legal force of a contract or obligation, which had ceased to be sufficient foundation for an action, on account of the running of the statute of limitations, by giving a new promise or acknowledgment of it.

REVIVE. To renew, revivify; to make one's self liable for a debt barred by the statute of limitations by acknowledging it; or for a matrimonial offense, once condoned, by committing another. See *Lindsey v. Lyman*, 37 *Iowa*, 207.

REVIVOR, BILL OF. In equity practice. A bill filed for the purpose of reviving or calling into operation the proceedings in a suit when, from some circumstance, (as the death of the plaintiff,) the suit had abated.

REVIVOR, WRIT OF. In English practice. Where it became necessary to revive a

N judgment, by lapse of time, or change by death, etc., of the parties entitled or liable to execution, the party alleging himself to be entitled to execution might sue out a writ of revivor in the form given in the act, or apply to the court for leave to enter a suggestion upon the roll that it appeared that he was entitled to have and issue execution of the judgment, such leave to be granted by the court or a judge upon a rule to show cause, or a summons, to be served according to the then present practice. C. L. P. Act, 1852, § 129.

REVOCABLE. Susceptible of being revoked.

Q **REVOCATION.** The recall of some power, authority, or thing granted, or a destroying or making void of some deed that had existence until the act of revocation made it void. It may be either *general*, of all acts and things done before; or *special*, to revoke a particular thing. 5 Coke, 90. See *Wilmington City Ry. Co. v. Wilmington & B. S. Ry. Co.*, 8 Del. Ch. 468, 46 Atl. 12.

R Revocation by act of the party is an intentional or voluntary revocation. The principal instances occur in the case of authorities and powers of attorney and wills.

A revocation in law, or constructive revocation, is produced by a rule of law, respectively of the intention of the parties. Thus, a power of attorney is in general revoked by the death of the principal. Sweet.

—**Revocation of probate** is where probate of a will, having been granted, is afterwards recalled by the court of probate, on proof of a subsequent will, or other sufficient cause.—**Revocation of will.** The recalling, annulling, or rendering inoperative an existing will, by some subsequent act of the testator, which may be by the making of a new will inconsistent with the terms of the first, or by destroying the old will, or by disposing of the property to which it related, or otherwise. See *Boudinot v. Bradford*, 2 Dall. 268, 1 L. Ed. 375; *Lathrop v. Dunlop*, 4 Hun (N. Y.) 215; *Carter v. Thomas*, 4 Me. 342; *Langdon v. Astor*, 3 Duer (N. Y.) 561; *Graham v. Burch*, 47 Minn. 171, 49 N. W. 697, 28 Am. St. Rep. 339; *Gardner v. Gardiner*, 65 N. H. 230, 19 Atl. 651, 8 L. R. A. 333; *Cutler v. Cutler*, 130 N. C. 1, 40 S. E. 689, 57 L. R. A. 209, 89 Am. St. Rep. 854.

REVOCATIONE PARLIAMENTI. An ancient writ for recalling a parliament. 4 Inst. 44.

REVOCATUR. Lat. It is recalled. This is the term, in English practice, appropriate to signify that a judgment is annulled or set aside for error in fact; if for error in law, it is then said to be *reversed*.

REVOKE. To call back; to recall; to annul an act by calling or taking it back.

REVOLT. The endeavor of the crew of a vessel, or any one or more of them, to overthrow the legitimate authority of her

commander, with intent to remove him from his command, or against his will to take possession of the vessel by assuming the government and navigation of her, or by transferring their obedience from the lawful commander to some other person. *United States v. Kelly*, 11 Wheat. 417, 6 L. Ed. 508.

REWARD. A recompense or premium offered by government or an individual in return for special or extraordinary services to be performed, or for special attainments or achievements, or for some act resulting to the benefit of the public; as, a reward for useful inventions, for the discovery and apprehension of criminals, for the restoration of lost property. See *Kinn v. First Nat. Bank*, 118 Wis. 537, 95 N. W. 969, 99 Am. St. Rep. 1012; *Campbell v. Mercer*, 108 Ga. 103, 33 S. E. 871.

REWME. In old records. Realm, or kingdom.

REX. Lat. The king. The king regarded as the party prosecuting in a criminal action; as in the form of entitling such actions, "*Rex v. Doe*."

Rex debet esse sub lege quia lex facit regem. The king ought to be under the law, because the law makes the king. 1 Bl. Comm. 239.

Rex est legalis et politicus. Lane, 27. The king is both a legal and political person.

Rex est lex vivens. Jenk. Cent. 17. The king is the living law.

Rex est major singulis, minor universis. Bract. l. 1, c. 8. The king is greater than any single person, less than all.

Rex hoc solum non potest facere quod non potest injuste agere. 11 Coke, 72. The king can do everything but an injustice.

Rex non debet esse sub homine, sed sub Deo et sub lege, quia lex facit regem. Bract. fol. 5. The king ought to be under no man, but under God and the law, because the law makes a king. Broom, Max. 47.

Rex non potest peccare. The king cannot do wrong; the king can do no wrong. 2 Rolle, 304. An ancient and fundamental principle of the English constitution. Jenk. Cent. p. 9, case 16; 1 Bl. Comm. 246.

Rex nunquam moritur. The king never dies. Broom, Max. 50; Branch, Max. (5th Ed.) 197; 1 Bl. Comm. 249.

RHANDIR. A part in the division of Wales before the Conquest; every township

comprehended four gavels, and every gavel had four rhandirs, and four houses or tenements constituted every rhandir. *Tayl. Hist. Gav.* 69.

RHODIAN LAWS. This, the earliest code or collection of maritime laws, was formulated by the people of the island of Rhodes, who, by their commercial prosperity and the superiority of their navies, had acquired the sovereignty of the seas. Its date is very uncertain, but is supposed (by Kent and others) to be about 900 B. C. Nothing of it is now extant except the article on jettison, which has been preserved in the Roman collections. (Dig. 14, 2, "*Lex Rhodia de Jactu.*") Another code, under the same name, was published in more modern times, but is generally considered, by the best authorities, to be spurious. See Schomberg, *Mar. Laws Rhodes*, 37, 38; 3 Kent, *Comm.* 3, 4; Azuni, *Mar. Law*, 265-296.

RIAL. A piece of gold coin current for 10s., in the reign of Henry VI., at which time there were half-rials and quarter-rials or rial-farthings. In the beginning of Queen Elizabeth's reign, golden rials were coined at 15s. a piece; and in the time of James I. there were rose-rials of gold at 30s. and spur-rials at 15s. *Lown. Essay Coins*, 38.

RIBAUD. A rogue; vagrant; whore-monger; a person given to all manner of wickedness. *Cowell.*

RIBBONMEN. Associations or secret societies formed in Ireland, having for their object the dispossession of landlords by murder and fire-raising. *Wharton.*

RICHARD ROE, otherwise TROUBLE-SOME. The casual ejector and fictitious defendant in ejectment, whose services are no longer invoked.

RICOHOME. Span. In Spanish law. A nobleman; a count or baron. 1 *White, Recop.* 36.

RIDER. A rider, or rider-roll, signifies a schedule or small piece of parchment annexed to some part of a roll or record. It is frequently familiarly used for any kind of a schedule or writing annexed to a document which cannot well be incorporated in the body of such document. Thus, in passing bills through a legislature, when a new clause is added after the bill has passed through committee, such new clause is termed a "rider." *Brown.* See, also, *Cowell*; *Blount*; 2 *Tidd, Pr.* 730; *Com. v. Barnett*, 199 Pa. 161, 48 Atl. 976, 55 L. R. A. 882.

RIDER-ROLL. See **RIDER.**

RIDGLING. A half-castrated horse. *Brisco v. State*, 4 Tex. App. 221, 30 Am. Rep. 162.

RIDING ARMED. In English law. The offense of riding or going armed with dangerous or unusual weapons is a misdemeanor tending to disturb the public peace by terrifying the good people of the land. 4 *Steph. Comm.* 357.

RIDING CLERK. In English law. One of the six clerks in chancery who, in his turn for one year, kept the controlment books of all grants that passed the great seal. The six clerks were superseded by the clerks of records and writs.

RIDINGS, (corrupted from *trihings*.) The names of the parts or divisions of Yorkshire, which, of course, are three only, viz., East Riding, North Riding, and West Riding.

RIEN. L. Fr. Nothing. It appears in a few law French phrases.

—**Rien culp.** In old pleading. Not guilty.
—**Rien dit.** In old pleading. Says nothing, (*nil dicit*).—**Rien luy doit.** In old pleading. Owes him nothing. The plea of *nil debet*.—**Riens en arriere.** Nothing in arrear. A plea in an action of debt for arrearages of account. *Cowell*.—**Riens leur deust.** Not their debt. The old form of the plea of *nil debet*. 2 *Reeve, Eng. Law*, 332.—**Riens passa per le fait.** Nothing passed by the deed. A plea by which a party might avoid the operation of a deed, which had been enrolled or acknowledged in court; the plea of *non est factum* not being allowed in such case.—**Riens per descent.** Nothing by descent. The plea of an heir, where he is sued for his ancestor's debt, and has no land from him by descent, or assets in his hands. *Cro. Car.* 151; 1 *Tidd, Pr.* 645; 2 *Tidd, Pr.* 937.

RIER COUNTY. In old English law. After-county; *i. e.*, after the end of the county court. A time and place appointed by the sheriff for the receipt of the king's money after the end of his county, or county court. *Cowell.*

RIFLETUM. A coppice or thicket. *Cowell.*

RIGA. In old European law. A species of service and tribute rendered to their lords by agricultural tenants. Supposed by *Spelman* to be derived from the name of a certain portion of land, called, in England, a "rig" or "ridge," an elevated piece of ground, formed out of several furrows. *Burrill.*

RIGGING THE MARKET. A term of the stock-exchange, denoting the practice of inflating the price of given stocks, or enhancing their quoted value, by a system of pretended purchases, designed to give the air of an unusual demand for such stocks. See *L. R.* 13 Eq. 447.

RIGHT. As a noun, and taken in an abstract sense, the term means justice, ethical correctness, or consonance with the rules of law or the principles of morals. In this sig-

N nification it answers to one meaning of the Latin "*ius*," and serves to indicate law in the abstract, considered as the foundation of all rights, or the complex of underlying moral principles which impart the character of justice to all positive law, or give it an ethical content.

O As a *noun*, and taken in a *concrete* sense, a right signifies a power, privilege, faculty, or demand, inherent in one person and incident upon another. "Rights" are defined generally as "powers of free action." And the primal rights pertaining to men are undoubtedly enjoyed by human beings purely as such, being grounded in personality, and existing antecedently to their recognition by positive law. But leaving the abstract moral sphere, and giving to the term a juristic content, a "right" is well defined as "a capacity residing in one man of controlling, with the assent and assistance of the state, the actions of others." Holl. Jur. 69.

R The noun substantive "a right" signifies that which jurists denominate a "faculty," that which resides in a determinate person, by virtue of a given law, and which avails against a person (or answers to a duty lying on a person) other than the person in whom it resides. And the noun substantive "rights" is the plural of the noun substantive "a right." But the expression "right," when it is used as an adjective, is equivalent to the adjective "just," as the adverb "rightly" is equivalent to the adverb "justly." And, when used as the abstract name corresponding to the adjective "right," the noun substantive "right" is synonymous with the noun substantive "justice." Aust. Jur. § 264, note.

In a narrower signification, the word denotes an interest or title in an object of property; a just and legal claim to hold, use, or enjoy it, or to convey or donate it, as he may please. See Co. Litt. 345a.

The term "right," in civil society, is defined to mean that which a man is entitled to have, or to do, or to receive from others within the limits prescribed by law. Atchison & N. R. Co. v. Baty, 6 Neb. 40, 29 Am. Rep. 356.

That which one person ought to have or receive from another, it being withheld from him, or not in his possession. In this sense, "right" has the force of "claim," and is properly expressed by the Latin "*ius*." Lord Coke considers this to be the proper signification of the word, especially in writs and pleadings, where an *estate is turned to a right*; as by discontinuance, disseisin, etc. Co. Litt. 345a.

Classification. Rights may be described as *perfect* or *imperfect*, according as their action or scope is clear, settled, and determinate, or is vague and unfixed.

Rights are either *in personam* or *in rem*. A right *in personam* is one which imposes an obligation on a definite person. A right *in rem* is one which imposes an obligation on persons generally; *i. e.*, either on all the world or on all the world except certain determinate persons. Thus, if I am entitled to exclude all persons from a given piece of land, I have a right *in rem* in respect of that

land; and, if there are one or more persons, A., B., and C., whom I am not entitled to exclude from it, my right is still a right *in rem*. Sweet.

Rights may also be described as either *primary* or *secondary*. *Primary* rights are those which can be created without reference to rights already existing. *Secondary* rights can only arise for the purpose of protecting or enforcing primary rights. They are either preventive (protective) or remedial (reparative.) Sweet.

Preventive or *protective secondary* rights exist in order to prevent the infringement or loss of primary rights. They are judicial when they require the assistance of a court of law for their enforcement, and extrajudicial when they are capable of being exercised by the party himself. *Remedial* or *reparative secondary* rights are also either judicial or extrajudicial. They may further be divided into (1) rights of restitution or restoration, which entitle the person injured to be replaced in his original position; (2) rights of enforcement, which entitle the person injured to the performance of an act by the person bound; and (3) rights of satisfaction or compensation. Id.

With respect to the ownership of external objects of property, rights may be classed as *absolute* and *qualified*. An absolute right gives to the person in whom it inheres the uncontrolled dominion over the object at all times and for all purposes. A qualified right gives the possessor a right to the object for certain purposes or under certain circumstances only. Such is the right of a bailee to recover the article bailed when it has been unlawfully taken from him by a stranger.

Rights are also either *legal* or *equitable*. The former is the case where the person seeking to enforce the right for his own benefit has the legal title and a remedy at law. The latter are such as are enforceable only in equity; as, at the suit of *cestui que trust*.

In constitutional law. There is also a classification of rights, with respect to the constitution of civil society. Thus, according to Blackstone, "the rights of persons, considered in their natural capacities, are of two sorts,—*absolute* and *relative*; absolute, which are such as appertain and belong to particular men, merely as individuals or single persons; relative, which are incident to them as members of society, and standing in various relations to each other." 1 Bl. Comm. 123. And see In re Jacobs, 33 Hun (N. Y.) 374; Atchison & N. R. Co. v. Baty, 6 Neb. 37, 29 Am. Rep. 356; Johnson v. Johnson, 32 Ala. 637; People v. Berberich, 20 Barb. (N. Y.) 224.

Rights are also classified in constitutional law as natural, civil, and political, to which there is sometimes added the class of "personal rights."

Natural rights are those which grow out of the nature of man and depend upon personality, as distinguished from such as "are

created by law and depend upon civilized society; or they are those which are plainly assured by natural law (*Borden v. State*, 11 Ark. 519, 44 Am. Dec. 217); or those which, by fair deduction from the present physical, moral, social, and religious characteristics of man, he must be invested with, and which he ought to have realized for him in a jural society, in order to fulfill the ends to which his nature calls him. 1 Woolsey, *Polit. Science*, p. 26. Such are the rights of life, liberty, privacy, and good reputation. See *Black, Const. Law* (3d Ed.) 523.

Civil rights are such as belong to every citizen of the state or country, or, in a wider sense, to all its inhabitants, and are not connected with the organization or administration of government. They include the rights of property, marriage, protection by the laws, freedom of contract, trial by jury, etc. See *Winnett v. Adams*, 71 Neb. 817, 99 N. W. 681. Or, as otherwise defined, civil rights are rights appertaining to a person in virtue of his citizenship in a state or community. Rights capable of being enforced or redressed in a civil action. Also a term applied to certain rights secured to citizens of the United States by the thirteenth and fourteenth amendments to the constitution, and by various acts of congress made in pursuance thereof. *Iowa v. Railroad Co.* (C. C.) 37 Fed. 498, 3 L. R. A. 554; *State v. Powers*, 51 N. J. Law, 432, 17 Atl. 969; *Bowles v. Habermann*, 95 N. Y. 247; *People v. Washington*, 36 Cal. 653; *Fletcher v. Tuttle*, 151 Ill. 41, 37 N. E. 683, 25 L. R. A. 143, 42 Am. St. Rep. 220; *Hronek v. People*, 134 Ill. 139, 24 N. E. 861, 8 L. R. A. 837, 23 Am. St. Rep. 652.

Political rights consist in the power to participate, directly or indirectly, in the establishment or administration of government, such as the right of citizenship, that of suffrage, the right to hold public office, and the right of petition. See *Black Const. Law* (3d Ed.) 524; *Winnett v. Adams*, 71 Neb. 817, 99 N. W. 681.

Personal rights is a term of rather vague import, but generally it may be said to mean the right of personal security, comprising those of life, limb, body, health, reputation, and the right of personal liberty.

As an adjective, the term "right" means just, morally correct, consonant with ethical principles or rules of positive law. It is the opposite of wrong, unjust, illegal.

"Right" is used in law, as well as in ethics, as opposed to "wrong." Thus, a person may acquire a title by wrong.

In old English law. The term denoted an accusation or charge of crime. *Fitzh. Nat. Brev.* 66 F.

See, also, DROIT; JUS; RECHT.

Other compound and descriptive terms.—**Base right.** In Scotch law, a subordinate right; the right of a subvassal in the lands held by him. **Bell.**—**Bill of rights.** See **BILL**, 6.—**Common right.** See **COMMON**.—**Declaration of rights.** See **Bill of Rights**,

under **BILL**.—**Marital rights.** See **MARITAL**.—**Mere right.** In the law of real estate, the mere right of property in land; the right of a proprietor, but without possession or even the right of possession; the abstract right of property.—**Patent right.** See **PATENT**.—**Petition of right.** See **PETITION**.—**Private rights.** Those rights which appertain to a particular individual or individuals, and relate either to the person, or to personal or real property. 1 *Chit. Gen. Pr.* 3.—**Real right.** In Scotch law. That which entitles him who is vested with it to possess the subject as his own, and, if in the possession of another, to demand from him its actual possession. *Real* rights affect the subject itself; *personal* are founded in obligation. *Erskine, Inst.* 3, 1, 2.—**Right heir.** See **HEIR**.—**Riparian rights.** See **RIPARIAN**.—**Vested rights.** See **VESTED**.

And see also the following titles.

RIGHT CLOSE, WRIT OF. An abolished writ which lay for tenants in ancient demesne, and others of a similar nature, to try the right of their lands and tenements in the court of the lord exclusively. 1 *Steph. Comm.* 224.

RIGHT IN ACTION. This is a phrase frequently used in place of *chose in action*, and having an identical meaning.

RIGHT IN COURT. See **RECTUS IN CURIA**.

RIGHT OF ACTION. The right to bring suit; a legal right to maintain an action, growing out of a given transaction or state of facts and based thereon. *Hibbard v. Clark*, 56 N. H. 155, 22 Am. Rep. 442; *Webster v. County Com'rs*, 63 Me. 29.

By the old writers, "right of action" is commonly used to denote that a person has lost a right of entry, and has nothing but a right of action left. *Co. Litt.* 363b.

RIGHT OF DISCUSSION. In Scotch law. The right which the cautioner (surety) has to insist that the creditor shall do his best to compel the performance of the contract by the principal debtor, before he shall be called upon. 1 *Bell, Comm.* 347.

RIGHT OF DIVISION. In Scotch law. The right which each of several cautioners (sureties) has to refuse to answer for more than his own share of the debt. To entitle the cautioner to this right the other cautioners must be solvent, and there must be no words in the bond to exclude it. 1 *Bell, Comm.* 347.

RIGHT OF ENTRY. A right of entry is the right of taking or resuming possession of land by entering on it in a peaceable manner.

RIGHT OF HABITATION. In Louisiana. The right to occupy another man's house as a dwelling, without paying rent or other compensation. *Civ. Code La.* art. 623.

N **RIGHT OF POSSESSION.** The right to possession which may reside in one man, while another has the actual possession, being the right to enter and turn out such actual occupant; *e. g.*, the right of a disseisee. An apparent right of possession is one which may be defeated by a better; an actual right of possession, one which will stand the test against all opponents. 2 Bl. Comm. 196.

P **RIGHT OF PROPERTY.** The mere right of property in land; the abstract right which remains to the owner after he has lost the right of possession, and to recover which the writ of right was given. United with possession, and the right of possession, this right constitutes a complete title to lands, tenements, and hereditaments. 2 Bl. Comm. 197.

Q **RIGHT OF REDEMPTION.** The right to disincumber property or to free it from a claim or lien; specifically, the right (granted by statute only) to free property from the incumbrance of a foreclosure or other judicial sale, or to recover the title passing thereby, by paying what is due, with interest, costs, etc. Not to be confounded with the "equity of redemption," which exists independently of statute but must be exercised before sale. See *Mayer v. Farmers' Bank*, 44 Iowa, 216; *Millett v. Mullen*, 95 Me. 400, 49 Atl. 871; *Case v. Spelter Co.*, 62 Kan. 69, 61 Pac. 406.

R **RIGHT OF RELIEF.** In Scotch law. The right of a cautioner (surety) to demand reimbursement from the principal debtor when he has been compelled to pay the debt. 1 Bell, Comm. 347.

RIGHT OF REPRESENTATION AND PERFORMANCE. By the acts 3 & 4 Wm. IV. c. 15, and 5 & 6 Vict. c. 45, the author of a play, opera, or musical composition, or his assignee, has the sole right of representing or causing it to be represented in public at any place in the British dominions during the same period as the copyright in the work exists. The right is distinct from the copyright, and requires to be separately registered. Sweet.

RIGHT OF SEARCH. In international law. The right of one vessel, on the high seas, to stop a vessel of another nationality and examine her papers and (in some cases) her cargo. Thus, in time of war, a vessel of either belligerent has the right to search a neutral ship, encountered at sea, to ascertain whether the latter is carrying contraband goods.

RIGHT OF WAY. The right of passage or of way is a servitude imposed by law or by convention, and by virtue of which one has a right to pass on foot, or horseback, or

in a vehicle, to drive beasts of burden or carts, through the estate of another. When this servitude results from the law, the exercise of it is confined to the wants of the person who has it. When it is the result of a contract, its extent and the mode of using it is regulated by the contract. Civ. Code La. art. 722.

"Right of way," in its strict meaning, is the right of passage over another man's ground; and in its legal and generally accepted meaning, in reference to a *railway*, it is a mere easement in the lands of others, obtained by lawful condemnation to public use or by purchase. It would be using the term in an unusual sense, by applying it to an absolute purchase of the fee-simple of lands to be used for a railway or any other kind of a way. *Williams v. Western Union Ry. Co.*, 50 Wis. 76, 5 N. W. 482. And see *Kripp v. Curtis*, 71 Cal. 62, 11 Pac. 879; *Johnson v. Lewis*, 47 Ark. 66, 2 S. W. 329; *Bodfish v. Bodfish*, 105 Mass. 317; *New Mexico v. United States Trust Co.*, 172 U. S. 171, 19 Sup. Ct. 128, 43 L. Ed. 407; *Stuyvesant v. Woodruff*, 21 N. J. Law, 136, 57 Am. Dec. 156.

RIGHT PATENT. An obsolete writ, which was brought for lands and tenements, and not for an advowson, or common, and lay only for an estate in fee-simple, and not for him who had a lesser estate; as tenant in tail, tenant in frank marriage, or tenant for life. *Fitzh. Nat. Brev. 1.*

RIGHT TO BEGIN. On the hearing or trial of a cause, or the argument of a demurrer, petition, etc., the right to begin is the right of first addressing the court or jury. The right to begin is frequently of importance, as the counsel who begins has also the right of replying or having the last word after the counsel on the opposite side has addressed the court or jury. Sweet.

RIGHT TO REDEEM. The term "right of redemption," or "right to redeem," is familiarly used to describe the estate of the debtor when under mortgage, to be sold at auction, in contradistinction to an absolute estate, to be set off by appraisal. It would be more consonant to the legal character of this interest to call it the "debtor's estate subject to mortgage." *White v. Whitney*, 3 Metc. (Mass.) 86.

RIGHT, WRIT OF. A procedure for the recovery of real property after not more than sixty years' adverse possession; the highest writ in the law, sometimes called, to distinguish it from others of the droitural class, the "writ of right proper." Abolished by 3 & 4 Wm. IV. c. 27. 3 Steph. Comm. 392.

RIGHTS OF PERSONS. Rights which concern and are annexed to the *persons* of men. 1 Bl. Comm. 122.

RIGHTS OF THINGS. Such as a man may acquire over external objects, or things unconnected with his person. 1 Bl. Comm. 122.

RIGHTS, PETITION OF. See **PETITION.**

RIGOR JURIS. Lat. Strictness of law. *Latch*, 150. Distinguished from *gratia curia*, favor of the court.

RIGOR MORTIS. In medical jurisprudence. Cadaveric rigidity; a rigidity or stiffening of the muscular tissue and joints of the body, which sets in at a greater or less interval after death, but usually within a few hours, and which is one of the recognized tests of death.

RING. A clique; an exclusive combination of persons for illegitimate or selfish purposes; as to control elections or political affairs, distribute offices, obtain contracts, control the market or the stock-exchange, etc. *Schomberg v. Walker*, 132 Cal. 224, 64 Pac. 290.

RING-DROPPING. A trick variously practiced. One mode is as follows, the circumstances being taken from 2 East, P. C. 678: The prisoner, with accomplices, being with their victim, pretend to find a ring wrapped in paper, appearing to be a jeweler's receipt for a "rich, brilliant diamond ring." They offer to leave the ring with the victim if he will deposit some money and his watch as a security. He lays down his watch and money, is beckoned out of the room by one of the confederates, while the others take away his watch, etc. This is a larceny.

RINGING THE CHANGE. In criminal law. A trick practised by a criminal, by which, on receiving a good piece of money in payment of an article, he pretends it is not good, and, changing it, returns to the buyer a spurious coin. See 2 Leach, 786; *Bouvier*.

RINGING UP. A custom among commission merchants and brokers (not unlike the clearing-house system) by which they exchange contracts for sale against contracts for purchase, or reciprocally cancel such contracts, adjust differences of price between themselves, and surrender margins. See *Ward v. Vosburgh* (C. C.) 31 Fed. 12; *Williar v. Irwin*, 30 Fed. Cas. 38; *Pardridge v. Cutler*, 68 Ill. App. 573; *Samuels v. Oliver*, 130 Ill. 73, 22 N. E. 499.

RINGS, GIVING. In English practice. A custom observed by serjeants at law, on being called to that degree or order. The rings are given to the judges, and bear certain mottoes, selected by the serjeant about to take the degree. *Brown*.

RIOT. In criminal law. A tumultuous disturbance of the peace by three persons or more, assembling together of their own authority, with an intent mutually to assist each other against any who shall oppose

them, in the execution of some enterprise of a private nature, and afterwards actually executing the same in a violent and turbulent manner, to the terror of the people, whether the act intended were of itself lawful or unlawful. *Hawk*. P. C. c. 65, § 1. And see *State v. Stalcup*, 23 N. C. 30, 35 Am. Dec. 732; *Dixon v. State*, 105 Ga. 787, 31 S. E. 750; *State v. Brazil*, Rice (S. C.) 260; *Marshall v. Buffalo*, 50 App. Div. 149, 64 N. Y. Supp. 411; *Aron v. Wausau*, 98 Wis. 592, 74 N. W. 354, 40 L. R. A. 733; *Lycoming F. Ins. Co. v. Schwenk*, 95 Pa. 96, 40 Am. Rep. 629.

When three or more persons together, and in a violent or tumultuous manner, assemble together to do an unlawful act, or together do a lawful act in an unlawful, violent, or tumultuous manner, to the disturbance of others, they are guilty of a riot. *Rev. Code Iowa 1880*, § 4067.

Any use of force or violence, disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot. *Pen. Code Cal.* § 404.

—**Riot act.** A celebrated English statute, which provides that, if any twelve persons or more are unlawfully assembled and disturbing the peace, any sheriff, under-sheriff, justice of the peace, or mayor may, by proclamation, command them to disperse, (which is familiarly called "reading the riot act,") and that if they refuse to obey, and remain together for the space of one hour after such proclamation, they are all guilty of felony. The act is 1 Geo. I. St. 2. c. 5.

RIOTOSE. L. Lat. Riotously. A formal and essential word in old indictments for riots. 2 *Strange*, 834.

RIOTOUS ASSEMBLY. In English criminal law. The unlawful assembling of twelve persons or more, to the disturbance of the peace, and not dispersing upon proclamation. 4 *Bl. Comm.* 142; 4 *Steph. Comm.* 273. And see *Madisonville v. Bishop*, 113 Ky. 106, 67 S. W. 269, 57 L. R. A. 130.

RIOTOUSLY. A technical word, properly used in indictments for riot. It of itself implies force and violence. 2 *Chit. Crim. Law*, 489.

RIPA. Lat. The banks of a river, or the place beyond which the waters do not in their natural course overflow.

RIPARIA. A medieval Latin word, which Lord Coke takes to mean water running between two banks; in other places it is rendered "bank."

RIPARIAN. Belonging or relating to the bank of a river; of or on the bank. Land lying beyond the natural watershed of a stream is not "riparian." *Bathgate v. Irvine*, 126 Cal. 135, 58 Pac. 442, 77 Am. St. Rep. 158. The term is sometimes used as re-

N lating to the shore of the sea or other tidal water, or of a lake or other considerable body of water not having the character of a water-course. But this is not accurate. The proper word to be employed in such connections is "littoral." See *Com. v. Roxbury*, 9 Gray (Mass.) 521, note.

—Riparian nations. In international law. Those who possess opposite banks or different parts of banks of one and the same river.—

Riparian owner. A riparian proprietor; one who owns land on the bank of a river.—

Riparian proprietor. An owner of land, bounded generally upon a stream of water, and as such having a qualified property in the soil to the thread of the stream with the privileges annexed thereto by law. *Bardwell v. Ames*, 22 Pick. (Mass.) 355; *Potomac Steamboat Co. v. Upper Potomac Steamboat Co.*, 109 U. S. 672, 3 Sup. Ct. 445, 27 L. Ed. 1070; *Gough v. Bell*, 22 N. J. Law, 464.—

Riparian rights. The rights of the owners of lands on the banks of watercourses, relating to the water, its use, ownership of soil under the stream, accretions, etc. See *Yates v. Milwaukee*, 10 Wall. 497, 19 L. Ed. 984; *Mobile Transp. Co. v. Mobile*, 128 Ala. 335, 30 South. 645, 64 L. R. A. 333, 86 Am. St. Rep. 143; *McCarthy v. Murphy*, 119 Wis. 159, 96 N. W. 531.

Riparum usus publicus est jure gentium, sicut ipsius fluminis. The use of river-banks is by the law of nations public, like that of the stream itself. Dig. 1, 8, 5, pr.; *Fleta*, l. 3, c. 1, § 5.

RIPE. A suit is said to be "ripe for judgment" when it is so far advanced, by verdict, default, confession, the determination of all pending motions, or other disposition of preliminary or disputed matters, that nothing remains for the court but to render the appropriate judgment. See *Hosmer v. Hoitt*, 161 Mass. 173, 36 N. E. 835.

RIPTOWELL, or REAPTOWEL. A gratuity or reward given to tenants after they had reaped their lord's corn, or done other customary duties. Cowell.

RIPUARIAN LAW. An ancient code of laws by which the Ripuarii, a tribe of Franks who occupied the country upon the Rhine, the Meuse, and the Scheldt, were governed. They were first reduced to writing by Theodorich, king of Austrasia, and completed by Dagobert. Spelman.

RIPUARIAN PROPRIETORS. Owners of lands bounded by a river or water-course.

RISCUS. L. Lat. In the civil law. A chest for the keeping of clothing. Calvin.

RISING OF COURT. Properly the final adjournment of the court for the term, though the term is also sometimes used to express the cessation of judicial business for the day or for a recess; it is the opposite of "sitting" or "session." See *State v. Weaver*, 11 Neb. 163, 8 N. W. 885.

RISK. In insurance law; the danger or hazard of a loss of the property insured; the casualty contemplated in a contract of insurance; the degree of hazard; and, colloquially, the specific house, factory, ship, etc., covered by the policy.

—Risks of navigation. It is held that this term is not the equivalent of "perils of navigation," but is of more comprehensive import than the latter. *Pitcher v. Hennessey*, 43 N. Y. 419.

RISTOURNE. Fr. In insurance law; the dissolution of a policy or contract of insurance for any cause. *Emerig. Traité des Assur.* c. 16.

RITE. Lat. Duty and formally; legally; properly; technically.

RIVAGE. In French law. The shore, as of the sea.

In English law. A toll anciently paid to the crown for the passage of boats or vessels on certain rivers. Cowell.

RIVEARE. To have the liberty of a river for fishing and fowling. Cowell.

RIVER. A natural stream of water, of greater volume than a creek or rivulet, flowing in a more or less permanent bed or channel, between defined banks or walls, with a current which may either be continuous in one direction or affected by the ebb and flow of the tide. See *Howard v. Ingersoll*, 13 How. 391, 14 L. Ed. 189; *Alabama v. Georgia*, 23 How. 513, 16 L. Ed. 556; *The Garden City (D. C.)* 26 Fed. 772; *Berlin Mills Co. v. Wentworth's Location*, 60 N. H. 156; *Dudden v. Guardians of Clutton Union*, 1 Hurl. & N. 627; *Chamberlain v. Hemingway*, 63 Conn. 1, 27 Atl. 239, 22 L. R. A. 45, 38 Am. St. Rep. 330.

Rivers are public or private; and of public rivers some are navigable and others not. The common-law distinction is that navigable rivers are those only wherein the tide ebbs and flows. But, in familiar usage, any river is navigable which affords passage to ships and vessels, irrespective of its being affected by the tide.

—Public river. A river where there is a common navigation exercised; otherwise called a "navigable river." 1 Crabb, *Real Prop.* p. 111, § 106.

RIKA. Lat. In the civil law. A quarrel; a strife of words. Calvin.

RIXATRIX. In old English law. A scold; a scolding or quarrelsome woman. 4 Bl. Comm. 168.

ROAD. A highway; an open way or public passage; a line of travel or communication extending from one town or place to another; a strip of land appropriated and used for purposes of travel and communication between different places. See *Stokes v. Scott*

County, 10 Iowa, 175; Com. v. Gammons, 23 Pick. (Mass.) 202; Hutson v. New York, 5 Sandf. (N. Y.) 312; Stedman v. Southbridge, 17 Pick. (Mass.) 164; Horner v. State, 49 Md. 283; Northwestern Tel. Exch. Co. v. Minneapolis, 81 Minn. 140, 86 N. W. 69, 53 L. R. A. 175; Hart v. Town of Red Cedar, 63 Wis. 634, 24 N. W. 410.

In maritime law. An open passage of the sea that receives its denomination commonly from some part adjacent, which, though it lie out at sea, yet, in respect of the situation of the land adjacent, and the depth and wideness of the place, is a safe place for the common riding or anchoring of ships; as Dover road, Kirkley road, etc. Hale de Jure Mar. pt. 2, c. 2.

—Law of the road. See LAW.—**Private road.** This term has various meanings: (1) A road, the soil of which belongs to the owner of the land which it traverses, but which is burdened with a right of way. Morgan v. Livingston, 6 Mart. O. S. (La.) 231. (2) A neighborhood way, not commonly used by others than the people of the neighborhood, though it may be used by any one having occasion. State v. Mobley, 1 McMul. (S. C.) 44. (3) A road intended for the use of one or more private individuals, and not wanted nor intended for general public use, which may be opened across the lands of other persons by statutory authority in some states. Witham v. Osburn, 4 Or. 318, 18 Am. Rep. 287; Sherman v. Buick, 32 Cal. 252, 91 Am. Dec. 577; Madera County v. Raymond Granite Co., 139 Cal. 128, 72 Pac. 915. (4) A road which is only open for the benefit of certain individuals to go from and to their homes for the service of their lands and for the use of some estates exclusively. Civ. Code La. 1900, art. 706.—**Public road.** A highway; a road or way established and adopted (or accepted as a dedication) by the proper authorities for the use of the general public, and over which every person has a right to pass and to use it for all purposes of travel or transportation to which it is adapted and devoted. Cincinnati R. Co. v. Com., 80 Ky. 138; Shelby County v. Castetter, 7 Ind. App. 309, 33 N. E. 986; Abbott v. Duluth (C. C.) 104 Fed. 837; Heninger v. Peery, 102 Va. 896, 47 S. E. 1013.—**Road districts.** Public or quasi municipal corporations organized or authorized by statutory authority in many of the states for the special purpose of establishing, maintaining, and caring for public roads and highways within their limits, sometimes invested with powers of local taxation, and generally having elective officers styled "overseers" or "commissioners" of roads. See Farmer v. Myles, 106 La. 333, 30 South. 858; San Bernardino County v. Southern Pac. R. Co., 137 Cal. 659, 70 Pac. 782; Madden v. Lancaster County, 65 Fed. 191, 12 C. C. A. 566.—**Road tax.** A tax for the maintenance and repair of the public roads within the particular jurisdiction, levied either in money or in the form of so many days' labor on the public roads exacted of all the inhabitants of the district. See Lewin v. State, 77 Ala. 46.

ROADSTEAD. In maritime law. A known general station for ships, notoriously used as such, and distinguished by the name; and not any spot where an anchor will find bottom and fix itself. 1 C. Rob. Adm. 232.

ROBBATOR. In old English law. A robber. *Robbatores et burglatores*, robbers and burglars. Bract. fol. 115b.

ROBBER. One who commits a robbery. The term is not in law synonymous with "thief," but applies only to one who steals with force or open violence. See De Rothschild v. Royal Mail Steam Packet Co., 7 Exch. 742; The Manitoba (D. C.) 104 Fed. 151.

ROBBERY. Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear. Pen. Code Cal. § 211; 1 Hawk. P. C. 25; 4 Bl. Comm. 243; United States v. Jones, 3 Wash. C. C. 209, Fed. Cas. No. 15,494; Seymour v. State, 15 Ind. 288; McDaniel v. State, 16 Miss. 401, 47 Am. Dec. 93.

Robbery is the wrongful, fraudulent, and violent taking of money, goods, or chattels, from the person of another by force or intimidation, without the consent of the owner. Code Ga. 1882, § 4389.

Robbery is where a person, either with violence or with threats of injury, and putting the person robbed in fear, takes and carries away a thing which is on the body, or in the immediate presence of the person from whom it is taken, under such circumstances that, in the absence of violence or threats, the act committed would be a theft. Steph. Crim. Dig. 208; 2 Russ. Crimes, 78. And see, further, State v. Osborne, 116 Iowa, 479, 89 N. W. 1077; In re Coffey, 123 Cal. 522, 56 Pac. 448; Matthews v. State, 4 Ohio St. 540; Benson v. McMahan, 127 U. S. 457, 8 Sup. Ct. 1240, 32 L. Ed. 234; State v. McGinnis, 158 Mo. 105, 59 S. W. 83; State v. Burke, 73 N. C. 87; Reardon v. State, 4 Tex. App. 610; Houston v. Com., 87 Va. 257, 12 S. E. 385; Thomas v. State, 91 Ala. 34, 9 South. 81; Hickey v. State, 23 Ind. 22.

—Highway robbery. In criminal law. The crime of robbery committed upon or near a public highway. State v. Brown, 113 N. C. 645, 18 S. E. 51. In England, by St. 23 Hen. VIII. c. 1, this was made felony without benefit of clergy, while robbery committed elsewhere was less severely punished. The distinction was abolished by St. 3 & 4 W. & M. c. 9, and in this country it has never prevailed generally.

ROBE. Fr. A word anciently used by sailors for the cargo of a ship. The Italian "*roba*" had the same meaning.

ROBERDSMEN. In old English law. Persons who, in the reign of Richard I., committed great outrages on the borders of England and Scotland. Said to have been the followers of Robert Hood, or Robin Hood. 4 Bl. Comm. 246.

ROD. A lineal measure of sixteen feet and a half, otherwise called a "perch."

ROD KNIGHTS. In feudal law. Certain servitors who held their land by serving their lords on horseback. Cowell.

N **ROGARE.** Lat. In Roman law. To ask or solicit. *Rogare legem*, to ask for the adoption of a law, *i. e.*, to propose it for enactment, to bring in a bill. In a derivative sense, to vote for a law so proposed; to adopt or enact it.

O **ROGATIO.** Lat. In Roman law. An asking for a law; a proposal of a law for adoption or passage. Derivatively, a law passed by such a form.

P **ROGATIO TESTIUM,** in making a nuncupative will, is where the testator formally calls upon the persons present to bear witness that he has declared his will. Williams' Ex'rs, 116; - Browne, Prob. Pr. 59.

Q **ROGATION WEEK.** In English ecclesiastical law. The second week before Whitsunday, thus called from three fasts observed therein, the Monday, Tuesday, and Wednesday, called "Rogation days," because of the extraordinary prayers then made for the fruits of the earth, or as a preparation for the devotion of Holy Thursday. Wharton.

R **Rogationes, quæstiones, et positiones debent esse simplices.** Hob. 143. Demands, questions, and claims ought to be simple.

ROGATOR. Lat. In Roman law. The proposer of a law or rogation.

ROGATORY LETTERS. A commission from one judge to another requesting him to examine a witness. See LETTER.

ROGO. Lat. In Roman law. I ask; I request. A precatory expression often used in wills. Dig. 30, 108, 13, 14.

ROGUE. In English criminal law. An idle and disorderly person; a trickster; a wandering beggar; a vagrant or vagabond. 4 Bl. Comm. 169.

ROLE D'ÉQUIPAGE. In French mercantile law. The list of a ship's crew; a muster roll.

ROLL. A schedule of parchment which may be turned up with the hand in the form of a pipe or tube. Jacob.

A schedule or sheet of parchment on which legal proceedings are entered. Thus, in English practice, the roll of parchment on which the issue is entered is termed the "issue roll." So the rolls of a manor, wherein the names, rents, and services of the tenants are copied and enrolled, are termed the "court rolls." There are also various other rolls; as those which contain the records of the court of chancery, those which contain the registers of the proceedings of old parliaments, called "rolls of parliament," etc. Brown.

In English practice, there were formerly a

great variety of these rolls, appropriated to the different proceedings; such as the *warrant of attorney* roll, the *process* roll, the *recognizance* roll, the *imparlance* roll, the *plea* roll, the *issue* roll, the *judgment* roll, the *scire facias* roll, and the roll of proceedings on writs of *error*. 2 Tidd, Pr. 729, 730.

In modern practice, the term is sometimes used to denote a record of the proceedings of a court or public office. Thus, the "judgment roll" is the file of records comprising the pleadings in a case, and all the other proceedings up to the judgment, arranged in order. In this sense the use of the word has survived its appropriateness; for such records are no longer prepared in the form of a roll.

—**Assessment roll.** In taxation, the list or roll of taxable persons and property, completed, verified, and deposited by the assessors. *Bank v. Genoa*, 28 Misc. Rep. 71, 59 N. Y. Supp. 829; *Adams v. Brennan*, 72 Miss. 894, 18 South. 482.—**Judgment roll.** See *supra*.—**Master of the rolls.** See MASTER.—**Rolls of parliament.** The manuscript registers of the proceedings of old parliaments; in these rolls are likewise a great many decisions of difficult points of law, which were frequently, in former times, referred to the determination of this supreme court by the judges of both benches, etc.—**Rolls of the exchequer.** There are several in this court relating to the revenue of the country.—**Rolls of the temple.** In English law. In each of the two Temples is a roll called the "calves-head roll," wherein every bencher, barrister, and student is taxed yearly; also, meals to the cook and other officers of the houses, in consideration of a dinner of calves-head, provided in Easter term. Orig. Jur. 199.—**Rolls office of the chancery.** In English law. An office in Chancery Lane, London, which contains rolls and records of the high court of chancery, the master whereof is the second person in the chancery, etc. The rolls court was there held, the master of the rolls sitting as judge; and that judge still sits there as a judge of the chancery division of the high court of justice. Wharton.—**Tax roll.** A schedule or list of the persons and property subject to the payment of a particular tax, with the amounts severally due, prepared and authenticated in proper form to warrant the collecting officers to proceed with the enforcement of the tax. *Babeock v. Beaver Creek Tp.*, 64 Mich. 601, 31 N. W. 423; *Smith v. Scully*, 66 Kan. 139, 71 Pac. 249.

ROLLING STOCK. The portable or movable apparatus and machinery of a railroad, particularly such as moves on the road, viz., engines, cars, tenders, coaches, and trucks. See *Beardsley v. Ontario Bank*, 31 Barb. (N. Y.) 635; *Ohio & M. R. Co. v. Weber*, 96 Ill. 448; *Pittsburgh, etc., R. Co. v. Backus*, 154 U. S. 421, 14 Sup. Ct. 1114, 38 L. Ed. 1031.

—**Rolling stock protection act.** The act of 35 & 36 Vict. c. 50, passed to protect the rolling stock of railways from distress or sale in certain cases.

ROMA PEDITÆ. Lat. Pilgrims that traveled to Rome on foot.

ROMAN CATHOLIC CHARITIES ACT. The statute 23 & 24 Vict. c. 134, providing a method for enjoying estates given upon

trust for Roman Catholics, but invalidated by reason of certain of the trusts being superstitious or otherwise illegal. 3 Steph. Comm. 76.

ROMAN LAW. This term, in a general sense, comprehends all the laws which prevailed among the Romans, without regard to the time of their origin, including the collections of Justinian.

In a more restricted sense, the Germans understand by this term merely the law of Justinian, as adopted by them. Mackeld. Rom. Law, § 18.

In England and America, it appears to be customary to use the phrase, indifferently with "the civil law," to designate the whole system of Roman jurisprudence, including the *Corpus Juris Civilis*; or, if any distinction is drawn, the expression "civil law" denotes the system of jurisprudence obtaining in those countries of continental Europe which have derived their juridical notions and principles from the Justinian collection, while "Roman law" is reserved as the proper appellation of the body of law developed under the government of Rome from the earliest times to the fall of the empire.

ROME-SCOT, or ROME-PENNY. Peter-pence, (*q. v.*) Cowell.

ROMNEY MARSH. A tract of land in the county of Kent, England, containing twenty-four thousand acres, governed by certain ancient and equitable laws of sewers, composed by Henry de Bathe, a venerable judge in the reign of king Henry III.; from which laws all commissioners of sewers in England may receive light and direction. 3 Bl. Comm. 73, note *t*; 4 Inst. 276.

ROOD OF LAND. The fourth part of an acre in square measure, or one thousand two hundred and ten square yards.

ROOT OF DESCENT. The same as "stock of descent."

ROOT OF TITLE. The document with which an abstract of title properly commences is called the "root" of the title. Sweet.

ROS. A kind of rushes, which some tenants were obliged by their tenure to furnish their lords withal. Cowell.

ROSLAND. Heathy ground, or ground full of ling; also watery and moorish land. 1 Inst. 5.

ROSTER. A list of persons who are to perform certain legal duties when called upon in their turn. In military affairs it is a table or plan by which the duty of officers is regulated. See *Mathews v. Bowman*, 25 Me. 167.

ROTA. L. Lat. Succession; rotation. "Rota of presentations;" "rota of the terms." 2 W. Bl. 772, 773.

The name of two ancient courts, one held at Rome and the other at Genoa.

ROTA. Span. In Spanish law. Obliterated. White, *New Recop. b. 3, tit. 7, c. 5, § 2.*

ROTHER-BEASTS. A term which includes oxen, cows, steers, heifers, and such like horned animals. Cowell.

ROTTEN BOROUGHS. Small boroughs in England, which prior to the reform act, 1832, returned one or more members to parliament.

ROTTEN CLAUSE. A clause sometimes inserted in policies of marine insurance, to the effect that "if, on a regular survey, the ship shall be declared unseaworthy by reason of being *rotten* or unsound," the insurers shall be discharged. 1 Phil. Ins. § 849. See *Steinmetz v. United States Ins. Co.*, 2 Serg. & R. (Pa.) 296.

ROTULUS WINTONÆ. The roll of Winton. An exact survey of all England, made by Alfred, not unlike that of Domesday; and it was so called because it was kept at Winchester, among other records of the kingdom; but this roll time has destroyed. Ingulph. Hist. 516.

ROTURE. Fr. In old French and Canadian law. A free tenure without the privilege of nobility; the tenure of a free commoner.

ROTURIER. Fr. In old French and Canadian law. A free tenant of land on services exigible either in money or in kind. Steph. Lect. 229. A free commoner; one who held of a superior, but could have no inferior below him.

ROUND-ROBIN. A circle divided from the center, like Arthur's round table, whence its supposed origin. In each compartment is a signature, so that the entire circle, when filled, exhibits a list, without priority being given to any name. A common form of round-robin is simply to write the names in a circular form. Wharton.

ROUP. In Scotch law. A sale by auction. Bell.

ROUT. A rout is an unlawful assembly which has made a motion towards the execution of the common purpose of the persons assembled. It is, therefore, between an unlawful assembly and a riot. Steph. Crim. Dig. 41.

Whenever two or more persons, assembled and acting together, make any attempt or

N advance toward the commission of an act which would be a riot if actually committed, such assembly is a rout. Pen. Code Cal. § 406. And see *People v. Judson*, 11 Daly (N. Y.) 23; *Follis v. State*, 37 Tex. Cr. R. 535, 40 S. W. 277.

O **ROUTE.** Fr. In French insurance law. The way that is taken to make the voyage insured. The direction of the voyage assured.

P **ROUTOUSLY.** In pleading. A technical word in indictments, generally coupled with the word "riotously." 2 Chit. Crim. Law, 488.

Q **ROY.** L. Fr. The king.

Roy est l'original de tous franchises. Keilw. 138. The king is the origin of all franchises.

R **Roy n'est lie per ascun statute si il ne soit expressment nosme.** The king is not bound by any statute, unless expressly named. Jenk. Cent. 307; Broom, Max. 72.

Roy poet dispenser ove malum prohibitum, mais non malum per se. Jenk. Cent. 307. The king can grant a dispensation for a *malum prohibitum*, but not for a *malum per se*.

ROYAL. Of or pertaining to or proceeding from the king or sovereign in a monarchical government.

—**Royal assent.** The royal assent is the last form through which a bill goes previously to becoming an act of parliament. It is, in the words of Lord Hale, "the complement and perfection of a law." The royal assent is given either by the queen in person or by royal commission by the queen herself, signed with her own hand. It is rarely given in person, except when at the end of the session the queen attends to prorogue parliament, if she should do so. Brown.—**Royal burghs.** Boroughs incorporated in Scotland by royal charter. Bell.—**Royal courts of justice.** Under the statute 42 & 43 Vict. c. 78, § 28, this is the name given to the buildings, together with all additions thereto, erected under the courts of justice building act, 1865, (28 & 29 Vict. c. 48,) and courts of justice concentration (site) act, 1865, (28 & 29 Vict. c. 49.) Brown.—**Royal fish.** See FISH.—**Royal grants.** Conveyances of record in England. They are of two kinds: (1) Letters patent; and (2) letters close, or writs close. 1 Steph. Comm. 615-618.—**Royal honors.** In the language of diplomacy, this term designates the privilege enjoyed by every empire or kingdom in Europe, by the pope, the grand duchies of Germany, and the Germanic and Swiss confederations, to precedence over all others who do not enjoy the same rank, with the exclusive right of sending to other states public ministers of the first rank, as ambassadors, together with other distinctive titles and ceremonies. Wheat. Int. Law, pt. 2, c. 3, § 2.—**Royal mines.** Mines of silver and gold belonged to the king of England, as part of his prerogative of coinage, to furnish him with material. 1 Bl. Comm. 294.

ROYALTIES. Regalities; royal property.

ROYALTY. A payment reserved by the grantor of a patent, lease of a mine, or similar right, and payable proportionately to the use made of the right by the grantee. See *Raynolds v. Hanna* (C. C.) 55 Fed. 800; *Hubenthal v. Kennedy*, 76 Iowa, 707, 39 N. W. 694; *Western Union Tel. Co. v. American Bell Tel. Co.*, 125 Fed. 342, 60 C. C. A. 220.

Royalty also sometimes means a payment which is made to an author or composer by an assignee or licensee in respect of each copy of his work which is sold, or to an inventor in respect of each article sold under the patent. Sweet.

RUBRIC. Directions printed in books of law and in prayer-books, so termed because they were originally distinguished by red ink.

—**Rubric of a statute.** Its title, which was anciently printed in red letters. It serves to show the object of the legislature, and thence affords the means of interpreting the body of the act; hence the phrase, of an argument, "*o rubro ad nigrum.*" Wharton.

RUDENESS. Roughness; incivility; violence. Touching another with rudeness may constitute a battery.

RUINA. Lat. In the civil law. Ruin, the falling of a house. Dig. 47, 9.

RULE, v. This verb has two significations: (1) to command or require by a rule of court; as, to rule the sheriff to return the writ, to rule the defendant to plead. (2) To settle or decide a point of law arising upon a trial at *nisi prius*; and, when it is said of a judge presiding at such a trial that he "ruled" so and so, it is meant that he laid down, settled, or decided such and such to be the law.

RULE, n. 1. An established standard, guide, or regulation; a principle or regulation set up by authority, prescribing or directing action or forbearance; as, the rules of a legislative body, of a company, court, public office, of the law, of ethics.

2. A regulation made by a court of justice or public office with reference to the conduct of business therein.

3. An order made by a court, at the instance of one of the parties to a suit, commanding a ministerial officer, or the opposite party, to do some act, or to show cause why some act should not be done. It is usually upon some interlocutory matter, and has not the force or solemnity of a decree or judgment.

4. "Rule" sometimes means a rule of law. Thus, we speak of the rule against perpetuities; the rule in *Shelley's Case*, etc.

—**Cross-rules.** These were rules where each of the opposite litigants obtained a rule *nisi*, as the plaintiff to increase the damages, and the defendant to enter a nonsuit. Wharton.—**General rules.** General or standing orders of, a.

court, in relation to practice, etc.—**Rule absolute.** One which commands the subject-matter of the rule to be forthwith enforced. It is usual, when the party has failed to show sufficient cause against a rule nisi, to “make the rule absolute,” i. e., imperative and final.—**Rule-day.** In practice. The day on which a rule is returnable, or on which the act or duty enjoined by a rule is to be performed. See *Cook v. Cook*, 18 Fla. 637.—**Rule in Shelley's Case.** A celebrated rule in English law, propounded in Lord Coke's reports in the following form: That whenever a man, by any gift or conveyance, takes an estate of freehold, and in the same gift or conveyance an estate is limited, either mediately or immediately, to his heirs in fee or in tail, the word “heirs” is a word of limitation and not of purchase. In other words, it is to be understood as expressing the quantity of estate which the party is to take, and not as conferring any distinct estate on the persons who may become his representatives. 1 Coke, 104a; 1 Steph. Comm. 308. See *Zabriskie v. Wood*, 23 N. J. Eq. 544; *Duffy v. Jarvis* (C. C.) 84 Fed. 733; *Hampton v. Rather*, 30 Miss. 203; *Hancock v. Butler*, 21 Tex. 807; *Rogers v. Rogers*, 3 Wend. 511, 20 Am. Dec. 716; *Smith v. Smith*, 24 S. C. 314.—**Rule nisi.** A rule which will become imperative and final unless cause be shown against it. This rule commands the party to show cause why he should not be compelled to do the act required, or why the object of the rule should not be enforced.—**Rule of 1756.** A rule of international law, first practically established in 1756, by which neutrals, in time of war, are prohibited from carrying on with a belligerent power a trade which is not open to them in time of peace. 1 Kent. Comm. 82.—**Rule of course.** There are some rules which the courts authorize their officers to grant as a matter of course, without formal application being made to a judge in open court, and these are technically termed, in English practice, “side-bar rules,” because formerly they were moved for by the attorneys at the side bar in court. They are now generally termed “rules of course.” *Brown*.—**Rules of court.** The rules for regulating the practice of the different courts, which the judges are empowered to frame and put in force as occasion may require, are termed “rules of court.” *Brown*. See *Goodlett v. Charles*, 14 Rich. Law (S. C.) 49.—**Rule of law.** A legal principle, of general application, sanctioned by the recognition of authorities, and usually expressed in the form of a maxim or logical proposition. Called a “rule,” because in doubtful or unforeseen cases it is a guide or norm for their decision. *Toullier*, tit. prel. no. 17.—**Rules of practice.** Certain orders made by the courts for the purpose of regulating the practice in actions and other proceedings before them.—**Rules of procedure.** Rules made by a legislative body concerning the mode and manner of conducting its business, and for the purpose of making an orderly and proper disposition of the matters before it, such as rules prescribing what committees shall be appointed, on what subjects they shall act, what shall be the daily order in which business shall be taken up, and in what order certain motions shall be received and acted on. *Heiskell v. Baltimore*, 65 Md. 125, 4 Atl. 116, 57 Am. Rep. 308; *Heyker v. McLaughlin*, 100 Ky. 509, 50 S. W. 859.—**Rule of property.** A settled rule or principle, resting usually on precedents or a course of decisions, regulating the ownership or devolution of property. *Yazoo & M. V. R. Co. v. Adams*, 81 Miss. 90, 37 South. 937; *Edwards v. Davenport* (C. C.) 20 Fed. 763.—**Rule of the day.** The popular English name for the regulations governing the navigation of vessels in public waters, with a view to preventing collisions. *Sweet*.—**Rule to plead.** A rule of court, taken by a plaintiff as of course, requiring the defendant to plead

within a given time, on pain of having judgment taken against him by default.—**Rule to show cause.** A rule commanding the party to appear and show cause why he should not be compelled to do the act required, or why the object of the rule should not be enforced; a rule nisi, (q. v.).—**Special rule.** Rules granted without any motion in court, or when the motion is only assumed to have been made, and is not actually made, are called “common” rules; while the rules granted upon motion actually made to the court in term, or upon a judge's order in vacation, are termed “special” rules. *Brown*. The term may also be understood as opposed to “general” rule; in which case it means a particular direction, in a matter of practice, made for the purposes of a particular case.

RULES. In American practice. This term is sometimes used, by metonymy, to denote a time or season in the judicial year when motions may be made and rules taken, as special terms or argument-days, or even the vacations, as distinguished from the regular terms of the courts for the trial of causes; and, by a further extension of its meaning, it may denote proceedings in an action taken out of court. Thus, “an irregularity committed at rules may be corrected at the next term of the court.” *Southall's Adm'r v. Exchange Bank*, 12 Grat. (Va.) 312.

RULES OF A PRISON. Certain limits without the walls, within which all prisoners in custody in civil actions were allowed to live, upon giving sufficient security to the marshal not to escape.

—**Rules of the king's bench prison.** In English practice. Certain limits beyond the walls of the prison, within which all prisoners in custody in civil actions were allowed to live, upon giving security by bond, with two sufficient sureties, to the marshal, not to escape, and paying him a certain percentage on the amount of the debts for which they were detained. *Holthouse*.

RUMOR. Flying or popular report; a current story passing from one person to another without any known authority for the truth of it. *Webster*. It is not generally admissible in evidence. *State v. Culler*, 82 Mo. 626; *Smith v. Moore*, 74 Vt. 81, 52 Atl. 320.

RUN, v. To have currency or legal validity in a prescribed territory; as, the writ runs throughout the county.

To have applicability or legal effect during a prescribed period of time; as, the statute of limitations has run against the claim.

To follow or accompany; to be attached to another thing in pursuing a prescribed course or direction; as, the covenant runs with the land.

RUN, n. In American law. A water-course of small size. *Webb v. Bedford*, 2 Bibb. (Ky.) 354.

RUNCARIA. In old records. Land full of brambles and briars. 1 Inst. 5a.

N RUNCINUS. In old English law. A load-horse; a sumpter-horse or cart-horse.

RUNDLET, or RUNLET. A measure of wine, oil, etc., containing eighteen gallons and a half. Cowell.

RUNNING ACCOUNT. An open unsettled account, as distinguished from a stated and liquidated account. "Running accounts mean mutual accounts and reciprocal demands between the parties, which accounts and demands remain open and unsettled." *Brackenridge v. Baltzell*, 1 Ind. 335; *Leonard v. U. S.*, 18 Ct. Cl. 385; *Picker v. Fitzelle*, 23 App. Div. 519, 51 N. Y. Supp. 205.

RUNNING AT LARGE. This term is applied to wandering or straying animals.

RUNNING DAYS. Days counted in their regular succession on the calendar, including Sundays and holidays. *Brown v. Johnson*, 10 Mees. & W. 334; *Crowell v. Barreda*, 16 Gray (Mass.) 472; *Davis v. Pendergast*, 7 Fed. Cas. 162.

RUNNING LEASE. Where a lease provided that the tenancy should not be confined to any portion of the land granted, but allowed the tenant the use of all the land he could clear, it was called in the old books a "running lease," as distinguished from one confined to a particular division, circumscribed by metes and bounds, within a larger tract. *Cowan v. Hatcher* (Tenn. Ch. App.) 59 S. W. 691.

RUNNING OF THE STATUTE OF LIMITATIONS. A metaphorical expression, by which is meant that the time mentioned in the statute of limitations is considered as passing. 1 Bouv. Inst. no. 861.

RUNNING POLICY. A running policy is one which contemplates successive insurances, and which provides that the object of the policy may be from time to time defined, especially as to the subjects of insurance, by additional statements or indorsements. Civ. Code Cal. § 2597. And see *Corporation of London Assurance v. Paterson*, 106 Ga. 538, 32 S. E. 650.

RUNNING WITH THE LAND. A covenant is said to run with the land when either the liability to perform it or the right to take advantage of it passes to the assignee of that land. Brown.

RUNNING WITH THE REVERSION. A covenant is said to "run with the reversion" when either the liability to perform it or the right to take advantage of it

passes to the assignee of that reversion. Brown.

RUNRIG LANDS. Lands in Scotland where the ridges of a field belong alternatively to different proprietors. Anciently this kind of possession was advantageous in giving a united interest to tenants to resist inroads. By the act of 1695, c. 23, a division of these lands was authorized, with the exception of lands belonging to corporations. Wharton.

RUPEE. A silver coin of India, rated at 2s. for the current, and 2s. 3d. for the Bombay, rupee.

RUPTUM. Lat. In the civil law. Broken. A term applied to a will. Inst. 2, 17, 3.

RURAL DEANERY. The circuit of an archdeacon's and rural dean's jurisdictions. Every rural deanery is divided into parishes. See 1 Steph. Comm. 117.

RURAL DEANS. In English ecclesiastical law. Very ancient officers of the church, almost grown out of use, until about the middle of the present century, about which time they were generally revived, whose deaneries are as an ecclesiastical division of the diocese or archdeaconry. They are deputies of the bishop, planted all round his diocese, to inspect the conduct of the parochial clergy, to inquire into and report dilapidations, and to examine candidates for confirmation, armed in minuter matters with an inferior degree of judicial and coercive authority. Wharton.

RURAL SERVITUDE. In the civil law. A servitude annexed to a rural estate, (*prædium rusticum*.)

RUSE DE GUERRE. Fr. A trick in war; a stratagem.

RUSTICI. Lat. In feudal law. Natives of a conquered country.

In old English law. Inferior country tenants, churls, or chorls, who held cottages and lands by the services of plowing, and other labors of agriculture, for the lord. Cowell.

RUSTICUM FORUM. Lat. A rude, unlearned, or unlettered tribunal; a term sometimes applied to arbitrators selected by the parties to settle a dispute. See *Underhill v. Van Cortlandt*, 2 Johns. Ch. (N. Y.) 339; *Dickinson v. Chesapeake & O. R. Co.*, 7 W. Va. 429.

RUSTICUM JUDICIUM. Lat. In maritime law. A rough or rude judgment or decision. A judgment in admiralty dividing

the damages caused by a collision between the two ships. 3 Kent, Comm. 231; Story, Bailm. § 608a. See *The Victory*, 68 Fed. 400, 15 C. C. A. 490.

RUTA. Lat. In the civil law. Things extracted from land; as sand, chalk, coal, and such other matters.

—*Ruta et cæsa.* In the civil law. Things dug, (as sand and lime,) and things cut, (as wood, coal, etc.) Dig. 19, 1, 17, 6. Words used in conveyancing.

RYOT. In India. A peasant, subject, or tenant of house or land. Wharton.

—**Ryot-tenure.** A system of land-tenure where the government takes the place of land-owners and collects the rent by means of tax gatherers. The farming is done by poor peasants, (ryots,) who find the capital, so far as there is any, and also do the work. The system exists in Turkey, Egypt, Persia, and other Eastern countries, and in a modified form in British India. After slavery, it is accounted the worst of all systems, because the government can fix the rent at what it pleases, and it is difficult to distinguish between rent and taxes.